

Dear Honorable Senator/Congressman _____,

I am writing this letter to express my grave concerns and firm opposition to the "RESTRICT Act" (S-686). This act's name stands for "Restricting the Emergence of Security Threats that Risk Information and Communications Technology". The act has been introduced as "[an] act to authorize the Secretary of Commerce to review and prohibit certain transactions between persons in the United States and foreign adversaries, **and for other purposes.**" (*emphasis added*). Unfortunately, the act goes **far beyond** the stated purposes. This letter focuses on the various affronts to the Constitutional Rights' of American Citizens as evident in the "other purposes," described throughout the act, which are shocking and Orwellian in nature.

On March 31, 2023, Senator Mark Warner responded to criticisms of the bill in a tweet. "Folks, I'm glad to engage in discussion about this act and hear critiques. This act is about protecting YOUR privacy from authoritarian nations and protecting Americans from foreign coercion. I'm proud of the bipartisan coalition we've built to get it done," Warner said.

Unfortunately, the clear text of the act does not balance, differentiate or prevent, in any way, the use of this Act, and the incredibly broad and vague powers it confers, upon the privacy, rights, assets, or lives of everyday American Citizens. This is a surveillance act on steroids, according to some, who have stated that this act even "makes the Patriot Act blush."

The RESTRICT Act authorizes the creation of a new and significantly heightened level of centralized control, including blanket searches, seizures, censorship, and other incredible attempts to exercise authoritarian-style power via secret, non-reviewable, *ex parte*, FOIA-exempted actions by unelected government agents and appointees who possess blanket authority to act as they see fit by merely citing a "national interest". (See FISA Warrant abuses in recent years). This is an un-American and unconstitutional act.

While we appreciate the efforts of Senator Warner and other Senators in the crafting of this act, in the name of protecting Americans, we believe the act creates untenable opportunities for government actors to operate outside the bounds of the United States Constitution, contrary to the spectrum of civil rights and liberties we enjoy, as evident in the total lack of due process and accountability that was intentionally included in the draft legislation.

Some of the most notable concerns presented by this act include, but are not limited to, the following:

- Section 2, para. (6) Specifically defines "entity" as one that is American or foreign.
- Section 3(a)(1)(C) authorizes the Secretary to take broad action for anything that is deemed to "interfere[s] in, or seeks to alter the result of, or reported result of a Federal election." (This appears to codify the various nefarious methods that were used in censoring, banning, and otherwise restricting free and open discussions on social media, as revealed in the Twitter files by a significant number of government and quasi-government actors, prior to, and after the 2020 presidential election.)
- Section 3(a)(1)(D) authorizes actions that are "designed to undermine democratic processes and institutions, steer policy and regulatory decisions in favor of the strategic objectives of a foreign adversary to the detriment of the United States..."

- Section 3(a)(1)(D)(2) authorizes actions for any other action that otherwise poses an undue or unacceptable risk to... national security.
- Section 5. "CONSIDERATIONS"
 - o (a) ...the Secretary shall prioritize evaluation of –
 - The act lists virtually every kind of information and communications technology product or service, including VPN services, which have been used by Americans for over 20 years to protect their privacy and provide needed protections in this modern digital age.
- Section 9 "INFORMATION TO BE FURNISHED". This section essentially provides unlimited access and investigation powers, while also restricting public access to information and due process. This section also permits the sharing of information to any Federal, State or local entity.
- Section 9(d)(2)(f) provides the Secretary with "unreviewable discretion".
- Section 10. "ENFORCEMENT". This Section provides for unlimited powers related to investigations, inspections, searches, detainment, seizures, and the imposition of punishment for non-compliance as an act of criminal contempt.
- Section 11. "PENALTIES". This section provides for an overly broad and vague ability to punish anyone or anything for perceived wrongdoing, with civil penalties up to \$250,000.00, criminal penalties up to \$1,000,000.00, civil & criminal forfeiture of assets.
- Section 12. "JUDICIAL REVIEW". Paragraph (b) of this section provides that any actions under this Act "shall not be subject to administrative review or judicial review in any Federal court, except as otherwise provided in this section. Furthermore, the Act is exempted from a myriad of other sections of the U.S. Code that are not described in detail.
- Section 12 provides for ex parte filings with the court that may not be shared with petitioners who are aggrieved by this Act.
- Section 15 "MISCELLANEOUS".
 - o 15 (c) exempts all functions exercised under this Act from sections 551, 553 through 559, and 701 through 706 of title 5, United States Code.
 - o 15(f) "NO RIGHT OF ACCESS".
 - (1) This section bars access to information in the possession of the Federal Government that was considered in the making of a determination under this Act...",
 - (2) "INAPPLICABILITY OF FOIA". The title speaks for itself.

Respectfully, if the stated purposes of this act are to "restrict" foreign actors as it relates to the privacy and security of American citizens, the draft legislation requires vast and significant amendments to separate "foreign actors" from American Citizens. Furthermore, much needed clarity is required to outline a process per the Paperwork Reduction Act for public notification on the specific platform or "transaction(s)" of concern. In addition, clarity is required for a reviewable, appealable, adversarial process so that Americans can confront and rebut allegations of wrongdoing, especially in light of government actors who have recently and repeatedly demonstrated that they cannot be trusted to act fairly, in good faith, or in non-partisan ways when allowed unfettered power. (See "The Twitter Files,"

See FISA warrant abuses, See the various other examples of the “weaponization” of various departments and agencies against certain groups, candidates and political parties”, See Missouri v. Biden, 576 F. Supp. 3d 622, 635, holding that "It is indisputable that the public has a strong interest in combating the spread of" COVID-19. Ala. Ass'n of Realtors v. Dept. of Health and Human Servs., ___ U.S. ___, 141 S. Ct. 2485, 2490, 210 L.Ed.2d 856 (2021). However, the government may not "act unlawfully even in pursuit of desirable ends." Id. (citing Youngstown Sheet & Tube Co. v. Sawyer, 343 U.S. 579, 582, 585-86, 72 S.Ct. 863, 96 L.Ed. 1153 (1952)).

Please OPPOSE this bill.