

116th Congress Focus on 5G, with New Legislation on Security

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The transition to 5G wireless technology has the attention of the 116th Congress. This is not new, as Congress has been promoting infrastructure and spectrum changes to support deployment. Stakeholders across the globe may be interested in recent developments, including new legislative proposals looking at security aspects.

This week, Senator John Cornyn (R-TX) along with Intelligence Committee Chairman Richard Burr (R-NC) and Vice Chairman Mark Warner (D-VA) introduced the Secure 5G and Beyond Act (S.893), which would require the President to develop a strategy to ensure the security of 5G networks. Early next week, the Senate Commerce Committee will markup the Eliminate From Regulators Opportunities to Nationalize The Internet In Every Respect Act (E-FRONTIER Act) (S.918), which would prohibit the nationalization of 5G networks. Both bills focus to varying degrees on the security of 5G networks and confirm the abiding interest of Congress in 5G deployment.

The **Secure 5G and Beyond Act** would require the President to create a Federal strategy to secure 5G technology and infrastructure within the United States and to assist allies and strategic partners in achieving similar goals. The Secure Next Generation Mobile Communications Strategy would represent a whole-of-government approach to 5G security and would be submitted to Congress in unclassified form. The National Telecommunications and Information Administration (NTIA) would be designated as the agency in charge of managing implementation of any strategy adopted by the inter-agency working group. The bill directs NTIA to coordinate implementation of the strategy with the Federal Communications Commission, the Department of Homeland Security, the Director of

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National Intelligence, the Attorney General, and the Secretary of Defense. The bill also requires that any such strategy not include a recommendation to nationalize 5G networks in the United States.

The **E-FRONTIER Act**, introduced by Senators Ted Cruz (R-TX) and Catherine Cortez Masto (D-NV), is somewhat narrower in scope, and focuses primarily on the nationalization of broadband networks, to include 5G networks. It would prohibit the President or any Federal agency from constructing, operating, or offering wholesale or retail services on broadband networks without authorization from Congress. Importantly, Senator Cruz's bill expressly excludes limitations or restrictions on the implementation of the First Responder Network Authority (FirstNet), created by Congress as part of the Middle Class Tax Relief and Job Creation Act of 2012.

The E-FRONTIER Act would require the Comptroller General of the United States to conduct a study and submit a report to Congress on any potential threats facing domestic broadband networks from the governments of China, Russia, Iran, or other "foreign adversaries" of the United States. The study would provide recommendations, if any, on how broadband providers in the United States can reduce the vulnerabilities of those networks to foreign threats.

Wiley Rein is involved in many aspects of evolving 5G regulatory and technology discussions, and supporting deployment efforts, in the United States and around the world.

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