

112TH CONGRESS
1ST SESSION

H. R. 1389

To prevent United States businesses from cooperating with repressive governments in transforming the Internet into a tool of censorship and surveillance, to fulfill the responsibility of the United States Government to promote freedom of expression on the Internet, to restore public confidence in the integrity of United States businesses, and for other purposes.

IN THE HOUSE OF REPRESENTATIVES

APRIL 6, 2011

Mr. SMITH of New Jersey (for himself, Mr. WOLF, and Mr. McCOTTER) 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

A BILL

To prevent United States businesses from cooperating with repressive governments in transforming the Internet into a tool of censorship and surveillance, to fulfill the responsibility of the United States Government to promote freedom of expression on the Internet, to restore public confidence in the integrity of United States businesses, 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,*

1 **SECTION 1. SHORT TITLE; TABLE OF CONTENTS.**

2 (a) SHORT TITLE.—This Act may be cited as the
3 “Global Online Freedom Act of 2011”.

4 (b) TABLE OF CONTENTS.—The table of contents for
5 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.

6 **SEC. 2. FINDINGS.**

7 Congress makes the following findings:

8 (1) A number of repressive foreign governments
9 block, restrict, otherwise control, and monitor the
10 Internet, effectively transforming the Internet into a
11 tool of censorship and surveillance, in contravention
12 of the International Covenant on Civil and Political

1 Rights and the Universal Declaration of Human
2 Rights.

3 (2) A number of United States businesses have
4 enabled the Internet censorship and surveillance of
5 repressive governments by selling these governments
6 or their agents technology or training.

7 (3) A number of United States businesses have
8 cooperated with the Internet censorship and surveil-
9 lance of repressive governments by providing such
10 governments with information about cyber-dissidents
11 who were the company's clients or were using the
12 companies' products, and this has led to the arrest
13 and imprisonment of the dissidents.

14 (4) The actions of a number of United States
15 businesses in cooperating with the efforts of repres-
16 sive governments to transform the Internet into a
17 tool of censorship and surveillance have caused
18 Internet users in the United States and in foreign
19 countries to lose confidence in the integrity of
20 United States businesses.

21 (5) Information and communication technology
22 companies are to be commended for cooperating with
23 civil society organizations, academics, and investors
24 in founding the Global Network Initiative, in order
25 to provide direction and guidance to the Information

1 and Communications Technology companies and oth-
2 ers in protecting the free expression and privacy of
3 Internet users.

4 (6) The United States Government has a re-
5 sponsibility to protect freedom of expression on the
6 Internet, to prevent United States businesses from
7 directly and materially cooperating in human rights
8 abuses perpetrated by repressive foreign govern-
9 ments, and to restore public confidence in the integ-
10 rity of United States business.

11 **SEC. 3. DEFINITIONS.**

12 In this Act:

13 (1) APPROPRIATE CONGRESSIONAL COMMIT-
14 TEES.—The term “appropriate congressional com-
15 mittees” means—

16 (A) the Committee on Foreign Affairs, the
17 Committee on the Judiciary, and the Com-
18 mittee on Energy and Commerce of the House
19 of Representatives; and

20 (B) the Committee on Foreign Relations,
21 the Committee on the Judiciary, and the Com-
22 mittee on Commerce, Science and Transpor-
23 tation of the Senate.

24 (2) ELECTRONIC COMMUNICATION AND OTHER
25 TITLE 18 DEFINITIONS.—The terms “electronic com-

1 munication”, “electronic communications system”,
2 “electronic storage”, and “contents” have the mean-
3 ings given such terms in section 2510 of title 18,
4 United States Code.

5 (3) FOREIGN OFFICIAL.—

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

8 (i) any officer or employee of a for-
9 eign government or of any department,
10 agency, state-owned enterprise, or instru-
11 mentality thereof; or

12 (ii) any person acting in an official ca-
13 pacity for or on behalf of, or acting under
14 color of law with the knowledge of, any
15 such government or such department,
16 agency, state-owned enterprise, or instru-
17 mentality.

