Should Companies Subsidized by China Be Permitted to Buy US Tech Firms?

TRANSCRIPT

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• Representative Scott Fitzgerald, U.S. Representative, Wisconsin’s 5th Congressional District
• Representative Greg Stanton, U.S. Representative, Arizona’s 9th Congressional District
• Thomas J. Duesterberg, Senior Fellow, Hudson Institute

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A video of the event is available: https://www.hudson.org/events/2066-virtual-event-should-companies-subsidized-by-china-be-permitted-to-buy-us-tech-firms-22022

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Tom Duesterberg:

Good afternoon, everyone. I'm Tom Duesterberg, a senior fellow at the Hudson Institute. And I'm delighted to be joined today by two congressional leaders, Representative Scott Fitzgerald and Representative Greg Stanton. There is a lot of activity in the Congress these days, vis a vis China. The house just passed a rather large and comprehensive bill on competitiveness with China, and are probably going to go to conference with the Senate in the near future, to iron out a final bill. Today, we're going to discuss a bill these two gentlemen have introduced and are pushing, the Foreign Merger Subsidy Disclosure Act, just to get it right, which was introduced last year. And in my understanding is, is that the language of this bill has been included in the COMPETES Act, which is the comprehensive House version of the China bill.

Let me first introduce our two guests and let them talk a bit about what the bill does, and how they anticipate the bill moving forward in the next few weeks.

We're going to start with a principal sponsor, Representative Scott Fitzgerald. He was elected to represent Wisconsin's 5th congressional district in 2020. Prior to his election to the U.S. Congress, Representative Fitzgerald served in the Wisconsin State Senate from 1995 to 2021. His distinguished tenure in the Senate included serving as majority leader and minority leader, co-chairman of the Joint Committee on Finance, and chairman of the Senate Corrections Committee. In the House, Representative Fitzgerald serves on the Committee on Judiciary, the Committee on Education and Labor, and the Committee on Small Business.

He's joined as a principal co-sponsor of this bill, Representative Greg Stanton, from Arizona. Representative Stanton represents the 9th congressional district in the growing state of Arizona. He was first elected to the House of Representatives in 2018. From the 2012 to 2018, he served as the mayor of Phoenix. He previously served for nine years on the City Council and was also the Deputy Attorney General of Arizona. So Representative Fitzgerald, I think we'll turn to you first. Could you explain what your bill does, and why you think it was necessary to promote this legislation?

Representative Fitzgerald:

Yeah, thank you very much for having us today, and helping us kind of get the word out on what we're trying to accomplish. Like many ideas that emerge, I think, within Congress, this is something that, quite honestly, I kind of came across in talking with staff. And you could call it maybe a loophole, or something that I was surprised had not been addressed. And that was a pretty simple idea, that we realized that China, about 3% of their GDP was specifically being set aside to subsidize many of these companies that, quite honestly, are kind of doing business, not only up against American private enterprises, but it's a mix of international or global companies, that are being directly affected by these subsidies.

So we said, let's try and figure out a way of addressing this. And I believe that this bill does a good job, and Representative Stanton is kind of leading the charge on the other side of the aisle. And I think it's a true bipartisan kind of bill, that's going to garner a lot of support. And I think other members are going to be surprised that this is kind of the situation, and that this exists and has existed for some time.

Tom Duesterberg:

Okay, Representative Stanton, what was your motivation for getting involved in this particular initiative?
Representative Stanton:

Well, first off, thanks for having me, Tom, and the Hudson Institute, for putting this event together. As Congressman Fitzgerald said, they get the word out on this important bill that was added to the COMPETES Act. And I want to say thanks to Congressman Fitzgerald, who's been leading the way on this one for a while, for asking me to be his partner on the Judiciary Committee to move forward with this very important bill, the Foreign Merger Subsidy Disclosure Act.

Look, we're in competition with China, and the United States is fully prepared to win this great global economic challenge that we have with China. But we want to make sure that that competition is done fairly, that there's not an unfair advantage, and that there's full disclosure of information as it relates to our economic competition with China. As Congressman Fitzgerald just mentioned, I think a lot of people would be surprised that as the government of China is subsidizing industry, both inside of China, and doing investment outside of China, that there isn't full transparency, isn't full disclosure of that information.

