AMENDMENT TO

RULES COMMITTEE PRINT 118–10

OFFERED BY MR. BANKS OF INDIANA

At the end of subtitle C of title XVIII, add the following:

1 **SEC. 1859. PUBLIC LISTING OF COUNTRY OF ORIGIN OF AP-**
2 **PLICATIONS.**

3 (a) DEFINITIONS.—In this section:

4 (1) APPLICATION.—The term "application"
5 means a software application or electronic service
6 that may be run or directed by a user on a com-
7 puter, a mobile device, or any other general purpose
8 computing device.

9 (2) APPLICATION STORE.—The term "applica-
10 tion store" means a publicly available website, soft-
11 ware application, electronic service, or platform pro-
12 vided by a device manufacturer that—

13 (A) distributes applications from third-
14 party developers to users of a computer, a mo-
15 bile device, or any other general purpose com-
16 puting device; and

17 (B) has more than 20,000,000 users in the
18 United States.

1   (3) APPLICATION STORE PAGE.—The term "ap-
2 plication store page" means the individual, dedicated
3 listing page within an application store that serves
4 as the primary source of information on a specific
5 application and provides detailed information about
6 the application, including the name of the applica-
7 tion, the developer, a description, user ratings and
8 reviews, screenshots or previews, pricing, and system
9 requirements.

10   (4) ASSISTANT SECRETARY.—The term "Assist-
11 ant Secretary" means the Assistant Secretary of
12 Commerce for Communications and Information.

13   (5) BENEFICIAL OWNER.—The term "beneficial
14 owner" —

15   (A) means, with respect to a developer of
16   an application, an individual who, directly or in-
17   directly, through any contract, arrangement,
18   understanding, relationship, or otherwise—

19   (i) exercises substantial control over
20   the developer; or

21   (ii) owns or controls not less than 25
22   percent of the ownership interests of the
23   developer; and

24   (B) does not include—

1   (i) a minor child, as defined in the

2   State in which the entity is formed, if the

3   information of the parent or guardian of

4   the minor child is reported in accordance

5   with this section;

6   (ii) an individual acting as a nominee,

7   intermediary, custodian, or agent on behalf

8   of another individual;

9   (iii) an individual acting solely as an

10   employee of a corporation, limited liability

11   company, or other similar entity and whose

12   control over or economic benefits from

13   such entity is derived solely from the em-

14   ployment status of the individual;

15   (iv) an individual whose only interest

16   in a corporation, limited liability company,

17   or other similar entity is through a right of

18   inheritance; or

19   (v) a creditor of a corporation, limited

20   liability company, or other similar entity,

21   unless the creditor meets the requirements

22   of subparagraph (A).

23   (6) COUNTRY OF CONCERN.—The term "coun-

24 try of concern" means a country that is on the list

25 described in subsection (c).

1   (7) COUNTRY OF ORIGIN.—The term "country

2 of origin"—

3   (A) with respect to the developer of an ap-

4 plication, means the country in which the devel-

5 oper is headquartered or principally operates;

6 and

7   (B) with respect to the beneficial owner of

8 the developer of an application—

9   (i) except as provided in clause (ii),

10 means the country from which the bene-

11 ficial owner principally exercises control

12 over the developer; and

13   (ii) if the beneficial owner exercises

14 any control over the developer from a

15 country of concern, means that country.

16   (8) COVERED COMPANY.—The term "covered

17 company" means any person, entity, or organization

18 that owns, controls, or operates an application store

19 that serves customers in the United States.

20   (9) DEVELOPER.—The term "developer" means

21 a person that creates, owns, or controls an applica-

22 tion and is responsible for the design, development,

23 maintenance, and distribution of the application to

24 end users through an application store.

5

1 (10) PRIMARY COUNTRY OF ORIGIN.—The term
2 "primary country of origin", with respect to an ap-
3 plication—

4 (A) except as provided in subparagraph
5 (B), means the country of origin of the devel-
6 oper of the application; and

7 (B) if the country of origin of the bene-
8 ficial owner of the developer of the application
9 is a country of concern, means that country.

10 (11) PROMINENT DISPLAY.—The term "promi-
11 nent display", with respect to an application store
12 page, means a banner that is immediately and clear-
13 ly visible when the application store page is accessed.

