

Union Calendar No. 320

110TH CONGRESS
2^D SESSION

H. R. 275

[Report No. 110–481, Part I]

To promote freedom of expression on the Internet, to protect United States businesses from coercion to participate in repression by authoritarian foreign governments, and for other purposes.

IN THE HOUSE OF REPRESENTATIVES

JANUARY 5, 2007

Mr. SMITH of New Jersey (for himself and Mr. WOLF) introduced the following bill; which was referred to the Committee on Foreign Affairs, and in addition to the Committee on Energy and Commerce, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned

DECEMBER 10, 2007

Reported from the Committee on Foreign Affairs with an amendment
[Strike out all after the enacting clause and insert the part printed in italic]

DECEMBER 10, 2007

Referral to Committee on Energy and Commerce extended for a period ending not later than January 16, 2008

JANUARY 15, 2008

Referral to Committee on Energy and Commerce extended for a period ending not later than February 1, 2008

JANUARY 16, 2008

Referred to the Committee on the Judiciary for a period ending not later than February 1, 2008 for consideration of such provisions of the bill and amendment as fall within the jurisdiction of that committee pursuant to clause 1(k), rule X

FEBRUARY 1, 2008

Referral to the Committee on the Judiciary extended for a period ending not later than February 8, 2008

FEBRUARY 1, 2008

Referral to the Committee on Energy and Commerce extended for a period ending not later than February 22, 2008

FEBRUARY 8, 2008

Referral to the Committee on the Judiciary extended for a period ending not later than February 22, 2008

FEBRUARY 22, 2008

Additional sponsors: Mr. McCOTTER, Mr. ROHRABACHER, Mr. RYAN of Ohio, Mr. LANTOS, Mr. WU, Mr. BURTON of Indiana, and Mr. SHERMAN

FEBRUARY 22, 2008

Committees on Energy and Commerce and the Judiciary discharged; committed to the Committee of the Whole House on the State of the Union and ordered to be printed

[For text of introduced bill, see copy of bill as introduced on January 5, 2007]

A BILL

To promote freedom of expression on the Internet, to protect United States businesses from coercion to participate in repression by authoritarian foreign governments, and for other purposes.

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; TABLE OF CONTENTS.**

4 (a) *SHORT TITLE.*—*This Act may be cited as the*
 5 *“Global Online Freedom Act of 2007”.*

6 (b) *TABLE OF CONTENTS.*—*The table of contents for*
 7 *this Act is as follows:*

Sec. 1. Short title; table of contents.

Sec. 2. Findings.

Sec. 3. *Definitions.*
 Sec. 4. *Severability.*

TITLE I—PROMOTION OF GLOBAL INTERNET FREEDOM

Sec. 101. *Statement of policy.*
 Sec. 102. *Sense of Congress.*
 Sec. 103. *Annual country reports on human rights practices.*
 Sec. 104. *Office of Global Internet Freedom.*
 Sec. 105. *Annual designation of Internet-restricting countries; report.*

TITLE II—MINIMUM CORPORATE STANDARDS FOR ONLINE FREEDOM

Sec. 201. *Protection of personally identifiable information.*
 Sec. 202. *Integrity of personally identifiable information.*
 Sec. 203. *Transparency regarding search engine filtering.*
 Sec. 204. *Transparency regarding Internet censorship.*
 Sec. 205. *Protection of United States-supported online content.*
 Sec. 206. *Penalties.*
 Sec. 207. *Presidential waiver.*

TITLE III—EXPORT CONTROLS FOR INTERNET-RESTRICTING COUNTRIES

Sec. 301. *Feasibility study on establishment of export controls.*
 Sec. 302. *Report.*

1 **SEC. 2. FINDINGS.**

2 *Congress makes the following findings:*

3 *(1) Freedom of speech and freedom of the press*
 4 *are fundamental human rights, and free flow of infor-*
 5 *mation on the Internet is protected in Article 19 of*
 6 *the Universal Declaration of Human Rights, which*
 7 *guarantees freedom to “receive and impart informa-*
 8 *tion and ideas through any media regardless of fron-*
 9 *tiers”.*

10 *(2) The Internet has been a success because it*
 11 *quickly provides information to its more than one bil-*
 12 *lion users globally.*

1 (3) *The growth of the Internet and other infor-*
2 *mation technologies can be a force for democratic*
3 *change if the information is not subject to political*
4 *censorship.*

5 (4) *The Internet has played a role in bringing*
6 *international attention to issues the discussion of*
7 *which are forbidden by authoritarian foreign govern-*
8 *ments, such as attempts by the Government of the*
9 *People’s Republic of China to suppress news of the se-*
10 *vere acute respiratory syndrome (SARS) outbreak in*
11 *2004.*

