

Commerce Department Seeks Comment on Restrictions on 'Connected Vehicle' Components From 'Foreign Adversaries'

Skadden

March 4, 2024

If you have any questions regarding the matters discussed in this memorandum, please contact the following attorneys or call your regular Skadden contact.

Brian J. Egan

Partner / Washington, D.C.
202.371.7270
brian.egan@skadden.com

Brooks E. Allen

Counsel / Washington, D.C.
202.371.7598
brooks.allen@skadden.com

Patrick Stewart

Associate / Washington, D.C.
202.371.7348
patrick.stewart@skadden.com

This memorandum is provided by Skadden, Arps, Slate, Meagher & Flom LLP and its affiliates for educational and informational purposes only and is not intended and should not be construed as legal advice. This memorandum is considered advertising under applicable state laws.

One Manhattan West
New York, NY 10001
212.735.3000

1440 New York Avenue, N.W.
Washington, D.C. 20005
202.371.7000

The U.S. Department of Commerce is soliciting comment on possible restrictions on “connected vehicle” components obtained from “foreign adversaries.”

On March 1, 2024, the department’s Bureau of Industry and Security (BIS) published an advance notice of proposed rulemaking (ANPRM) seeking public comment on whether and how it should restrict transactions involving information and communications technology and services (ICTS) related to “connected vehicles” (CVs). If the restrictions contemplated by BIS are implemented, they could have a significant effect on the supply chains of U.S. automakers, and on the companies that supply them.

The ANPRM proposes to build on the Department of Commerce’s existing regulations, used sparingly to date, that restrict ICTS transactions that pose national security risks to the United States. Specifically, BIS is considering prohibitions or restrictions on transactions involving ICTS that are designed, developed, manufactured, or supplied by companies from, or owned by nationals of, countries deemed “foreign adversaries” in the ICTS regulations, and that are integral to CVs. Those countries currently are China, Russia, Iran, North Korea, Cuba and Venezuela (collectively 15 CFR 7.4 Countries),

The ANPRM defines a CV relatively broadly, as an “automotive vehicle that integrates onboard networked hardware with automotive software systems to communicate via dedicated short-range communication, cellular telecommunications connectivity, satellite communication, or other wireless spectrum connectivity with any other network or device.”

The ANPRM specifically identifies on-board computers, sensors (*e.g.*, radar, LiDAR, and ultrasonic devices), cameras and batteries as potential targets of the restrictions, while seeking comments on whether other categories of CV-related ICTS hardware or software should also be included in eventual regulations.

The ANPRM seeks public comment on 35 questions covering a broad range of topics, including:

1. Definitions for key terms such as “CV”.
2. The ICTS supply chain of CVs.
3. The data collection capabilities of CVs.
4. The potential risks associated with CV-related ICTS from 15 CFR 7.4 Countries.
5. When exceptions to any forthcoming prohibitions would be warranted and whether a licensing or approval process for authorizing specific transactions should be created.
6. The economic consequences and recordkeeping requirements that such a rule could impose.

The ANPRM does not impose any new CV-related ICTS restrictions immediately, nor does it signal that such restrictions are imminent. It does, however, provide insight into BIS’s CV-related concerns, as well as an opportunity for members of the public to frame and contribute to the discussion about future restrictions. While the potential scope of the ANPRM is sweeping, the purpose of the notice is to seek input on how a future rule should be crafted.

BIS is accepting comments through April 29, 2024. Comments may be submitted online at www.regulations.gov, using docket number BIS-2024-0005.