And as there's so much merger activity going on in the United States, it is very important for the regulators to know about which companies are subsidized, and to what level, because that's important for them to make the decision about supporting a merger, whether or not the new merged company may be engaging in anti-competitive behavior or have market forces other than traditional capitalism moving forward in the marketplace. And so they may, as they make decisions about whether to support those mergers, that's incredibly important information for them to have. We want the free flow of information, we want the free flow of capitalism. But we want to make sure it's done for the appropriate capitalistic purpose. That is the reason for this bill, is to make sure that our antitrust regulators have full information as they're making these important decisions.

Tom Duesterberg:

Well, just to go into some of the details, since this is put together as an antitrust measure, and it would be enforced by the antitrust agencies, in general, the Justice Department and the Federal Trade Administration. There are two reasons, it seems to me, that we have become worried about Chinese acquisition of U.S. companies. One, is the competitiveness angle that both of you talked about. But the other seems to be that Chinese tactics of acquiring sensitive technologies, sensitive in the sense of both affecting national security through dual-use technology, or affecting technologies of the future, such as leading-edge semiconductors, or commercial aviation, jet engines, and the like. Does your bill allow the antitrust agencies to sort of consider these other considerations, the national security and technology leadership issues, as they consider the information that would be become more transparent under your bill, should it become law? Representative Fitzgerald, do you want to...

Representative Fitzgerald:

Yeah. Yeah, let me just offer kind of a few more specifics that I think makes the legislation important, and that is that the government subsidies, they're often used to acquire U.S. assets. And I think this is what you were getting at. Particularly those that do deal with, not only the strategic and emerging technologies, but also things that have a direct effect on what, I guess you could say, industrial policy. So yeah, not only is it being subsidized, and then obviously the dollars of the subsidies that are being used
are now being moved to garner U.S. assets, but then the certain particular parts of those assets are very sensitive, and are something that quite honestly should be protected.

And I'll just say, China's very active in the U.S. economy. It's not like you've got some country in Asia that wouldn't necessarily try and do this in an overt way. I mean, it's happening, it's happening right in front of our eyes. And I think that it's another reason that this piece of legislation is important. We have to be able to track the dollars, and then ultimately see how they're being used. And that's what this bill does.

Representative Stanton:

Tom, you mentioned this, specifically the semiconductor industry, that probably is example A as to why this legislation is so important. China has massively subsidized the semiconductor industry, as you know. The United States, over many decades, sadly have lost our global leadership position in the manufacturing of semiconductors. In my district is Intel, their major manufacturing entity is in Chandler, in Arizona. And so, we've lost so much position on that, we want to regain that position. And it's important that regulators have that information as they make decisions. On issues of supply chain, that's a national security issue. The United States losing our global position on semiconductors, also a national security issue. So yes, the regulators should have this information, and should be able to consider national security implications, as they make important decisions about emerging companies in the United States of America.

Representative Fitzgerald:

Let me, can I throw one more thing in there then, too? I mean, the other thing that regulators can make judgment calls on, and certainly make a determination as to how they want to pursue that, either, on a couple of different legal fronts, but they absolutely engage in predatory pricing, as well. So I think that what you're going to see, is maybe giving some of the regulators the tools they need, to do just a much better job in monitoring what is going on out there. And again, that part of it, I think, is what many members, certainly, would assume was going on. And yet, there was kind of pushback, like, we don't have the ability, we don't have what we need to get that job done. And again, I think this bill lends itself to helping in that specific area.

Representative Stanton:

As you know, already the Treasury Department investigates when there's foreign investment in American companies, looking at issues like the intellectual property and whether it has national security applications. This bill would give an additional layer of protection for American consumers, and the American public, as it relates to the possibility of intellectual property theft, or the issue that Congressman Fitzgerald just mentioned, and that is pricing that doesn't make economic sense, but rather pricing to undermine the American marketplace, to create instability in the American marketplace, to create an international competitive advantage. That's not an appropriate activity, and should be looked at. And this provides tools to the regulators to take a look at that important information.

Tom Duesterberg:
Okay, to be clear, the intent of the bill is really motivated by Chinese mercantilism, and subsidization of their industrial sector over the last 20 or 30 years. But the bill is written more broadly than that, and would apply to other nations as well. Russia is much in the news these days, and I'm sure it would apply to them. But there are other countries that tend to subsidize some of their industry.

We've had that long standing case in the World Trade Organization, about Airbus being largely subsidized, and competing with Boeing. But Representative Stanton, in the semiconductor industry, the trade association, the Semiconductor Industry Association, has released figures that seem to indicate that other countries such as Korea and Taiwan offer something approaching what could be called subsidies. Would this bill allow the antitrust authorities to take a look at others, besides Chinese companies, or for Russian companies, for that matter? And is that something you intend for it to do?

