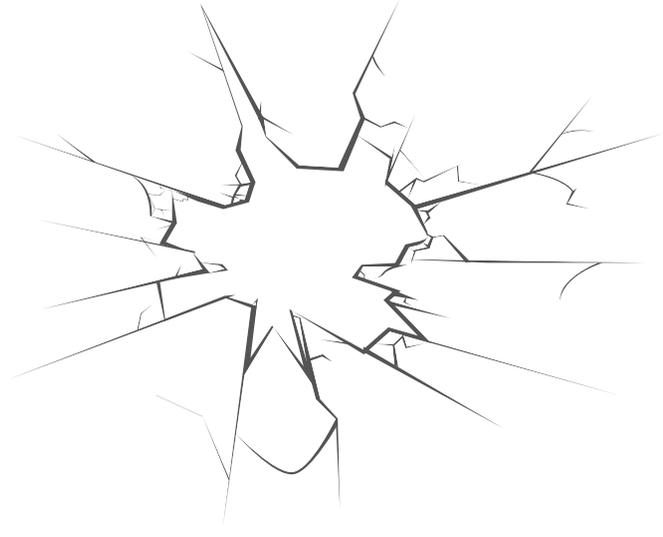


**Senator Cornyn, Experts:**

## **AICOA RAISES SERIOUS CONCERNS ON CYBERSECURITY AND GLOBAL COMPETITION**



**(S. 2992 AND H.R. 3816)**

Senators Klobuchar, Grassley, and other cosponsors recently introduced S. 2992, "The American Innovation and Choice Online Act" (AICOA) to the Senate Judiciary Committee for markup.

### **Senator Cornyn expressed strong concerns:**

"I just want us all to be clear-eyed about the fact that 40 of us may not have any opportunity to shape this bill at all, and I think that's a problem in terms of the quality of the product, and I want to express those concerns."

"I do have concerns about the impact of this bill on American businesses' ability to compete in a global economy and that it will also create potential harmful impacts on our national security. I think there are also questions about cybersecurity and data privacy that have not been answered."

"China, as we know, wants access to American consumer and business information. They are a vacuum cleaner when it comes to hoovering up data. Chinese companies, under this bill, would likely have the right to interoperate with the American platforms and have access to the features and the business data that are proprietary for these businesses."

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### **Experts agree:**

**Klon Kitchen, American Enterprise Institute**  
**Jamil Jaffer, National Security Institute**

"Requirements that tech platforms build their products and services in such a way that they are interoperable with everyone else necessarily defaults to the lowest common denominator on cybersecurity standards and will lead to a rapid race-to-the-bottom."

"Foreign tech companies will not be bound by these rules and so, if passed, S.2992 will hamstring American companies while leaving global competitors with greater agility. This bill is about more than a few U.S. tech companies being brought down a peg; it's about us voluntarily ceding critical technological and economic advantage to countries like China at a time when leading in key technologies and tech markets is critical for our nation's long-term thriving."

## **Robert O'Brien**

### **Former White House National Security Advisor**

"Cloaked in antiquated interpretations of U.S. antitrust law, these bills hand increased authority to bureaucrats at the Federal Trade Commission and lay the groundwork for dismantling America's most successful technology companies—the ones at the forefront of the race to retain U.S. dominance in fields such as quantum and AI. Chinese firms like Tencent, Bytedance, Alibaba, Huawei and Baidu are seeking to supplant U.S. companies and would have an open field world-wide and in America if these bills pass."

## **Keith Kratch**

### **Former Under Secretary of State for Economic Growth, Energy, and the Environment**

"The first thing we got to make sure is that we don't handcuff our businesses. And I know there is some legislation that says things like 'software companies have to always open up their interfaces'. That means the Chinese can always get the data. Or that you can't make an acquisition. We have to be careful."

## **H.R. McMaster**

### **Former National Security Advisor**

"We are in the midst of competition with countries that do not share our values and our principles, and so it's important for us to maintain our competitive advantages."

## **Karen Kerrigan**

### **Small Business & Entrepreneurship Council**

"The visible rush to move S.2992 out of committee despite numerous serious concerns expressed by Senators is a disturbing development. As noted by both Democrats and Republicans on the committee, the legislation did not receive a full hearing, which brought up various significant issues. These concerns include the bill's lack of clarity, confusion about what companies are covered, what triggers illegality, how provisions will benefit Chinese competitors, and how provisions will lead to the exposure of data and IP. Moreover, it was correctly noted that the bill is more about protecting competitors rather than consumers, and it will provide federal regulators with expansive new powers."

**Tatyana Bolton and Brandon Pugh**  
**R Street Institute**

"On the whole, it is difficult for security experts to encourage resilience and diligence for platforms and networks along with the uptake of strong cybersecurity practices. It is even harder to convince businesses that cyber risk is a business risk, or encourage them to develop products with security in mind. While this is not a strict cybersecurity bill, it adds obstacles and restrains the application of security safeguards by platforms, which creates adverse incentives."

"This bill would punish companies with a business model that focuses on security. From a policy perspective, we should encourage—not discourage—more companies to include more stringent security for all products, especially software that is sold at scale to millions of users. Forced interoperability, narrow requirements and obstacles for security updates through requirements for affirmative defense, as well as patchy security exclusions, create a recipe for weaker cybersecurity and should be reconsidered, amended or removed before any further movement on this legislation."

**Graham DuFault**  
**The App Association**

"Limiting the universe of bad actors subject to removal to those that appear on lists 'maintained by the Federal Government' is laughably inadequate and irresponsible cybersecurity policy. The new language only protects token cybersecurity activity, shielding platforms if they rely on the lists of prohibited persons and businesses from the federal government. Cybercriminals adapt quickly and take a variety of measures to prevent detection. Requiring platforms to wait for threat identification and addition to a federal government list gives criminals an enviable new advantage and would expose consumers to a fresh wave of new threats that mobile devices can easily avoid at present."

**Arthur Sidney**  
**Computer & Communications Industry Association**

"Congress should engage its national security committees to solicit briefings and technical assistance from U.S. intelligence, counterintelligence, and foreign policy agencies to evaluate the risks before proceeding to approve these bills targeting the U.S. tech sector."

"It is ironic that earlier this year, the Senate passed legislation to bolster U.S. competitiveness and innovation in the tech domain vis-a-vis China and other foreign competitors and only a few months later, Congress is attempting to dismantle and chill innovation with these newly introduced bills, which themselves are not antitrust bills but instead amount to government-mandated industrial policy."