12 (5) *Authoritarian foreign governments such as*
13 *the Governments of Belarus, Cuba, Ethiopia, Iran,*
14 *Laos, North Korea, the People’s Republic of China,*
15 *Tunisia, and Vietnam, among others, block, restrict,*
16 *and monitor the information their citizens try to ob-*
17 *tain.*

18 (6) *Web sites that provide uncensored news and*
19 *information, such as the Web sites of the Voice of*
20 *America and Radio Free Asia, are routinely blocked*
21 *in such countries.*

22 (7) *In June 2003, the Government of the Social-*
23 *ist Republic of Vietnam arrested, convicted of “spy-*
24 *ing”, and sentenced to 13 years imprisonment and 3*
25 *years house arrest (later reduced on appeal to 5 years*

1 *imprisonment and 3 years house arrest) Dr. Pham*
2 *Hong Son after he translated an Internet article ti-*
3 *tled “What is Democracy” from the Web site of the*
4 *United States Embassy in Vietnam.*

5 *(8) According to the Department of State’s Coun-*
6 *try Reports on Human Rights Practices, the Govern-*
7 *ment of Vietnam in 2004 tightened control of the*
8 *Internet, requiring Internet agents, such as “cyber*
9 *cafes”, to register the personal information of their*
10 *customers and store records of Internet sites visited by*
11 *customers. The Vietnamese Government also mon-*
12 *itored electronic mail, searched for sensitive key*
13 *words, and regulated Internet content.*

14 *(9) The Government of the People’s Republic of*
15 *China has employed censorship of the Internet in vio-*
16 *lation of Article 35 of the Chinese Constitution, which*
17 *guarantees freedom of speech and freedom of the press.*

18 *(10) This censorship by the Chinese Government*
19 *allows that Government to promote a xenophobic—*
20 *and at times particularly anti-American—Chinese*
21 *nationalism, the long-term effect of which will be dele-*
22 *terious to United States efforts to improve the rela-*
23 *tionship between the United States and China.*

24 *(11) Technology companies in the United States*
25 *that operate in countries controlled by authoritarian*

1 *foreign governments have a moral responsibility to*
2 *comply with the principles of the Universal Declara-*
3 *tion of Human Rights.*

4 (12) *Technology companies in the United States*
5 *have succumbed to pressure by authoritarian foreign*
6 *governments to provide such governments with infor-*
7 *mation about Internet users that has led to the arrest*
8 *and imprisonment of “cyber dissidents”, in violation*
9 *of the corporate responsibility of such companies to*
10 *protect and uphold human rights.*

11 (13) *Technology companies in the United States*
12 *have provided technology and training to authori-*
13 *tarian foreign governments which have been used by*
14 *such governments in filtering and blocking informa-*
15 *tion that promotes democracy and freedom.*

16 (14) *Technology companies in the United States*
17 *should develop standards by which they can conduct*
18 *business with authoritarian foreign governments*
19 *while protecting human rights to freedom of speech*
20 *and freedom of expression.*

21 **SEC. 3. DEFINITIONS.**

22 *In this Act:*

23 (1) *APPROPRIATE CONGRESSIONAL COMMIT-*
24 *TEES.—Except as otherwise provided in this Act, the*

1 term “appropriate congressional committees”
2 means—

3 (A) the Committee on Foreign Affairs of the
4 House of Representatives; and

5 (B) the Committee on Foreign Relations of
6 the Senate.

7 (2) FOREIGN OFFICIAL.—

8 (A) IN GENERAL.—The term “foreign offi-
9 cial” means—

10 (i) any officer or employee of a foreign
11 government or any department, agency,
12 state-owned enterprise, or instrumentality
13 thereof; or

14 (ii) any person acting in an official
15 capacity for or on behalf of any such gov-
16 ernment or department, agency, state-owned
17 enterprise, or instrumentality.

18 (B) STATE-OWNED ENTERPRISE.—For pur-
19 poses of subparagraph (A), the term “state-owned
20 enterprise” means a commercial entity in which
21 a foreign government owns, directly or indi-
22 rectly, more than 50 percent of the outstanding
23 capital stock or other beneficial interest in such
24 commercial entity.

1 (3) *INTERNET*.—The term “Internet” means the
2 combination of computer facilities, telecommuni-
3 cations facilities, electromagnetic transmission media,
4 and related equipment and software, comprising the
5 interconnected worldwide network of computer net-
6 works that employ the Transmission Control Protocol/
7 Internet Protocol or any successor protocol to trans-
8 mit information.