Representative Stanton:

Yes. Look, our greatest strength as the United States of America is, number one, the strength of our democracy, our form of government. And then our second greatest strength is our economy, the strength of the American economy, the greatest economy on planet earth. There are bad actors out there that would like to undermine both of those things, to hurt the United States of America. And it's important that we take steps, as we're talking about today, the Foreign Merger Subsidy Disclosure Act, provide tools to regulators to help protect those that may inappropriately use our economic system to try to undermine our great economy. We don't want that to occur.

Yeah, so there is not just China. We obviously, there's a lot of talk about this great economic competition with China, but there are others that would try to do harm to the United States of America, and we want to give the tools to try to fight back against that. And look, the issue of semiconductor, which obviously is front and center, that is a national security issue. So much of technology around the world, so much of our military systems are based on the strength of semiconductors. And if we become overly reliant on manufacturing in other countries, subsidized by foreign countries, that could put our economic security, our national security, at risk. So that's why this is a really important bill, and I'm proud to partner with Congressman Fitzgerald on it.

Tom Duesterberg:

Congressman Fitzgerald, one of the possible criticisms of the bill, in a somewhat larger context, is that we have been fighting the Europeans over antitrust policy for a good number of years, they've been very aggressive about going after high-technology American companies. By giving our antitrust authorities a little bit more power, in a more international context, do you think it will be, especially in terms of the reaction of our business community, will they accuse the authors of this bill, or the bill itself, of needlessly expanding antitrust authority, in an attempt to catch up with the Europeans, and match the Europeans?

Representative Fitzgerald:

Yeah, the Union, European Union, they're already developing a rule that would address some of the, distortive effects, I think is maybe a way of describing it, by some of the state-owned enterprises. So yeah, we're not operating in a vacuum here. There probably will be some reaction. And I just go back to,
there are real-world examples of the Chinese government, under the idea of some type of capital-developed entity, just literally buying U.S. corporations in Silicon Valley.

So I mean, it's not theory, it's not like we're looking down the road, trying to gauge what might come at us at some point. I mean, this stuff is real, and it's happening right now. So yeah, I'm not saying there couldn't be questions, or if, like I said, the European kind of fallout from this, that might be too strong way of describing it, but there probably will be a reaction. And that I think it's something that, obviously, we need to be prepared for, and it is something that the U.S. government should be willing to discuss and have communications about.

Representative Stanton:

My perception of the pushback, is less on the issue that you just brought up, Tom, and more on the issue of concerns that, will this chill foreign investment in American companies? We want to be competitive. We want American companies to have access to capital, whether it be from domestic or foreign sources. And of course, capital investment funds, whether American or foreign, if they’re investing for the purpose of making money, and using the capital markets in the United States to make money, they're going to be perfectly fine. It's when it's the inappropriate use of the American enterprise system to try to distort it for other purposes, to undermine the American economy, or to engage intellectual property theft by acquisition of American companies, that's when they're in trouble. So I don't think there's going to be a significant chilling of foreign investment, we don't want that to occur. But we do have to balance it out with these very real concerns about inappropriate use, inappropriate subsidies, for non-capitalistic purposes.

Representative Fitzgerald:

Yeah, I mean, that’s the purpose of the bill, is we want to encourage investment in the U.S., but we want transparency. We don’t want anybody to certainly be able to game the system, or get an upper hand as a result of taking actions that aren’t obviously transparent to what’s going on.

Representative Stanton:

And I would argue, on the other side, if we don't get a hold of this, and do a better handle on this problem, there may be foreign entities that would be less likely to invest in the American system. We want a clean system, if you will. And the clean system, a transparent system, is one that’s going to garner more investment in American companies.

Tom Duesterberg:

Okay. Well, I mentioned at the outset, that your bill is part of a larger effort that was passed by the House last week. And the Senate has already passed a sort of a comprehensive China bill. So could you take us through sort of the inside game of the process that we will see from here, and give us your assessment of when we might see a final bill, hopefully including your amendment? Representative Stanton, your party is more or less in charge of sort of the procedure here. Could you take us through how this is going to unfold in the next couple of weeks?

