ML STRATEGIES

Commerce Department Investigates National Security of Semiconductors, and US Attorney Indicts AI CEO for Fraud — AI: The Washington Report

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VIEWPOINT TOPICS

- Artificial Intelligence
- AI: The Washington Report

- On April 1, the Department of Commerce (Commerce) launched a Section 232 investigation into the national security of semiconductor imports. On April 16, Commerce published a Request for Information (RFI) seeking public comments on the role of foreign companies and governments in the semiconductor industry, among other topics. Semiconductors are vital components in the development and manufacturing of AI technology.
- The investigation comes as seven Republican senators called on the Commerce Secretary to withdraw the Biden administration's AI Diffusion Rule (AIDR), which they argue creates "complex restrictions on the purchase of US technology." The AIDR limits semiconductors and AI model exports to certain countries and has a May 15 compliance deadline.
- On April 9, the Acting United States Attorney for the Southern District of New York charged a tech CEO with an AI fraud scheme. The indictment is notable because it is the first of its kind under the new administration's DOJ and continues the previous administration's scrutiny of AI-related misleading claims.

On April 1, the US Department of Commerce (Commerce) launched a Section 232 investigation into the national security of semiconductor imports. Semiconductors are vital components in the development and manufacturing of AI technology. As part of the investigation, Commerce published a **Request for Information** (RFI) on April 16, seeking public comments on the role of foreign companies and governments in the semiconductor industry, among other topics. The RFI comes as seven Republican senators called on the Secretary of Commerce to withdraw the previous administration's AI Diffusion Rule, which has a May 15 compliance date. The senators argued in an April 11 **letter** that the rule, which **we wrote about**, imposes "complex restrictions on the purchase of US technology" and may stifle innovation and trade.

In other AI news, on April 9, the Acting United States Attorney for the Southern District of New York **charged** a tech CEO with an AI fraud scheme related to the CEO's e-commerce company. The indictment is notable because it is the first of its kind under the new administration and continues the previous administration's scrutiny of AI-related misleading claims.

National Security Investigation into Semiconductors

On April 1, the Secretary of Commerce launched a Section 232 investigation to "determine the effects on national security of imports of semiconductors, semiconductor manufacturing equipment, and their derivative products." As part of the investigation, Commerce published an RFI on April 16 requesting comments on a range of topics related to semiconductor imports. Topics include, among others:

- The domestic demand for semiconductors,
- The effect of "foreign government subsidies and predatory trade practices on United States semiconductor" competitiveness,
- The potential "for export restriction by foreign nations," and
- The "feasibility of increasing domestic semiconductor capacity to reduce import reliance."

Interested parties may submit written comments by May 7 through the Federal rulemaking portal at **regulations.gov**.

Republican Senators Call for Withdrawal of AI Diffusion Rule

Commerce's investigation comes as seven Republican senators called on the Secretary of Commerce to withdraw the previous administration's AI Diffusion Rule, which has a May 15 compliance date. They argue that the AIDR imposes "complex restrictions on the purchase of US technology" and may stifle innovation and trade.

As we wrote about, the AIDR divides countries into three categories, with different levels of export controls and licensing requirements for each category based on their risk level. Eighteen close allies are eligible for a license exception, while countries of concern, including China and Russia, are required to apply for a license to export chips, and a "presumption of denial" applies to their applications. All other countries – "Tier 2" countries – are allowed to apply for a license, and such applications are reviewed "under a presumption of approval."

In an April 11 letter, the senators argued that the rule "places burdensome constraints on US companies that would be difficult to comply with and even harder for the federal government to enforce." The senators are also concerned that buyers, "particularly in Tier 2 countries that are constrained from purchasing US technology, would be incentivized to turn to Communist China's unregulated, cheap substitutes."

The Trump administration, as **we wrote about**, received a number of comments from tech companies and other stakeholders about the AIDR in response to its RFI for the development of its AI Action Plan. Comments were both supportive and critical of the rule. It remains to be seen if the current administration keeps the AIDR in place, withdraws, or modifies it before May 15.

Tech CEO Charged with AI-related Fraud

On April 9, the Acting United States Attorney for the Southern District of New York (SDNY) charged a tech CEO with an AI fraud scheme related to his e-commerce company. According to the Acting US Attorney, as alleged, the CEO "misled investors by exploiting the promise and allure of AI technology to build a false narrative about innovation that never existed."

According to the SDNY's **press release**, the tech CEO claimed that his company's app used a "proprietary AI technology to autonomously complete online purchases" for users based on their preferences. However, according to the SDNY, the "app's actual automation rate was effectively zero percent," and the app "relied heavily on teams of human workers — primarily located overseas — to manually process transactions in secret."

The indictment is notable because it is the first of its kind under the new administration and continues the previous administration's scrutiny of AI-related misleading claims, which **we wrote about**.

We will continue to monitor, analyze, and issue reports on these developments. Please feel free to contact us if you have questions as to current practices or how to proceed.

Authors

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