9 (4) *INTERNET CONTENT HOSTING SERVICE*.—The
10 terms “Internet content hosting service” and “content
11 hosting service” mean a service that—

12 (A) stores, through electromagnetic or other
13 means, electronic data, including the content of
14 Web pages, electronic mail, documents, images,
15 audio and video files, online discussion boards,
16 and Web logs; and

17 (B) makes such data available via the Inter-
18 net.

19 (5) *INTERNET JAMMING*.—The term “Internet
20 jamming” means jamming, censoring, blocking, moni-
21 toring, or restricting access to the Internet, or to con-
22 tent made available via the Internet, by using tech-
23 nologies such as firewalls, filters, and “black boxes”.

24 (6) *INTERNET-RESTRICTING COUNTRY*.—The
25 term “Internet-restricting country” means a country

1 *designated by the President pursuant to section*
2 *105(a) of this Act.*

3 (7) *INTERNET SEARCH ENGINE.*—*The term*
4 *“Internet search engine” or “search engine” means a*
5 *service made available via the Internet that, on the*
6 *basis of query consisting of terms, concepts, questions,*
7 *or other data input by a user, searches information*
8 *available on the Internet and returns to the user a*
9 *means, such as a hyperlinked list of Uniform Re-*
10 *source Identifiers, of locating, viewing, or*
11 *downloading information or data available on the*
12 *Internet relating to that query.*

13 (8) *LEGITIMATE FOREIGN LAW ENFORCEMENT*
14 *PURPOSES.*—

15 (A) *IN GENERAL.*—*The term “legitimate*
16 *foreign law enforcement purposes” means for*
17 *purposes of enforcement, investigation, or pros-*
18 *ecution by a foreign official based on a publicly*
19 *promulgated law of reasonable specificity that*
20 *proximately relates to the protection or pro-*
21 *motion of the health, safety, or morals of the citi-*
22 *zens of that jurisdiction.*

23 (B) *RULE OF CONSTRUCTION.*—*For pur-*
24 *poses of this Act, the control, suppression, or*
25 *punishment of peaceful expression of political or*

1 *religious opinion, which is protected by Article*
2 *19 of the International Covenant on Civil and*
3 *Political Rights, does not constitute a legitimate*
4 *foreign law enforcement purpose.*

5 (9) *PERSONALLY IDENTIFIABLE INFORMATION.*—

6 *The term “personally identifiable information”—*

7 (A) *includes any information described in*
8 *section 2703(c)(2) of title 18, United States*
9 *Code; and*

10 (B) *does not include—*

11 (i) *any traffic data (as such term is*
12 *defined in section 201(b) of this Act); or*

13 (ii) *any record of aggregate data that*
14 *does not identify particular persons.*

15 (10) *SUBSTANTIAL RESTRICTIONS ON INTERNET*

16 *FREEDOM.—The term “substantial restrictions on*
17 *Internet freedom” means actions that restrict or pun-*
18 *ish the free availability of information via the Inter-*
19 *net for reasons other than legitimate foreign law en-*
20 *forcement purposes, including—*

21 (A) *deliberately blocking, filtering, or cen-*
22 *soring information available via the Internet*
23 *based on its peaceful political or religious con-*
24 *tent; or*

1 (B) *persecuting, prosecuting, or otherwise*
2 *punishing an individual or group for posting or*
3 *transmitting peaceful political or religious opin-*
4 *ions via the Internet, including by electronic*
5 *mail.*

6 (11) *UNITED STATES BUSINESS.*—*The term*
7 *“United States business” means—*

8 (A) *any corporation, partnership, associa-*
9 *tion, joint-stock company, business trust, unin-*
10 *corporated organization, or sole proprietorship*
11 *that—*

12 (i) *has its principal place of business*
13 *in the United States; or*

14 (ii) *is organized under the laws of a*
15 *State of the United States or a territory,*
16 *possession, or commonwealth of the United*
17 *States;*

18 (B) *any issuer of a security registered pur-*
19 *suant to section 12 of the Securities Exchange*
20 *Act of 1934 (15 U.S.C. 78l); and*

21 (C) *any foreign subsidiary of an entity de-*
22 *scribed in subparagraph (A) or (B) to the extent*
23 *such entity—*

24 (i) *controls the voting shares or other*
25 *equities of the foreign subsidiary; or*

1 (ii) authorizes, directs, controls, or
2 participates in acts carried out by the for-
3 foreign subsidiary that are prohibited by this
4 Act.

