

117TH CONGRESS  
2D SESSION

# S. 5239

To impose sanctions with respect to foreign telecommunications companies engaged in economic or industrial espionage against United States persons, and for other purposes.

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## IN THE SENATE OF THE UNITED STATES

DECEMBER 12, 2022

Mr. COTTON (for himself and Mr. VAN HOLLEN) introduced the following bill; which was read twice and referred to the Committee on Banking, Housing, and Urban Affairs

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## A BILL

To impose sanctions with respect to foreign telecommunications companies engaged in economic or industrial espionage against United States persons, and for other purposes.

1 *Be it enacted by the Senate and House of Representa-*  
2 *tives of the United States of America in Congress assembled,*

3 **SECTION 1. SHORT TITLE.**

4 This Act may be cited as the “Neutralizing Emerging  
5 Threats from Wireless OEMs Receiving direction from  
6 Kleptocracies and Surveillance states Act” or the “NET-  
7 WORKS Act”.

1 **SEC. 2. IMPOSITION OF SANCTIONS WITH RESPECT TO ECO-**  
2 **NOMIC OR INDUSTRIAL ESPIONAGE BY FOR-**  
3 **EIGN TELECOMMUNICATIONS COMPANIES.**

4 (a) IN GENERAL.—On and after the date that is 30  
5 days after the date of the enactment of this Act, the Presi-  
6 dent shall exercise all of the powers granted to the Presi-  
7 dent under the International Emergency Economic Powers  
8 Act (50 U.S.C. 1701 et seq.) to the extent necessary to  
9 block and prohibit all significant transactions in property  
10 and interests in property of a foreign person described in  
11 subsection (b) if such property and interests in property  
12 are in the United States, come within the United States,  
13 or are or come within the possession or control of a United  
14 States person.

15 (b) FOREIGN PERSONS DESCRIBED.—A foreign per-  
16 son is described in this subsection if the President deter-  
17 mines that the person, on or after the date of the enact-  
18 ment of this Act—

19 (1) produces fifth or future generation tele-  
20 communications technology; and

21 (2) engages in—

22 (A) economic or industrial espionage with  
23 respect to trade secrets or proprietary informa-  
24 tion owned by United States persons; or

1 (B) other related illicit activities, including  
2 violations of sanctions imposed by the United  
3 States.

4 (c) EXCEPTIONS.—

5 (1) EXCEPTION FOR INTELLIGENCE ACTIVI-  
6 TIES.—Sanctions under this section shall not apply  
7 to any activity subject to the reporting requirements  
8 under title V of the National Security Act of 1947  
9 (50 U.S.C. 3091 et seq.) or any authorized intel-  
10 ligence activities of the United States.

11 (2) EXCEPTION RELATING TO IMPORTATION OF  
12 GOODS.—

13 (A) IN GENERAL.—The authorities and re-  
14 quirements to impose sanctions authorized  
15 under this section shall not include the author-  
16 ity or requirement to impose sanctions on the  
17 importation of goods.

18 (B) GOOD DEFINED.—In this paragraph,  
19 the term “good” means any article, natural or  
20 manmade substance, material, supply or manu-  
21 factured product, including inspection and test  
22 equipment, and excluding technical data.

23 (d) WAIVER.—The President may waive the applica-  
24 tion of sanctions under this section with respect to a for-  
25 eign person for renewable periods of not more than 90

1 days each if the President determines and reports to Con-  
2 gress that such a waiver is vital to the national security  
3 interests of the United States.

4 (e) IMPLEMENTATION; PENALTIES.—

5 (1) IMPLEMENTATION.—The President may ex-  
6 ercise the authorities provided to the President  
7 under sections 203 and 205 of the International  
8 Emergency Economic Powers Act (50 U.S.C. 1702  
9 and 1704) to the extent necessary to carry out this  
10 section.

11 (2) PENALTIES.—A person that violates, at-  
12 tempts to violate, conspires to violate, or causes a  
13 violation of subsection (a) or any regulation, license,  
14 or order issued to carry out that subsection shall be  
15 subject to the penalties set forth in subsections (b)  
16 and (c) of section 206 of the International Emer-  
17 gency Economic Powers Act (50 U.S.C. 1705) to the  
18 same extent as a person that commits an unlawful  
19 act described in subsection (a) of that section.

