Responses to Questions for the Record

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Securing Communications Networks from Foreign Adversaries

**The Honorable Russ Fulcher**

The ROUTERS Act asks the Assistant Secretary of Commerce to conduct a study on the national security risks posed by "routers, modems, and devices that combine a modem and router"…that come from China or one of the other "covered countries."

a. Do you envision this study creating a requirement for CFIUS review of this equipment?

b. Do you think including risks that come from connected software applications could also be helpful? I am thinking of building on Executive Order 14034 that directed the Secretary of Commerce to look at "connected software applications" to such network equipment, as well as Executive Order 13872 that declared the "exploitation" of Information and Communications Technology and Services (ICTS) due to risks to the "resiliency of critical infrastructure."

a. As written per the ROUTERS Act, I do not envision this study creating a de facto requirement for CFIUS review. Historically, CFIUS has reviewed transactions involving foreign control of a U.S. business that would pose national security risks. FIRRMA broadened CFIUS jurisdiction to include non-controlling foreign investments in critical technologies, infrastructure, and sensitive personal data, as well as real estate transactions near a national-security relevant area (such as ports, military installations, or government facilities). Executive Order 14083 instructs CFIUS to consider investments that may facilitate "harmful technology transfer in key industries" by cumulative effect, investments that present cybersecurity threats to personal data, and investments in entities that have access to sensitive data. I do not believe that a CFIUS review of these devices is necessary at this time. If, however, a commercial entity under significant influence from a foreign adversary country were to acquire a monopolistic share of the production and sale

of these connected devices, I do believe additional scrutiny would be warranted. The study requested of the Assistant Secretary of Commerce for Communications and Information in the ROUTERS Act could lay out a risk-based framework for understanding and mitigating national security threats due to foreign adversary ownership of routers, modems, and other connected devices.

b. Yes, I do think that including "connected software applications" in a report on a risk-based framework could be helpful. In fact, some of the national security risks identified in Executive Order 14034 could provide a strong foundation for this framework, in combination with risks identified in Executive Order 13873. It will be important that such a framework complements and extends, rather than duplicates efforts in Executive Order 13873.