5 (12) UNITED STATES-SUPPORTED CONTENT.—
6 The term “United States-supported content” means
7 content that is created or developed, in whole or in
8 part, by a United States-supported information enti-
9 ty.

10 (13) UNITED STATES-SUPPORTED INFORMATION
11 ENTITY.—The term “United States-supported infor-
12 mation entity” means—

13 (A) any authority of the Government of the
14 United States; and

15 (B) any entity that—

16 (i) receives grants from the Broad-
17 casting Board of Governors to carry out
18 international broadcasting activities in ac-
19 cordance with the United States Inter-
20 national Broadcasting Act of 1994 (title III
21 of Public Law 103–236; 22 U.S.C. 6201 et
22 seq.);

23 (ii) exists within the Broadcasting
24 Board of Governors and carries out non-
25 military international broadcasting activi-

1 *ties supported by the Government of the*
2 *United States in accordance with such Act;*
3 *or*

4 *(iii) receives grants or other similar*
5 *funding from the Government of the United*
6 *States to carry out any information dis-*
7 *semination activities.*

8 *(14) UNITED STATES-SUPPORTED WEB SITE.—*
9 *The term “United States-supported Web site” means*
10 *a location on the World Wide Web that is owned or*
11 *managed by, or is registered to, a United States-sup-*
12 *ported information entity.*

13 **SEC. 4. SEVERABILITY.**

14 *If any provision of this Act, or the application of such*
15 *provision to any person or circumstance, is held invalid,*
16 *the remainder of this Act, and the application of such provi-*
17 *sion to other persons not similarly situated or to other cir-*
18 *cumstances, shall not be affected by such invalidation.*

19 **TITLE I—PROMOTION OF**
20 **GLOBAL INTERNET FREEDOM**

21 **SEC. 101. STATEMENT OF POLICY.**

22 *It shall be the policy of the United States—*

23 *(1) to promote as a fundamental component of*
24 *United States foreign policy the right of every indi-*
25 *vidual to freedom of opinion and expression, includ-*

1 *ing the right to hold opinions without interference*
2 *and to seek, receive, and impart information and*
3 *ideas through any media and regardless of frontiers;*

4 *(2) to use all appropriate instruments of United*
5 *States influence, including diplomacy, trade policy,*
6 *and export controls, to support, promote, and*
7 *strengthen principles, practices, and values that pro-*
8 *mote the free flow of information, including through*
9 *the Internet and other electronic media; and*

10 *(3) to deter any United States business from co-*
11 *operating with officials of Internet-restricting coun-*
12 *tries in effecting the political censorship of online con-*
13 *tent.*

14 **SEC. 102. SENSE OF CONGRESS.**

15 *It is the sense of Congress that—*

16 *(1) the President should through bilateral, and*
17 *where appropriate, multilateral activities, seek to ob-*
18 *tain the agreement of other countries to promote the*
19 *goals and objectives of this Act and to protect Internet*
20 *freedom; and*

21 *(2) to the extent that a United States business*
22 *empowers or assists an authoritarian foreign govern-*
23 *ment in its efforts to restrict online access to the Web*
24 *sites of Radio Free Asia, the Voice of America, or*
25 *other United States-supported Web sites and online*

1 *access to United States Government reports such as*
2 *the Annual Country Reports on Human Rights Prac-*
3 *tices, the Annual Reports on International Religious*
4 *Freedom, and the Annual Trafficking in Human Per-*
5 *sons Reports, or to identify individual Internet users,*
6 *that business is working contrary to the foreign policy*
7 *interests of the United States, and is undercutting*
8 *United States taxpayer-funded efforts to promote free-*
9 *dom of information for all people, including those in*
10 *undemocratic and repressive societies.*

11 **SEC. 103. ANNUAL COUNTRY REPORTS ON HUMAN RIGHTS**
12 **PRACTICES.**

13 *(a) REPORT RELATING TO ECONOMIC ASSISTANCE.—*
14 *Section 116 of the Foreign Assistance Act of 1961 (22*
15 *U.S.C. 2151n) is amended by adding at the end the fol-*
16 *lowing new subsection:*

17 *“(g)(1) The report required by subsection (d) shall in-*
18 *clude an assessment of the freedom of electronic information*
19 *in each foreign country. Such assessment shall include the*
20 *following:*

21 *“(A) An assessment of the general extent to*
22 *which Internet access is available to and used by*
23 *citizens in that country.*

24 *“(B) An assessment of the extent to which*
25 *government authorities in that country attempt*

1 to filter, censor, or otherwise block Internet con-
2 tent, as well as a description of the means by
3 which they attempt to block such content.

