

# The Cyber Privateering Act

*Empowering American Businesses to Fight Back Online*

Brett Calloway

## THE PROBLEM

Americans are under siege. Ransomware cost the U.S. economy tens of billions of dollars last year, and the attacks are only getting worse, impacting rural healthcare providers, municipal water utilities, electrical cooperatives. And here's the part that should make us angry: when the criminals or countries hit us, we just sit there and take it. We patch, we pay, we file a report, and we wait to get hit again. America has the best cyber talent in the world, and they are forced to play pure defense while overseas attackers operate completely free of consequences. It's time we stopped playing defense and started fighting back.

Four years ago these bad guys hacked my local hospital after I'd just been there for surgery. It was all over the news. They said the hackers were criminals who were holding data for ransom. Including my data. They stole my data from me! And I've heard that other countries like China are hacking our companies all the time. Meanwhile, we just sit back and don't do anything because hacking them to get the data back is illegal.

## THE IDEA

We should empower American companies and victims whose data has been breached to defend themselves actively, to recover the data, and to go on offense against the criminals and countries attacking them. The talent exists. The technology exists. What's missing is permission. Some people have called this a "letter of marque" for the digital age. It's exactly the kind of bold, founder-energy thinking this problem needs. The government should modernize our outdated computer-crime laws so that victim companies and individuals can take the fight to the enemy and make our adversaries think twice. It's common sense. If someone robs your store, you're allowed to chase them down the street. Why should cyberspace be any different?

This new law should also let certain companies proactively defend by infiltrating criminal and hostile government networks to keep tabs on them and watch for upcoming attacks so they can be stopped. After all, the bad guys are already in our networks doing the same thing, why should we feel powerless to do the same?

Finally, I'd like the military to make a program where civilians can take a training class to digitally arm themselves and carry out these types of operations. Citizens can use their vacation for the two week class, which will also help them when they go back to work to defend their companies. This also helps create an even bigger American talent pool to defend our nation.

## WHAT I NEED FROM THE SHARKS

I'm looking for the Sharks' help to figure out the right way to make active cyber defense legal. One idea I have is that States could give out letters of marque, since it's kind of similar to how each state has a National Guard. But I'm open to whatever path is most viable — new laws, a presidential rule, or maybe a

pilot program to start. I'd love a champion who can help me explore how our government could empower businesses and citizens to fight back, and who can point me toward the right people to make this real.

*REFERENCE EXAMPLE*

Category	Score	Why
Levers	1 / 4	Gestures at Congress, the administration, the military, and even the states. Drops "letter of marque" as a slogan with no mechanism behind it, and lists every possible lever instead of choosing one. The Sharks would have to invent the entire mechanism and avoid unconstitutional ones, like tasking states with issuing the letters.
Impact	0 / 3	No logic from action to outcome, because there is no defined action. Reactive "fight back" treats the symptom while ignoring why organizations get hit, and never grapples with escalation or misattribution. Nibbles the edges at best. Worse, it explicitly asks the government to task citizens and companies to attack foreign citizens and governments.
Realism	1 / 3	Authorizing private-sector offensive operations runs straight into international law, escalation risk, and broad stakeholder pushback. The pitch offers no path through any of it. In addition, the pitch tries to do way too much in a single move, each of which has its own limits and would draw its own criticism.
Creativity	0 / 1	"Let companies hack back" is one of the most-floated ideas in cyber policy.
Total	2 / 11	A genuine, urgent problem wrapped around a slogan instead of a lever, offering no clear path to how the solution addresses the problem, and with considerable obstacles to implementation.