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

1 (4) INTERNET.—The term “Internet” has the
2 meaning given the term in section 231(e) of the
3 Communications Act of 1934 (47 U.S.C. 231(e)).

4 (5) INTERNET-RESTRICTING COUNTRY.—The
5 term “Internet-restricting country” means a country
6 designated by the Secretary of State pursuant to
7 section 105(a) of this Act.

8 (6) INTERNET COMMUNICATIONS SERVICES.—
9 The term “Internet communications services”—

10 (A) means a method for providing commu-
11 nications services via the Internet, including
12 electronic mail, Internet telephony, online chat,
13 online text messaging, Internet bulletin boards,
14 or Web pages; and

15 (B)(i) includes providing Internet access;
16 but

17 (ii) does not include activities con-
18 ducted by a financial institution (as such
19 term is defined in section 5312 of title 31,
20 United States Code) that are financial in
21 nature, even if such activities are con-
22 ducted using the Internet.

23 (7) INTERNET CONTENT HOSTING SERVICE.—
24 The terms “Internet content hosting service” and
25 “content hosting service” mean a service that—

1 (A) stores, through electromagnetic or
2 other means, electronic data, such as the con-
3 tent of Web pages, electronic mail, documents,
4 images, audio and video files, online discussion
5 boards, or Web logs; and

6 (B) makes such data available via the
7 Internet.

8 (8) INTERNET JAMMING.—The term “Internet
9 jamming” means jamming, censoring, blocking,
10 monitoring, or restricting access to the Internet, or
11 to content made available via the Internet, by using
12 technologies such as firewalls, filters, and “black
13 boxes”.

14 (9) INTERNET SEARCH ENGINE.—The term
15 “Internet search engine” or “search engine” means
16 a service made available via the Internet that, on the
17 basis of a query consisting of terms, concepts, ques-
18 tions, or other data input by a user, searches infor-
19 mation available on the Internet and returns to the
20 user a means, such as a hyperlinked list of Uniform
21 Resource Identifiers, of locating, viewing, or
22 downloading information or data available on the
23 Internet relating to such query.

24 (10) LEGITIMATE FOREIGN LAW ENFORCEMENT
25 PURPOSES.—

1 (A) IN GENERAL.—The term “legitimate
2 foreign law enforcement purpose” means for the
3 purpose of enforcement, investigation, or pros-
4 ecution by a foreign official based on a publicly
5 promulgated law of reasonable specificity that
6 proximately relates to the protection or pro-
7 motion of the health, safety, or morals of the
8 citizens of the jurisdiction of such official.

9 (B) RULE OF CONSTRUCTION.—For pur-
10 poses of this Act, the control, suppression, or
11 punishment of peaceful expression of political,
12 religious, or ideological opinion or belief shall
13 not be construed to constitute a legitimate for-
14 eign law enforcement purpose. Among expres-
15 sion that should be construed to be protected
16 against control, suppression, or punishment
17 when evaluating a foreign government’s claim
18 of a legitimate foreign law enforcement purpose
19 is expression protected by article 19 of the
20 International Covenant on Civil and Political
21 Rights.

22 (11) LOCATE.—The term “locate” includes,
23 with respect to an electronic communication—

24 (A) computer storage or processing by fa-
25 cilities of a “remote computing service”, as

1 such 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 (12) PERSONALLY IDENTIFIABLE INFORMA-
9 TION.—The term “personally identifiable informa-
10 tion”—

11 (A) includes any information described in
12 section 2703(c)(2) of title 18, United States
13 Code; and

14 (B) does not include—

15 (i) any traffic data; or

16 (ii) any record of aggregate data
17 which cannot be used to identify particular
18 persons.