4 “(C) A description of known instances in
5 which government authorities in that country
6 have persecuted, prosecuted, or otherwise pun-
7 ished a person or group for the peaceful expres-
8 sion of political, religious, or dissenting views
9 via the Internet, including electronic mail.

10 “(D) A description of known instances in
11 which government authorities in that country
12 have sought to collect, request, obtain or disclose
13 the personally identifiable information of a per-
14 son in connection with that person’s communica-
15 tion of ideas, facts or views where such commu-
16 nication would be protected by the International
17 Covenant on Civil and Political Rights.

18 “(2) In compiling data and making assessments
19 for the purposes of paragraph (1), United States dip-
20 lomatic mission personnel shall consult with human
21 rights organizations, technology and internet compa-
22 nies and other appropriate nongovernmental organi-
23 zations.”.

24 (b) *REPORT RELATING TO SECURITY ASSISTANCE.*—
25 Section 502B of the Foreign Assistance Act of 1961 (22

1 *U.S.C. 2304) is amended by adding at the end the following*
2 *new subsection:*

3 “(i)(1) *The report required by subsection (b) shall in-*
4 *clude an assessment of the freedom of electronic information*
5 *in each foreign country. Such assessment shall include the*
6 *following:*

7 “(A) *An assessment of the general extent to*
8 *which Internet access is available to and used by*
9 *citizens in that country.*

10 “(B) *An assessment of the extent to which*
11 *government authorities in that country attempt*
12 *to filter, censor, or otherwise block Internet con-*
13 *tent, as well as a description of the means by*
14 *which they attempt to block such content.*

15 “(C) *A description of known instances in*
16 *which government authorities in that country*
17 *have persecuted, prosecuted, or otherwise pun-*
18 *ished a person or group for the peaceful expres-*
19 *sion of political, religious, or dissenting views*
20 *via the Internet, including electronic mail.*

21 “(D) *A description of known instances in*
22 *which government authorities in that country*
23 *have sought to collect, request, obtain or disclose*
24 *the personally identifiable information of a per-*
25 *son in connection with that person’s communica-*

1 *tion of ideas, facts or views where such commu-*
2 *nication would be protected by the International*
3 *Covenant on Civil and Political Rights.*

4 *“(2) In compiling data and making assessments*
5 *for the purposes of paragraph (1), United States dip-*
6 *lomatic mission personnel shall consult with human*
7 *rights organizations, technology and internet compa-*
8 *nies, and other appropriate nongovernmental organi-*
9 *zations.”.*

10 **SEC. 104. OFFICE OF GLOBAL INTERNET FREEDOM.**

11 *(a) ESTABLISHMENT.—There is established in the De-*
12 *partment of State the Office of Global Internet Freedom (in*
13 *this section referred to as the “Office”).*

14 *(b) DUTIES.—In addition to such other responsibilities*
15 *as the President may assign, the Office shall—*

16 *(1) serve as the focal point for interagency efforts*
17 *to protect and promote freedom of electronic informa-*
18 *tion abroad;*

19 *(2) develop and ensure the implementation of a*
20 *global strategy and programs to combat state-spon-*
21 *sored and state-directed Internet jamming by authori-*
22 *tarian foreign governments, and the intimidation and*
23 *persecution by such governments of their citizens who*
24 *use the Internet;*

1 (3) *provide assistance to the President in connec-*
2 *tion with the annual designation of Internet-restrict-*
3 *ing countries required by section 105(a) of this Act;*

4 (4) *beginning not later than 180 days after the*
5 *date of the enactment of this Act—*

6 (A) *identify key words, terms, and phrases*
7 *relating to human rights, democracy, religious*
8 *free exercise, and peaceful political dissent, both*
9 *in general and as specifically related to the par-*
10 *ticular context and circumstances of each Inter-*
11 *net-restricting country; and*

12 (B) *maintain, update, and make publicly*
13 *available on a regular basis the key words,*
14 *terms, and phrases identified pursuant to sub-*
15 *paragraph (A);*

16 (5) *establish mechanisms to collect the informa-*
17 *tion required to be reported by sections 116(g) and*
18 *502B(i) of the Foreign Assistance Act of 1961 (as*
19 *added by section 103 of this Act) and sections 203*
20 *and 204 of this Act;*

21 (6) *establish a regularized consultative process*
22 *with appropriate technology companies involved in*
23 *providing, maintaining, or servicing the Internet,*
24 *human rights organizations, academic experts, and*
25 *others to develop a voluntary code of minimum cor-*