Representative Stanton:
Yeah. So the Senate passed their version of the competition bill, particularly as it relates to China. And obviously the House just passed our version last week. And so, guess what, we're going to do something that we haven't done in a long time on Capitol Hill, a good old fashioned conference committee, where two sides are going to get together, Democrats, Republicans, senators, and members of the House, and we're going to hash out a compromise bill. And I know Congressman Fitzgerald and I are both going to advocate greatly, we're going to fight to make sure that our amendment, that did get into the House side, stays in the final bill.

Timing wise, obviously, we're going to be advocating that happens as soon as possible. Look, a company like Intel, they're making major investments decisions, in my district, in the state of Arizona, in Ohio, that they just mentioned their massive investment that they're making in the state of Ohio, with a new manufacturing facility. The size and breadth of those investments are directly related to whether or not the United States of America is going to compete on a fair footing. And that's what the COMPETE bill does, it does have the Chips Act included in it, and it would allow companies like Intel to better compete with foreign competitors, and it's the right thing to do. So we need to get this bill done as quickly as possible.

Tom Duesterberg:
Representative Fitzgerald, does your district include the area where Foxconn was going to start producing cell phones, but apparently that has not come through yet, is that in your district? Or, could you speak to the interest of your district, and the overall effort to fight back against Chinese mercantilism, and rebuild American capabilities, especially in higher-technology industries?

Representative Fitzgerald:
The actual site of the Foxconn plant, as originally proposed, is not in my congressional seat. But as you said earlier, my introduction as majority leader in the Senate was certainly involved in that negotiation, and the state of Wisconsin was very hopeful that, ultimately, it would result in investment that would create about 2,500 jobs. It's been incremental in the way they've been doing this, there's still a plant that is being erected there, and there are jobs that have been created. But I think it's a good example of looking back and saying, what type of investments are we trying garner, and put in place, when it comes to our relationship? Not just with China, but obviously, any company that has an international presence and wants to establish something, literally, in the States, because of either strong workforce, reliable workforce, which is something that I've always been able to sell, when it comes to the state of Wisconsin.

Now, as of late, yeah, there certainly are some challenges there. But, yeah, Foxconn is a great example of a company that manufactures products that are used by Americans every day of the week, and really did not have that manufacturing facility anywhere within the States. And again, transparency is critical, buy-in is critical, and it is a good example of a company that developed a relationship with the U.S. Government, and then ultimately the state of Wisconsin. And we want more of that. We want more of that, absolutely.

Representative Stanton:
Adding something on a related note, in Phoenix, the city that I used to lead as mayor, TSMC, the Taiwanese Semiconductor Manufacturing Company, one of the largest on planet earth, is investing over $20 billion in building a new semiconductor manufacturing facility in the city of Phoenix. And that certainly is a company that's massively subsidized as well. It's a great thing that they're investing in the United States of America. It's a great thing that they're going to be bringing thousands of jobs to the United States, and to my district. And it's something I know Congressman Fitzgerald and I agree on, it's one of the reasons why we need to support Taiwan, and we need to support the people of Taiwan and the free market, and the democracy in Taiwan, because 20 years from now, I still want that to be a Taiwanese company, creating jobs, not the People's Republic of China. And so, there's a direct relationship between supporting the people, the economic system, and democracy, in Taiwan, and economic development here in the United States.

Tom Duesterberg:

The COMPETES Act, and the USICA Act, on the Senate side, I think was the name of their companion bill, both have, both defensive measures, and perhaps your bill on disclosure of the subsidies is more a defensive measure, but also offensive measures, in the sense of rebuilding American technological and manufacturing capacity. We talked about the Chips Act, but there's also, in both the Senate and the House, bills. Money is at least authorized for increased research and development, especially in areas of high technology where we're competing with China. Much of that goes to the National Science Foundation.

But there are other measures as well. Representative Fitzgerald mentioned skills training, and there are apprenticeship measures in the House bill, I presume those made it into the final version. How do we balance off the defensive and the offensive sides of meeting the China challenge? And do you think there's enough momentum on both sides of the Congress to get a really comprehensive bill, with both defensive and offensive measures, through to the final product? And perhaps you could also comment on the support you're getting from the White House on your bill, and on the overall effort for the comprehensive bills. Representative Stanton, you want to start with that one?