19 (13) PERSONALLY IDENTIFIABLE INFORMATION
20 USED TO ESTABLISH OR MAINTAIN AN ACCOUNT.—
21 The term “personally identifiable information used
22 to establish or maintain an account” does not in-
23 clude—

1 (A) information collected in the course of
2 establishing or operating accounts for commu-
3 nications within a company;

4 (B) information collected in the course of
5 the purchase, sale, shipment, or distribution of
6 goods, including transactions for goods or serv-
7 ices utilizing the Internet, other than commu-
8 nication services on which a political, religious,
9 or ideological opinion or belief may be ex-
10 pressed;

11 (C) personally identifiable information vol-
12 unteered in an electronic communication, other
13 than in a communication made in the course of
14 establishing an account for Internet commu-
15 nications services, such as an electronic mail
16 signature line or an electronic mail, on-line
17 video, or Web page in which the author volun-
18 tarily provides personally identifiable informa-
19 tion; or

20 (D) with respect to the collection of per-
21 sonally identifiable information required in
22 order to provide Internet communications serv-
23 ices, information that is located in an Internet-
24 restricting country temporarily at the time of

1 establishing an account for Internet commu-
2 nications services, if—

3 (i) a system exists that promptly
4 transfers such information to another loca-
5 tion outside of any Internet-restricting
6 country;

7 (ii) no duplicates of such information
8 remain in any Internet-restricting country
9 after such transfer; and

10 (iii) no transfers occur that violate
11 section 202.

12 (14) SUBSTANTIAL RESTRICTIONS ON INTER-
13 NET FREEDOM.—The term “substantial restrictions
14 on Internet freedom” means actions that restrict or
15 punish the free availability of information via the
16 Internet for reasons other than legitimate foreign
17 law enforcement purposes, including—

18 (A) deliberately blocking, filtering, or cen-
19 soring information available via the Internet
20 based on the expression of political, religious, or
21 ideological opinion or belief, including by elec-
22 tronic mail; or

23 (B) persecuting, prosecuting, or otherwise
24 punishing an individual or group for posting or
25 transmitting peaceful political, religious, or ide-

1 ological opinion or belief via the Internet, in-
2 cluding by electronic mail.

3 (15) TRAFFIC DATA.—The term “traffic data”
4 means, with respect to an electronic communication,
5 any information contained in or relating to such
6 communication that is processed for the purpose of
7 the conveyance of the communication by an elec-
8 tronic communications system or for the billing
9 thereof, including any Internet Protocol address or
10 other means of identifying a location within an elec-
11 tronic communications system, but that cannot be
12 used to identify a particular person. Such term can-
13 not be used to include the contents of any electronic
14 communication.

15 (16) UNITED STATES BUSINESS.—The term
16 “United States business” means—

17 (A) any corporation, partnership, associa-
18 tion, joint-stock company, business trust, unin-
19 corporated organization, or sole proprietorship
20 that—

21 (i) has its principal place of business
22 in the United States; or

23 (ii) is organized under the laws of a
24 State of the United States or a territory,

1 possession, or commonwealth of the United
2 States; and

3 (B) any issuer of a security registered pur-
4 suant to section 12 of the Securities Exchange
5 Act of 1934 (15 U.S.C. 78l).

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

11 (18) UNITED STATES-SUPPORTED INFORMA-
12 TION ENTITY.—The term “United States-supported
13 information entity” means—

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

16 (B) any entity that—

17 (i) receives grants from the Broad-
18 casting Board of Governors to carry out
19 international broadcasting activities in ac-
20 cordance with the United States Inter-
21 national Broadcasting Act of 1994 (title
22 III of Public Law 103–236; 22 U.S.C.
23 6201 et seq.);

24 (ii) exists within the Broadcasting
25 Board of Governors and carries out non-

1 military international broadcasting activi-
2 ties supported by the Government of the
3 United States in accordance with such Act;
4 or

5 (iii) receives grants or other similar
6 funding from the Government of the
7 United States to carry out any information
8 dissemination activities.