14 (b) REQUIREMENTS.—

15 (1) PUBLIC LISTING.—The Assistant Secretary
16 shall require a covered company to publicly list, in
17 a prominent display on the application store page,
18 the primary country of origin of each application
19 distributed through an application store owned, con-
20 trolled, or operated by the covered company.

21 (2) PROTECTIONS REGARDING CERTAIN FOR-
22 EIGN COUNTRIES.—

23 (A) FILTER FOR CERTAIN APPLICA-
24 TIONS.—The Assistant Secretary shall require a
25 covered company to provide users of the covered

1 company's application store with the option to
2 filter out applications whose primary country of
3 origin is a country of concern.

4 (B) DISCLAIMER FOR CERTAIN APPLICA-
5 TIONS.—The Assistant Secretary shall require
6 that if the primary country of origin of an ap-
7 plication is a country of concern, a covered
8 company that distributes the application
9 through an application store shall provide a dis-
10 claimer, in a prominent display on the applica-
11 tion store page, that data from the application
12 could be accessed by a foreign government.

13 (3) UPDATE OF INFORMATION.—

14 (A) IN GENERAL.—The Assistant Sec-
15 retary shall require a developer to notify a cov-
16 ered company whose application store distrib-
17 utes the developer's application of any change
18 in—

19 (i) the country of origin of the devel-
20 oper;

21 (ii) the beneficial owner of the devel-
22 oper; or

23 (iii) the country of origin of the bene-
24 ficial owner of the developer.

25 (B) DEVELOPER CERTIFICATION.—

1 (i) IN GENERAL.—The Assistant Sec-
2 retary shall require a developer to certify
3 to each covered company that owns, con-
4 trols, or operates an application store
5 through which the developer's application
6 is distributed, not less frequently than an-
7 nually, that the information displayed on
8 the application store page with respect to
9 the application, including primary country
10 of origin and beneficial ownership, is up-to-
11 date.

12 (ii) VIOLATIONS.—If a developer vio-
13 lates clause (i)—

14 (I) the covered company shall
15 issue the developer a series of not
16 fewer than 3 warnings over a period
17 of not more than 90 days; and

18 (II) if the developer does not cor-
19 rect the violation by the date that is
20 90 days after the date on which the
21 first warning is issued under sub-
22 clause (I), the covered company shall
23 remove the application of the devel-
24 oper from the application store.

1 (4) REPORTING MECHANISM.—The Assistant
2 Secretary shall require a covered company to estab-
3 lish a mechanism that—

4 (A) allows a user of the covered company's
5 application store, an employee of a developer
6 whose application is distributed through the
7 covered company's application store, or an asso-
8 ciated third party to report a potential violation
9 of this subsection by a developer, including in-
10 correct information displayed on the application
11 store page; and

12 (B) allows a report under subparagraph
13 (A) to be made anonymously.

14 (5) WRITTEN POLICY FOR APPEALS OF REMOV-
15 ALS.—The Assistant Secretary shall require a cov-
16 ered company to establish, for any application store
17 owned, controlled, or operated by the covered com-
18 pany, a clear written policy for how a developer can
19 appeal the removal of an application from the appli-
20 cation store and have the application be reinstated.

21 (c) LIST OF FOREIGN COUNTRIES WITH NATIONAL
22 LAWS RESULTING IN GOVERNMENT CONTROL OVER AP-
23 PLICATIONS.—

24 (1) IN GENERAL.—Not later than 180 days
25 after the date of enactment of this Act, and annually

1 thereafter, the Secretary of the Treasury and the
2 Secretary of Commerce shall jointly develop and sub-
3 mit to Congress a list of each foreign country that
4 has in effect a national law that may subject a devel-
5 oper or application to control by the government of
6 the country over content moderation, algorithm de-
7 sign, or user data transfers.

8 (2) PUBLICATION.—With respect to the list de-
9 veloped under paragraph (1)—

10 (A) the Secretary of the Treasury shall
11 make the list publicly available on the website
12 of the Department of the Treasury; and

13 (B) the Secretary of Commerce shall make
14 the list publicly available on the website of the
15 Department of Commerce.

16 (d) LIMITATION OF ENFORCEMENT AND REGULA-
17 TION.—The Assistant Secretary may not exercise any en-
18 forcement authority or regulatory authority over a covered
19 company or developer that is not provided under this sec-
20 tion, including through rulemaking.

21 (e) ENFORCEMENT.—The Attorney General may
22 bring a civil action in an appropriate district court of the
23 United States against any covered company that violates
24 this section.

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