Representative Stanton:

Well, I had not asked representative Fitzgerald this question, but I assume he is a Packers fan. And for the Packers to be successful... Let's throw a sports analogy in here, why not? For the Packers to be successful as a team, as they have been for so many years, you can't have a good offense and not a good defense, or vice versa. To be a successful team, you have to have both. And our winning this competition that America has with China, is going to take both. And that's why the COMPETES bill has both in there, and both elements need to stay in there. So I'm not sure if the Chips Act is an offensive or a defensive measure, taking the sports analogy to its logical extreme, I guess you could make either analogy if you want, but we need to keep the support for our semiconductor industry in there. We need to keep support for supply chain, and better managing our supply...

We saw with this terrible COVID pandemic what happened at the very beginning when we were over reliant on China for masks, the manufacturing of masks, and how that hurt American public health. That's a lesson that we have to heed, and we have to bring manufacturing jobs, have American policy be
to bring as much back to the United States as possible. From a national security measure, we learned that. From a public health perspective as well, we learned that during the pandemic.

And of course, getting back in the game of investing in basic science, not just through the National Science Foundation or the NIH, but also through our colleges and universities throughout the United States of America. We've let that atrophy way too much. And I think we're learning now that that has hurt us.

And then finally, as you mentioned, arguably, the number one thing we can do as a national defense measure, is to support STEM education, to get more of our young people graduating high school, and moving on to our great American colleges and universities, and studying the sciences, math, technology, engineering. We've also to let that atrophy, and that's been to our disadvantage in this growing competitive international marketplace. I don't know if that's offense or defense, but we need both in order to be successful.

**Tom Duesterberg:**

Congressman Fitzgerald, would you like to comment on that?

**Representative Fitzgerald:**

Yeah, I mean, I think, certainly, even though I wasn't fully there on the COMPETES Act, the one provision, that certainly I think I support many of my colleagues on the Republican side of the aisle, would say, listen, if there's going to be a global infrastructure system funded by the Chinese government, we need a, I guess you could say, whole-of-government approach, that is certainly all hands on deck. We need to be very aware and careful, to make sure that we are united in fighting back.

And certainly, like I said, that Belt and Road Initiative should be a wake-up call, it should be, really, something that we are very concerned about. And ultimately, we need to unite to say, listen, this is not acceptable, that you would have a government, with the profile that China does have, making massive investments throughout the globe. So that's also part of, I think, what Congress needs to work on. And after this piece of legislation, there should be others that deals directly with something that, quite honestly, I think is somewhat troubling.

**Tom Duesterberg:**

Okay. Being mindful of your duty to attend the people's business on the floor of the House, which is starting up some votes fairly soon, let's wrap this up. But maybe I'll give each of you a chance to make any final comments, or comments on aspects of this that we haven't discussed just yet. Representative Stanton, do you want to...

**Representative Stanton:**

First off, thanks for doing the event, that's great. I'm really excited to participate with Tom, and the Hudson Institute. And again, Congressman Fitzgerald my partner on the Judiciary Committee, I look forward to working with him, not just to get this bill across the finish line, but also many future opportunities. Bipartisan, we got to get back to bipartisanship up on Capitol hill. I'm glad that he and I are partnering up on this particular bill.
Look, this theme of international competition, and putting the United States in the best position to win this international competition, we can't rest on any laurels in our country. We've got to fight if we're going to win this economic competition. And this issue with China has really forced us to look in the mirror and say, what can we do better, what do we need to have to improve in our country, in order to win this economic competition?

I think as we look back in this time period, that's actually going to be the question of the day, how well did the United States respond to this challenge from China? So this theme is going to be a big one for, I think, years to come, but this particular bill that Congressman Fitzgerald and I are working on, it's one step, one important step in the right direction, that we ensure that this economic competition is done as fairly as possible. And this required disclosure of information through the merger process will better arm our regulators, to help make sure that investment in American companies is done for the proper purpose, which is to make money, and move forward with capitalism. That's exactly what we want.

**Tom Duesterberg:**

Mr. Fitzgerald, any final words?

**Representative Fitzgerald:**

Yeah, thanks again, Tom, for doing this, and thank the Hudson Institute. I would just say, again, not to oversimplify it, but it's basically a modest, additional disclosure, that certainly I think can have a significant impact, in not only tracking the money, but just creating transparency that's very much needed.

**Tom Duesterberg:**

Okay, on behalf of the Hudson Institute, let me thank both of you for taking the time to share your thoughts with us, and best of luck as the process makes its way through the Congress.

**Representative Stanton:**

Thank you so much, that was great.

**Representative Fitzgerald:**

Thank you, very good.