9 (19) UNITED STATES-SUPPORTED WEB SITE.—

10 The term “United States-supported Web site”
11 means a location on the World Wide Web that is
12 owned or managed by, or is registered to, a United
13 States-supported information entity.

14 **SEC. 4. SEVERABILITY.**

15 If any provision of this Act, or the application of such
16 provision to any person or circumstance, is held invalid,
17 the remainder of this Act, and the application of such pro-
18 vision to other persons not similarly situated or to other
19 circumstances, shall not be affected by such invalidation.

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

22 **SEC. 101. STATEMENT OF POLICY.**

23 It shall be the policy of the United States—

24 (1) to promote as a fundamental component of
25 United States foreign policy the right of every indi-

1 vidual to freedom of opinion and expression, includ-
2 ing the right to hold opinions, and to seek, receive,
3 and impart information and ideas through any
4 media and regardless of frontiers, without inter-
5 ference;

6 (2) to use all appropriate instruments of United
7 States influence, including diplomacy, trade policy,
8 and export controls, to support, promote, and
9 strengthen principles, practices, and values that pro-
10 mote the free flow of information without inter-
11 ference or discrimination, including through the
12 Internet and other electronic media; and

13 (3) to deter any United States business from
14 cooperating with officials of Internet-restricting
15 countries in effecting the political censorship of on-
16 line content.

17 **SEC. 102. SENSE OF CONGRESS.**

18 It is the sense of the Congress that—

19 (1) the President should, through bilateral, and
20 where appropriate, multilateral activities, seek to ob-
21 tain the agreement of other countries to promote the
22 goals and objectives of this Act and to protect Inter-
23 net freedom; and

1 (2) to the extent that a United States business
2 empowers or assists an authoritarian foreign govern-
3 ment in its efforts—

4 (A) to restrict online access to the Web
5 sites of the Voice of America, Radio Free Eu-
6 rope/Radio Liberty, Radio Free Asia, Al-Hurra,
7 Radio Sawa, Radio Farda, Radio Marti, TV
8 Marti, or other United States-supported Web
9 sites and online access to United States Govern-
10 ment reports such as the Annual Country Re-
11 ports on Human Rights Practices, the Annual
12 Reports on International Religious Freedom,
13 and the Annual Trafficking in Human Persons
14 Reports, or

15 (B) to identify individual Internet users,
16 such business is working contrary to the foreign pol-
17 icy interests of the United States and is undercut-
18 ting United States taxpayer-funded efforts to pro-
19 mote freedom of information for all people, including
20 those in undemocratic and repressive societies.

21 **SEC. 103. ANNUAL COUNTRY REPORTS ON HUMAN RIGHTS**
22 **PRACTICES.**

23 (a) REPORT RELATING TO ECONOMIC ASSIST-
24 ANCE.—Section 116 of the Foreign Assistance Act of

1 1961 (22 U.S.C. 2151n) is amended by adding at the end
2 the following new subsection:

3 “(g)(1) The report required by subsection (d) shall
4 include an assessment of the freedom of electronic infor-
5 mation in each foreign country. Such assessment shall
6 consist of the following:

7 “(A) An assessment of the general extent
8 to which Internet access is available to and
9 used by 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
13 content, as well as a description of the means
14 by 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 an individual or group for the peaceful ex-
19 pression of political, religious, or ideological
20 opinion or belief via the Internet, including elec-
21 tronic mail.

22 “(D) A description of known instances in
23 which government authorities in that country
24 have sought to collect, request, obtain, or dis-
25 close the personally identifiable information of a

1 person in connection with that person’s peaceful
2 expression of political, religious, or ideological
3 opinion or belief, including without limitation
4 communication that would be protected by the
5 International Covenant on Civil and Political
6 Rights.