1 *porate standards related to Internet freedom, and to*
2 *consult with such companies, organizations, experts,*
3 *and others regarding new technologies and the imple-*
4 *mentation of appropriate policies relating to such*
5 *technologies; and*

6 *(7) advise the appropriate congressional commit-*
7 *tees of legislative action that may be necessary to keep*
8 *the provisions of this Act and the amendments made*
9 *by this Act relevant to changing technologies.*

10 *(c) COOPERATION OF OTHER FEDERAL DEPARTMENTS*

11 *AND AGENCIES.—Each department and agency of the Gov-*
12 *ernment of the United States, including the Department of*
13 *Commerce, the Office of the United States Trade Represent-*
14 *ative, the Department of Justice, the International Broad-*
15 *casting Bureau, and the Office of the Director of National*
16 *Intelligence, shall—*

17 *(1) cooperate fully with, and assist in the imple-*
18 *mentation of, the duties of the Office described in sub-*
19 *section (b), including the strategy developed by the*
20 *Office pursuant to paragraph (2) of subsection (b);*
21 *and*

22 *(2) make such resources and information avail-*
23 *able to the Office on a nonreimbursable basis as is*
24 *necessary to achieve the purposes of this Act and the*
25 *amendments made by this Act.*

1 (d) *DEFINITION.*—*In this section, the term “appropriate congressional committees” means—*

3 (1) *the Committee on Foreign Affairs and the*
4 *Committee on Energy and Commerce of the House of*
5 *Representatives; and*

6 (2) *the Committee on Foreign Relations and the*
7 *Committee on Commerce, Science, and Transpor-*
8 *tation of the Senate.*

9 (e) *AUTHORIZATION OF APPROPRIATIONS.*—*There are*
10 *authorized to be appropriated to the Office to carry out this*
11 *section \$50,000,000 for each of the fiscal years 2008 and*
12 *2009.*

13 ***SEC. 105. ANNUAL DESIGNATION OF INTERNET-RESTRICT-***
14 ***ING COUNTRIES; REPORT.***

15 (a) *DESIGNATION.*—

16 (1) *IN GENERAL.*—*Not later than 180 days after*
17 *the date of the enactment of this Act, and annually*
18 *thereafter, the President shall designate Internet-re-*
19 *stricting countries for purposes of this Act.*

20 (2) *STANDARD.*—*A foreign country shall be des-*
21 *ignated as an Internet-restricting country if the*
22 *President determines that the government of the coun-*
23 *try is directly or indirectly responsible for a system-*
24 *atic pattern of substantial restrictions on Internet*
25 *freedom during the preceding 1-year period.*

1 **(b) REPORT.**—

2 **(1) IN GENERAL.**—*Not later than 180 days after*
3 *the date of the enactment of this Act, and annually*
4 *thereafter, the President shall transmit to the appro-*
5 *priate congressional committees a report that con-*
6 *tains the following:*

7 **(A)** *The name of each foreign country that*
8 *at the time of the transmission of the report is*
9 *designated as an Internet-restricting country*
10 *pursuant to subsection (a).*

11 **(B)** *An identification of each government*
12 *agency and quasi-government organization re-*
13 *sponsible for the substantial restrictions on*
14 *Internet freedom in each foreign country des-*
15 *ignated as an Internet-restricting country pursu-*
16 *ant to subsection (a).*

17 **(C)** *A description of efforts by the United*
18 *States to counter the substantial restrictions on*
19 *Internet freedom referred to in subparagraph*
20 *(B).*

21 **(2) FORM.**—*The information required by para-*
22 *graph (1)(C) of the report may be provided in a clas-*
23 *sified form if necessary.*

1 (3) *INTERNET AVAILABILITY.*—All unclassified
2 portions of the report shall be made publicly available
3 on the Internet Web site of the Department of State.

4 **TITLE II—MINIMUM CORPORATE**
5 **STANDARDS FOR ONLINE**
6 **FREEDOM**

7 **SEC. 201. PROTECTION OF PERSONALLY IDENTIFIABLE IN-**
8 **FORMATION.**

9 (a) *PROHIBITION OF LOCATING PERSONALLY IDENTIFI-*
10 *FIABLE INFORMATION IN INTERNET-RESTRICTING COUN-*
11 *TRIES.*—A United States business may not locate, within
12 a designated Internet-restricting country, any electronic
13 communication that contains any personally identifiable
14 information.

15 (b) *DEFINITIONS.*—In this section:

16 (1) *TITLE 18 DEFINITIONS.*—The terms “elec-
17 tronic communication”, “electronic communications
18 system”, “electronic storage”, and “contents” have the
19 meanings given such terms in section 2510 of title 18,
20 United States Code.

