

116TH CONGRESS
1ST SESSION

H. R. 4973

To prohibit certain Federal loans, grants, and subsidies from being used to purchase communications equipment or services posing national security risks, and for other purposes.

IN THE HOUSE OF REPRESENTATIVES

NOVEMBER 1, 2019

Mr. MCNERNEY (for himself and Mr. LONG) introduced the following bill; which was referred to the Committee on Energy and Commerce, and in addition to the Committee on Oversight and Reform, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned

A BILL

To prohibit certain Federal loans, grants, and subsidies from being used to purchase communications equipment or services posing national security risks, 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 “Trusting Commercial
5 Communications Networks Act of 2019”.

1 **SEC. 2. DETERMINATION OF COMMUNICATIONS EQUIP-**
2 **MENT OR SERVICES POSING NATIONAL SECU-**
3 **RITY RISKS.**

4 (a) PUBLICATION OF COVERED COMMUNICATIONS
5 EQUIPMENT OR SERVICES LIST.—Not later than 1 year
6 after the date of the enactment of this Act, the Commis-
7 sion shall publish on its website a list of covered commu-
8 nications equipment or services.

9 (b) DETERMINATION BY COMMISSION.—The Com-
10 mission shall place on the list published under subsection
11 (a) any communications equipment or service, if and only
12 if the Commission determines that such equipment or
13 service—

14 (1) is produced or provided by—

15 (A) Huawei Technologies Co. Limited,
16 Zhongxing Telecommunications Equipment
17 Corporation, or any subsidiary or affiliate of ei-
18 ther such entity;

19 (B) any successor to any entity described
20 in subparagraph (A); or

21 (C) any other entity, if the Commission de-
22 termines, based exclusively on the determina-
23 tions described in paragraphs (1) through (3)
24 of subsection (c), that such equipment or serv-
25 ice produced or provided by such entity poses
26 an unacceptable risk to the national security of

1 the United States or the security and safety of
2 United States persons; and

3 (2) is capable of—

4 (A) routing or redirecting user data traffic
5 or permitting visibility into any user data or
6 packets that such equipment or service trans-
7 mits or otherwise handles; or

8 (B) causing the network of a provider of
9 advanced communications service to be dis-
10 rupted remotely.

11 (c) RELIANCE ON CERTAIN OTHER DETERMINA-
12 TIONS.—In making a determination under subsection
13 (b)(1)(C), the Commission shall rely solely on one or more
14 of the following determinations:

15 (1) A specific determination made by any execu-
16 tive branch interagency body with appropriate na-
17 tional security expertise, including the Federal Ac-
18 quisition Security Council established under section
19 1322(a) of title 41, United States Code.

20 (2) A specific determination made by the De-
21 partment of Commerce pursuant to Executive Order
22 13873 (84 Fed. Reg. 22689; relating to securing the
23 information and communications technology and
24 services supply chain).

1 (3) The communications equipment or service
2 being covered telecommunications equipment or serv-
3 ices, as defined in section 889(f)(3) of the John S.
4 McCain National Defense Authorization Act for Fis-
5 cal Year 2019 (Public Law 115–232; 132 Stat.
6 1918).

7 (d) UPDATING OF LIST.—

8 (1) IN GENERAL.—The Commission shall peri-
9 odically update the list published under subsection
10 (a), as necessary to protect national security and to
11 address changes in the determinations described in
12 paragraphs (1) through (3) of subsection (c).

13 (2) MONITORING OF DETERMINATIONS.—The
14 Commission shall monitor the making or reversing
15 of the determinations described in paragraphs (1)
16 through (3) of subsection (c) in order to determine
17 whether to place communications equipment or serv-
18 ices on the list published under subsection (a) or to
19 remove communications equipment or services from
20 such list. If a determination described in any such
21 paragraph that provided the basis for a determina-
22 tion by the Commission under subsection (b)(1)(C)
23 with respect to any communications equipment or
24 service is reversed, the Commission shall remove
25 such equipment or service from such list, except that

1 the Commission may not remove such equipment or
2 service from such list if any other determination de-
3 scribed in any such paragraph provides a basis for
4 a determination by the Commission under subsection
5 (b)(1)(C) with respect to such equipment or service.

6 (3) PUBLIC NOTIFICATION.—For each 12-
7 month period during which the list published under
8 subsection (a) is not updated, the Commission shall
9 notify the public that no updates were necessary
10 during such period to protect national security or to
11 address changes in the determinations described in
12 paragraphs (1) through (3) of subsection (c).