7 “(2) In compiling data and making assessments
8 for the purposes of paragraph (1), United States
9 diplomatic mission personnel shall consult with
10 human rights organizations, technology and Internet
11 companies, and other appropriate nongovernmental
12 organizations.”.

13 (b) REPORT RELATING TO SECURITY ASSISTANCE.—
14 Section 502B of the Foreign Assistance Act of 1961 (22
15 U.S.C. 2304) is amended by adding at the end the fol-
16 lowing new subsection:

17 “(j)(1) The report required by subsection (b) shall
18 include an assessment of the freedom of electronic infor-
19 mation in each foreign country. Such assessment shall
20 consist of the following:

21 “(A) An assessment of the general extent
22 to which Internet access is available to and
23 used by 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
2 content, as well as a description of the means
3 by 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 an individual or group for the peaceful ex-
8 pression of political, religious, or ideological
9 opinion or belief via the Internet, including elec-
10 tronic mail.

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

19 “(2) In compiling data and making assessments
20 for the purposes of paragraph (1), United States
21 diplomatic mission personnel shall consult with
22 human rights organizations, technology and Internet
23 companies, and other appropriate nongovernmental
24 organizations.”.

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

2 (a) ESTABLISHMENT.—There is established in the
3 Department of State the Office of Global Internet Free-
4 dom (in this section referred to as the “Office”). The head
5 of the Office shall be a Director, who shall be appointed
6 by the Secretary of State.

7 (b) DUTIES.—In addition to such other responsibil-
8 ities as the President may assign, the Office shall—

9 (1) serve as the focal point for interagency ef-
10 forts to protect and promote abroad freedom of elec-
11 tronic information related to expression of political,
12 religious, or ideological opinion or belief;

13 (2) develop and ensure the implementation of a
14 global strategy and programs to combat state-spon-
15 sored and state-directed Internet jamming of com-
16 munications that express political, religious, or ideo-
17 logical opinion or belief and to combat the intimidat-
18 ion and persecution by foreign governments of their
19 citizens who use the Internet for the peaceful expres-
20 sion of such opinion or belief;

21 (3) provide assistance to the Secretary of State
22 in connection with the annual designation of Inter-
23 net-restricting countries required by section 105(a)
24 of this Act;

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

1 (A) identify key words, terms, and phrases
2 relating to human rights, democracy, religious
3 free exercise, and peaceful political dissent, both
4 in general and as specifically related to the par-
5 ticular context and circumstances of each Inter-
6 net-restricting country; and

7 (B) maintain, update, and make publicly
8 available on a regular basis the key words,
9 terms, and phrases identified pursuant to sub-
10 paragraph (A);

11 (5) establish mechanisms to collect the informa-
12 tion required to be reported by sections 116(g) and
13 502B(j) of the Foreign Assistance Act of 1961 (as
14 added by section 103 of this Act) and sections 203
15 and 204 of this Act;

16 (6) establish a regularized consultative process
17 with regard to the control, suppression, or punish-
18 ment of peaceful expression of political, religious, or
19 ideological opinion or belief with appropriate tech-
20 nology companies involved in providing, maintaining,
21 or servicing the Internet, human rights organiza-
22 tions, academic experts, and others to develop a vol-
23 untary code of minimum corporate standards related
24 to Internet freedom, and to consult with such com-
25 panies, organizations, experts, and others regarding

1 new technologies and the implementation of appro-
2 priate policies relating to such technologies; and

3 (7) advise the appropriate congressional com-
4 mittees of legislative action that may be necessary to
5 keep the provisions of this Act and the amendments
6 made by this Act relevant to changing technologies.

7 (c) COOPERATION OF OTHER FEDERAL DEPART-
8 MENTS AND AGENCIES.—

9 (1) IN GENERAL.—The head of each depart-
10 ment and agency of the United States, including the
11 Department of Commerce, the Office of the United
12 States Trade Representative, the Department of
13 Justice, the International Broadcasting Bureau, and
14 the Office of the Director of National Intelligence,
15 shall, as appropriate, cooperate with and assist the
16 Office of Global Internet Freedom in the implemen-
17 tation of its duties, including the strategy developed
18 by the Office under subsection (b)(2).