21 (2) *LOCATE.*—The term “locate” includes, with
22 respect to an electronic communication—

23 (A) computer storage or processing by fa-
24 cilities of a remote computing service, as such

1 *term is defined in section 2711 of title 18,*
2 *United States Code;*

3 *(B) electronic storage by any electronic or*
4 *computer server or facility of an electronic com-*
5 *munications system; and*

6 *(C) any other storage by any electronic or*
7 *computer server or facility.*

8 (3) *TRAFFIC DATA.*—*The term “traffic data”*
9 *means, with respect to an electronic communication,*
10 *any information contained in or relating to such*
11 *communication that is processed for the purpose of*
12 *the conveyance of the communication by an electronic*
13 *communications system or for the billing thereof, in-*
14 *cluding any Internet Protocol address or other means*
15 *of identifying a location within an electronic commu-*
16 *nications system, but that does not by itself identify*
17 *a particular person. Such term does not include the*
18 *contents of any electronic communication.*

19 **SEC. 202. INTEGRITY OF PERSONALLY IDENTIFIABLE IN-**
20 **FORMATION.**

21 (a) *USER PROTECTION.*—*If a United States business*
22 *collects or obtains personally identifiable information*
23 *through the provision of products or services on the Internet,*
24 *such business may not provide such information to any for-*
25 *oreign official of an Internet-restricting country, except for*

1 *legitimate foreign law enforcement purposes as determined*
2 *by the Department of Justice.*

3 **(b) USE OF ESTABLISHED LEGAL CHANNELS.**—*Any*
4 *information that may be provided under subsection (a) for*
5 *legitimate foreign law enforcement purposes may only be*
6 *provided through established legal channels as determined*
7 *by the Department of Justice.*

8 **(c) PRIVATE RIGHT OF ACTION.**—*Any person ag-*
9 *grieved by a violation of this section may bring an action*
10 *for damages, including punitive damages, or other appro-*
11 *priate relief in the appropriate district court of the United*
12 *States, without regard to the amount in controversy, and*
13 *without regard to the citizenship of the parties.*

14 **SEC. 203. TRANSPARENCY REGARDING SEARCH ENGINE**
15 **FILTERING.**

16 *Any United States business that creates, provides, or*
17 *hosts an Internet search engine shall provide the Office of*
18 *Global Internet Freedom, in a format and with a frequency*
19 *to be specified by the Office, with all terms and parameters*
20 *used to filter, limit, or otherwise affect the results provided*
21 *by the search engine that are implemented—*

22 *(1) at the request of, or by reason of any other*
23 *direct or indirect communication by, any foreign offi-*
24 *cial of an Internet-restricting country; or*

1 (2) *to comply with a policy or practice of re-*
2 *strictions on Internet freedom in an Internet-restrict-*
3 *ing country.*

4 **SEC. 204. TRANSPARENCY REGARDING INTERNET CENSOR-**
5 **SHIP.**

6 (a) *PROVISION OF URLS.—Any United States busi-*
7 *ness that maintains an Internet content hosting service*
8 *shall provide the Office of Global Internet Freedom, in a*
9 *format and with a frequency to be specified by the Office,*
10 *with the Uniform Resource Locators (URLs) of all data and*
11 *content that such business has, under the circumstances set*
12 *forth in subsection (b)—*

13 (1) *removed from the content hosting service of*
14 *such business;*

15 (2) *blocked from availability on the Internet; or*

16 (3) *blocked from transmission via the Internet*
17 *into or within an Internet-restricting country.*

18 (b) *CIRCUMSTANCES.—The circumstances referred to*
19 *in subsection (a) are that the United States business took*
20 *the action under subsection (a)—*

21 (1) *at the request of, or by reason of any other*
22 *direct or indirect communication by, any foreign offi-*
23 *cial of an Internet-restricting country; or*

1 (2) *in order to comply with a policy or practice*
2 *of restrictions on Internet freedom in an Internet-re-*
3 *stricting country.*

4 **SEC. 205. PROTECTION OF UNITED STATES-SUPPORTED ON-**
5 **LINE CONTENT.**

6 *A United States business that maintains an Internet*
7 *content hosting service may not conduct Internet jamming*
8 *of a United States-supported Web site or United States-sup-*
9 *ported content in an Internet-restricting country.*

10 **SEC. 206. PENALTIES.**

11 *(a) CIVIL PENALTIES.—(1)(A) Any United States*
12 *business that violates section 202(a) shall be subject to a*
13 *civil penalty of not more than \$2,000,000 imposed in an*
14 *action brought by the Attorney General.*