13 **SEC. 3. PROHIBITION ON USE OF CERTAIN FEDERAL**
14 **LOANS, GRANTS, AND SUBSIDIES.**

15 (a) IN GENERAL.—

16 (1) PROHIBITION.—A Federal loan, grant, or
17 subsidy that provides funds to be used for the cap-
18 ital expenditures necessary for the provision of ad-
19 vanced communications service may not be used
20 to—

21 (A) purchase, rent, lease, or otherwise ob-
22 tain any covered communications equipment or
23 service; or

1 (B) maintain any covered communications
2 equipment or service previously purchased,
3 rented, leased, or otherwise obtained.

4 (2) TIMING.—Paragraph (1) shall apply with
5 respect to any covered communications equipment or
6 service beginning on the date that is 60 days after
7 the date on which the Commission places such
8 equipment or service on the list required by section
9 2(a). In the case of any covered communications
10 equipment or service that is on the initial list pub-
11 lished under such section, such equipment or service
12 shall be treated as being placed on the list on the
13 date on which such list is published.

14 (b) COMPLETION OF PROCEEDING.—Not later than
15 90 days after the date of the enactment of this Act, the
16 Commission shall adopt a Report and Order in the matter
17 of Protecting Against National Security Threats to the
18 Communications Supply Chain Through FCC Programs
19 (WC Docket No. 18–89) that implements subsection (a),
20 to the extent such subsection applies to a program admin-
21 istered by the Commission.

22 (c) APPLICATION TO OTHER AGENCIES.—Not later
23 than 180 days after the date of the enactment of this Act,
24 the head of each Federal agency (other than the Commis-
25 sion) that administers a program through which any Fed-

1 eral loan, grant, or subsidy described in subsection (a)(1)
2 is made available shall update the regulations for the pro-
3 gram to comply with subsection (a).

4 (d) **RULE OF CONSTRUCTION.**—Nothing in this sec-
5 tion may be construed to limit a Federal agency from pro-
6 curing goods or services.

7 **SEC. 4. HOLD HARMLESS.**

8 In the case of a person who is a winner of the Con-
9 nect America Fund Phase II auction, has not yet been
10 authorized to receive Connect America Fund Phase II sup-
11 port, and demonstrates an inability to reasonably meet the
12 build-out and service obligations of such person under
13 Connect America Fund Phase II without using equipment
14 or services prohibited under this Act, such person may
15 withdraw the application of such person for Connect
16 America Fund Phase II support without being found in
17 default or subject to forfeiture.

18 **SEC. 5. ENFORCEMENT.**

19 (a) **IN GENERAL.**—Except as provided in subsection
20 (b)—

21 (1) a violation of this Act or a regulation pro-
22 mulgated under this Act shall be treated as a viola-
23 tion of the Communications Act of 1934 (47 U.S.C.
24 151 et seq.) or a regulation promulgated under such
25 Act, respectively; and

1 (2) the Commission shall enforce this Act and
2 the regulations promulgated under this Act in the
3 same manner, by the same means, and with the
4 same jurisdiction, powers, and duties as though all
5 applicable terms and provisions of the Communica-
6 tions Act of 1934 were incorporated into and made
7 a part of this Act.

8 (b) EXCEPTION.—Subsection (a) does not apply with
9 respect to—

10 (1) a Federal loan, grant, or subsidy that is
11 made available through a program that is adminis-
12 tered by a Federal agency other than the Commis-
13 sion; or

14 (2) a regulation promulgated by such agency
15 under section 3(c).

16 **SEC. 6. DEFINITIONS.**

17 In this Act:

18 (1) **ADVANCED COMMUNICATIONS SERVICE.**—
19 The term “advanced communications service” has
20 the meaning given the term “advanced telecommuni-
21 cations capability” in section 706 of the Tele-
22 communications Act of 1996 (47 U.S.C. 1302).

23 (2) **COMMISSION.**—The term “Commission”
24 means the Federal Communications Commission.

1 (3) COVERED COMMUNICATIONS EQUIPMENT OR
2 SERVICE.—The term “covered communications
3 equipment or service” means any communications
4 equipment or service that is on the list published by
5 the Commission under section 2(a).

6 (4) CUSTOMERS.—The term “customers”
7 means, with respect to a provider of advanced com-
8 munications service—

9 (A) the customers of such provider; and

10 (B) the customers of any affiliate (as de-
11 fined in section 3 of the Communications Act of
12 1934 (47 U.S.C. 153)) of such provider.

13 (5) EXECUTIVE BRANCH INTERAGENCY
14 BODY.—The term “executive branch interagency
15 body” means an interagency body established in the
16 executive branch.

17 (6) FEDERAL AGENCY.—The term “Federal
18 agency” has the meaning given the term “agency”
19 in section 551 of title 5, United States Code.

20 (7) PERSON.—The term “person” means an in-
21 dividual or entity.

22 (8) PROVIDER OF ADVANCED COMMUNICATIONS
23 SERVICE.—The term “provider of advanced commu-
24 nications service” means a person who provides ad-

1 vanced communications service to United States cus-
2 tomers.

○