19 (2) COORDINATION WITH DEPARTMENT OF
20 COMMERCE.—Notwithstanding the requirements of
21 paragraph (1), the head of the Office shall fully co-
22 ordinate its activities with those of the National
23 Telecommunications and Information Administration
24 of the Department of Commerce and the Assistant

1 Secretary of Commerce for Communications and In-
2 formation.

3 (d) AUTHORIZATION OF APPROPRIATIONS.—There
4 are authorized to be appropriated to the Office to carry
5 out this section such sums as may be necessary for each
6 of the fiscal years 2012 and 2013.

7 (e) CONSTRUCTION.—Nothing in this section shall
8 supercede the requirements of the National Telecommuni-
9 cations and Information Administration Organization Act
10 (47 U.S.C. 901 et seq.) or affect the responsibilities of
11 the National Telecommunications and Information Ad-
12 ministration of the Department of Commerce and the As-
13 sistant Secretary of Commerce for Communications and
14 Information established by such Act and amendments to
15 such Act.

16 **SEC. 105. ANNUAL DESIGNATION OF INTERNET-RESTRICT-**
17 **ING COUNTRIES; REPORT.**

18 (a) DESIGNATION.—

19 (1) IN GENERAL.—Not later than 180 days
20 after the date of the enactment of this Act, and an-
21 nually thereafter, the Secretary of State shall des-
22 ignate Internet-restricting countries for purposes of
23 this Act.

24 (2) STANDARD.—A foreign country shall be
25 designated as an Internet-restricting country if the

1 Secretary of State, after consultation with the Sec-
2 retary of Commerce, determines, based on the review
3 of the evidence and any ongoing multilateral discus-
4 sions on freedom of speech and the right to privacy,
5 that the government of the country is directly or in-
6 directly responsible for a systematic pattern of sub-
7 stantial restrictions on Internet freedom during any
8 part of the preceding 1-year period.

9 (b) REPORT.—

10 (1) IN GENERAL.—Not later than 180 days
11 after the date of the enactment of this Act, and an-
12 nually thereafter, the Secretary of State shall trans-
13 mit to the appropriate congressional committees a
14 report that contains the following:

15 (A) The name of each foreign country that
16 at the time of the transmission of the report is
17 designated as an Internet-restricting country
18 under subsection (a).

19 (B) An identification of each government
20 agency and quasi-government organization re-
21 sponsible for the substantial restrictions on
22 Internet freedom in each foreign country des-
23 ignated as an Internet-restricting country under
24 subsection (a).

1 (C) A description of efforts by the United
2 States to counter the substantial restrictions on
3 Internet freedom referred to in subparagraph
4 (B).

5 (D) A description of the evidence used by
6 the Secretary of State to make the determina-
7 tions under subsection (a)(2) and any ongoing
8 multilateral discussions on freedom of speech
9 and the right to privacy referred to in such sub-
10 section.

11 (2) FORM.—The information required by para-
12 graph (1)(C) of the report may be provided in a
13 classified form if necessary.

14 (3) INTERNET AVAILABILITY.—All unclassified
15 portions of the report shall be made publicly avail-
16 able on the Internet Web site of the Department of
17 State.

18 **TITLE II—MINIMUM CORPORATE**
19 **STANDARDS FOR ONLINE**
20 **FREEDOM**

21 **SEC. 201. PROTECTION OF PERSONALLY IDENTIFIABLE IN-**
22 **FORMATION.**

23 (a) LOCATION OF INFORMATION IN INTERNET-RE-
24 STRICTING COUNTRIES.—A United States business that
25 creates, provides, or offers to the public for commercial

1 purposes an Internet search engine or that offers to the
2 public for commercial purposes Internet communications
3 services or Internet content hosting services may not lo-
4 cate, within an Internet-restricting country, any electronic
5 communication containing personally identifiable informa-
6 tion used to establish or maintain an account for Internet
7 communications services.