15 *(B) Any officer, director, employee, or agent, or stock-*
16 *holder of a United States business, who is acting on behalf*
17 *of that business concern and who violates section 202(a),*
18 *shall be subject to a civil penalty of not more \$100,000 im-*
19 *posed in an action brought by the Attorney General.*

20 *(2) Any United States business that violates section*
21 *201, 203, 204, or 205, or any officer, director, employee,*
22 *or agent, or stockholder of a United States business, who*
23 *is acting on behalf of that business concern and who violates*
24 *section 201, 203, 204, or 205, shall be subject to a civil pen-*

1 *alty of not more than \$10,000 imposed in an action brought*
2 *by the Attorney General.*

3 *(b) CRIMINAL PENALTIES.—(1)(A) Any United States*
4 *business that willfully violates, or willfully attempts to vio-*
5 *late, section 202(a) shall be fined not more than \$2,000,000.*

6 *(B) Any officer, director, employee, or agent, or stock-*
7 *holder of a United States business, who is acting on behalf*
8 *of that business concern, and who willfully violates, or will-*
9 *fully attempts to violate, section 202(a), shall be fined not*
10 *more than \$100,000, or imprisoned not more than 5 years,*
11 *or both.*

12 *(2)(A) Any United States business that willfully vio-*
13 *lates, or willfully attempts to violate, section 201, 203, 204,*
14 *or 205 shall be fined not more than \$10,000.*

15 *(B) Any officer, director, employee, or agent, or stock-*
16 *holder of a United States business, who is acting on behalf*
17 *of that business concern and who willfully violates, or will-*
18 *fully attempts to violate, section 201, 203, 204, or 205, shall*
19 *be fined not more than \$10,000, or imprisoned not more*
20 *than 1 year, or both.*

21 *(c) PAYMENT OF FINES.—Whenever a fine is imposed*
22 *under subsection (a) or (b) upon any officer, director, em-*
23 *ployee, agent, or stockholder of a United States business,*
24 *the fine may not be paid, directly or indirectly, by the*
25 *United States business.*

1 **SEC. 207. PRESIDENTIAL WAIVER.**

2 (a) *IN GENERAL.*—Subject to subsection (b), the Presi-
3 dent may waive the application of any of the provisions
4 of sections 201 through 205 with respect to a United States
5 business or an Internet-restricting country, if the President
6 determines and so reports to the appropriate congressional
7 committees that—

8 (1) *the government of the country has ceased the*
9 *activities giving rise to the designation of the country*
10 *as an Internet-restricting country;*

11 (2) *the exercise of such waiver authority would*
12 *further the purposes of this Act; or*

13 (3) *the important national interest of the United*
14 *States requires the exercise of such waiver authority.*

15 (b) *CONGRESSIONAL NOTIFICATION.*—Not later than
16 the date of the exercise of a waiver under subsection (a),
17 the President shall notify the appropriate congressional
18 committees of the waiver or the intention to exercise the
19 waiver, together with a detailed justification for the waiver.

20 **TITLE III—EXPORT CONTROLS**
21 **FOR INTERNET-RESTRICTING**
22 **COUNTRIES**

23 **SEC. 301. FEASIBILITY STUDY ON ESTABLISHMENT OF EX-**
24 **PORT CONTROLS.**

25 Not later than 180 days after the date of the enactment
26 of this Act, the Secretary of Commerce, in consultation with

1 *the Secretary of State, shall complete a feasibility study re-*
2 *garding the development of export controls and export li-*
3 *cense requirements regarding the export of any item subject*
4 *to sections 730 through 774 of title 15, Code of Federal Reg-*
5 *ulations (commonly known as the “Export Administration*
6 *Regulations”)* *to an end user in an Internet-restricting*
7 *country for the purpose, in whole or in part, of facilitating*
8 *substantial restrictions on Internet freedom.*

9 **SEC. 302. REPORT.**

10 *Not later than 30 days after the end of the 180-day*
11 *period described in section 301, the Secretary of Commerce,*
12 *in consultation with the Secretary of State, shall submit*
13 *to the appropriate congressional committees a report de-*
14 *scribing the actions taken to carry out section 301.*

Union Calendar No. 320

110TH CONGRESS
2^D SESSION

H. R. 275

[Report No. 110-481, Part I]

A BILL

To promote freedom of expression on the Internet, to protect United States businesses from coercion to participate in repression by authoritarian foreign governments, and for other purposes.

FEBRUARY 22, 2008

Committees on Energy and Commerce and the Judiciary discharged; committed to the Committee of the Whole House on the State of the Union and ordered to be printed