20 (f) DEFINITIONS.—

21 (1) IN GENERAL.—In this section:

22 (A) ECONOMIC OR INDUSTRIAL ESPIO-  
23 NAGE.—The term “economic or industrial espio-  
24 onage” means—

1 (i) stealing a trade secret or propri-  
2 etary information or appropriating, taking,  
3 carrying away, or concealing, or by fraud,  
4 artifice, or deception obtaining, a trade se-  
5 cret or proprietary information without the  
6 authorization of the owner of the trade se-  
7 cret or proprietary information;

8 (ii) copying, duplicating, downloading,  
9 uploading, destroying, transmitting, deliv-  
10 ering, sending, communicating, or con-  
11 veying a trade secret or proprietary infor-  
12 mation without the authorization of the  
13 owner of the trade secret or proprietary in-  
14 formation; or

15 (iii) knowingly receiving, buying, or  
16 possessing a trade secret or proprietary in-  
17 formation that has been stolen or appro-  
18 priated, obtained, or converted without the  
19 authorization of the owner of the trade se-  
20 cret or proprietary information.

21 (B) FIFTH OR FUTURE GENERATION  
22 TELECOMMUNICATIONS TECHNOLOGY.—The  
23 term “fifth or future generation telecommuni-  
24 cations technology” means telecommunications  
25 technology that conforms to the technical stand-

1           ards followed by the telecommunications indus-  
2           try for telecommunications technology that is  
3           commonly known in the industry as fifth gen-  
4           eration or future generation technology.

5           (C) FOREIGN PERSON.—The term “foreign  
6           person” means any person that is not a United  
7           States person.

8           (D) KNOWINGLY.—The term “knowingly”,  
9           with respect to conduct, a circumstance, or a  
10          result, means that a person has actual knowl-  
11          edge, or should have known, of the conduct, the  
12          circumstance, or the result.

13          (E) PERSON.—The term “person” means  
14          an individual or entity.

15          (F) PROPRIETARY INFORMATION.—The  
16          term “proprietary information” has the mean-  
17          ing given that term in section 1637(d) of the  
18          Carl Levin and Howard P. “Buck” McKeon  
19          National Defense Authorization Act for Fiscal  
20          Year 2015 (50 U.S.C. 1708(d)).

21          (G) THIRD AND FOURTH GENERATION  
22          TELECOMMUNICATIONS NETWORKS.—The term  
23          “third and fourth generation telecommuni-  
24          cations networks” means telecommunications  
25          networks that conform to the technical stand-

1           ards followed by the telecommunications indus-  
2           try for telecommunications networks that are  
3           commonly known in the industry as third or  
4           fourth generation networks.

5           (H) TRADE SECRET.—The term “trade se-  
6           cret” has the meaning given that term in sec-  
7           tion 1839 of title 18, United States Code.

8           (I) UNITED STATES PERSON.—The term  
9           “United States person” means—

10                   (i) a United States citizen or an alien  
11                   lawfully admitted for permanent residence  
12                   to the United States; or

13                   (ii) an entity organized under the laws  
14                   of the United States or any jurisdiction  
15                   within the United States, including a for-  
16                   eign branch of such an entity.

17           (2) DETERMINATION OF SIGNIFICANCE.—For  
18           the purposes of this section, in determining if trans-  
19           actions are significant, the President may consider  
20           the totality of the facts and circumstances, including  
21           factors similar to the factors set forth in section  
22           561.404 of title 31, Code of Federal Regulations (or  
23           any corresponding similar regulation or ruling).

1           (3) RULE OF CONSTRUCTION.—For purposes of  
2 this section, a transaction shall not be construed to  
3 include—

4           (A) participation in an international stand-  
5 ards-setting body or the activities of such a  
6 body; or

7           (B) a transaction involving existing third  
8 or fourth generation telecommunications net-  
9 works.

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