

117TH CONGRESS
1ST SESSION

H. R. 5639

To require disclosure of foreign government subsidies in the premerger notification process.

IN THE HOUSE OF REPRESENTATIVES

OCTOBER 20, 2021

Mr. FITZGERALD (for himself, Mr. STANTON, Ms. SPEIER, Mr. LOUDERMILK, Mr. TIFFANY, Mr. CRAWFORD, Ms. SHERRILL, Mr. GOHMERT, Mr. STEWART, Mr. BISHOP of North Carolina, and Mr. OWENS) introduced the following bill; which was referred to the Committee on the Judiciary

A BILL

To require disclosure of foreign government subsidies in the premerger notification process.

1 *Be it enacted by the Senate and House of Representa-*
2 *tives of the United States of America in Congress assembled,*

3 **SECTION 1. SHORT TITLE.**

4 This Act may be cited as the “Foreign Merger Sub-
5 sidy Disclosure Act of 2021”.

6 **SEC. 2. MERGERS INVOLVING FOREIGN GOVERNMENT SUB-**
7 **SIDIES.**

8 (a) ACCOUNTING FOR FOREIGN GOVERNMENT SUB-
9 SIDIES.—A person required to file a notification required

1 by section 7A of the Clayton Act (15 U.S.C. 18a) that
2 received a subsidy from a foreign state shall include in
3 such notification a detailed accounting of each such sub-
4 sidy.

5 (b) **AUTHORITY OF ANTITRUST REGULATORS.**—The
6 Federal Trade Commission, with the concurrence of the
7 Assistant Attorney General in charge of the Antitrust Di-
8 vision of the Department of Justice and by rule in accord-
9 ance with section 553 of title 5, consistent with purposes
10 of this section shall require that the notification required
11 under subsection (a) be in such form and contain such
12 documentary material and information relevant to a pro-
13 posed acquisition as is necessary and appropriate to enable
14 the Federal Trade Commission and the Assistant Attorney
15 General in charge of the Antitrust Division of the Depart-
16 ment of Justice to determine whether such acquisition
17 may, if consummated, violate the antitrust laws.

18 **SEC. 3. DEFINITIONS.**

19 For the purposes of this Act:

20 (a) **FOREIGN STATE.**—The term “foreign state” shall
21 have the meaning given it in section 1603(a) of title 28,
22 United States Code.

23 (b) **SUBSIDY.**—The term “subsidy” includes a direct
24 subsidy, a grant, a loan (including a below-market loan),
25 a loan guarantee, a tax concession, a preferential govern-

1 mental procurement policy, or other form of economic sup-
2 port including ownership or control by a foreign state.

3 **SEC. 4. EFFECTIVE DATE.**

4 This Act shall take effect 90 days after the date of
5 the enactment of this Act.

○