8 (b) WAIVER.—Subject to subsection (c), the Sec-
9 retary of State may waive the application of any of the
10 provisions of subsection (a) with respect to a United
11 States business or an Internet-restricting country, if the
12 Secretary of State determines and so reports to the appro-
13 priate congressional committees that—

14 (1) the government of the country has ceased
15 the activities that gave rise to the designation of the
16 country as an Internet-restricting country;

17 (2) the laws of the Internet-restricting country
18 require the United States business that creates, pro-
19 vides, or offers to the public for commercial purposes
20 an Internet search engine or that offers to the public
21 for commercial purposes Internet communications
22 services or Internet content hosting services to locate
23 within the country electronic communications con-
24 taining personally identifiable information used to

1 establish or maintain an account for Internet com-
2 munications services; or

3 (3) the national interest of the United States
4 requires the exercise of such waiver authority.

5 (c) CONGRESSIONAL NOTIFICATION.—Not later than
6 the date of the exercise of a waiver under subsection (b),
7 the Secretary of State shall notify the appropriate con-
8 gressional committees of the waiver or the intention to ex-
9 ercise the waiver, together with a detailed explanation of
10 the reason for the waiver.

11 **SEC. 202. INTEGRITY OF PERSONALLY IDENTIFIABLE IN-**
12 **FORMATION.**

13 (a) USER PROTECTION.—If a United States business
14 collects or obtains personally identifiable information
15 through the provision of products or services on the Inter-
16 net, such business shall—

17 (1) devise and maintain a system of internal
18 policies and procedures which set out how the
19 United States business will assess and respond to re-
20 quests by Internet-restricting countries for disclo-
21 sure of personally identifiable information, sufficient
22 to provide reasonable assurances that—

23 (A) responses to such requests are exe-
24 cuted in accordance with the specific authoriza-
25 tion of the United States business; and

1 (B) responses to such requests are docu-
2 mented to include the exact words or nature of
3 each such request, the information requested,
4 circumstances relevant to determining how to
5 respond to the request, communications with of-
6 ficials of the Internet-restricting country, and
7 communications with the United States Govern-
8 ment regarding the request or the response to
9 the request; and

10 (2) make and keep records that, in reasonable
11 detail, accurately document all requests by Internet-
12 restricting countries for disclosure of personally
13 identifiable information, as well as how the United
14 States business has assessed and responded to such
15 requests, including the exact words or nature of each
16 such request, the information requested, cir-
17 cumstances relevant to determining how to respond
18 to the request, and communications with officials of
19 the Internet-restricting country and communications
20 with the United States Government regarding the
21 request or the response to the request.

22 (b) NOTIFICATION OF UNITED STATES GOVERN-
23 MENT OF INTERNAL POLICIES AND RECORD-KEEPING.—
24 Within 90 days after a foreign country is designated as
25 an Internet-restricting country, any United States busi-

1 ness that collects or obtains personally identifiable infor-
2 mation through the provision of products or services on
3 the Internet in the Internet-restricting country shall trans-
4 mit to the Director of the Office of Global Internet Free-
5 dom a full account of its internal policies and procedures
6 and its record-keeping practices instituted and undertaken
7 in compliance with subsection (a).

8 (c) NOTIFICATION OF UNITED STATES GOVERNMENT
9 OF REQUEST FOR PERSONALLY IDENTIFIABLE INFORMA-
10 TION BY INTERNET-RESTRICTING COUNTRY.—If an
11 Internet-restricting country requests personally identifi-
12 able information from a United States business that col-
13 lects or obtains personally identifiable information through
14 the provision of products or services on the Internet in
15 that Internet-restricting country, that United States busi-
16 ness shall promptly, and before responding to the request,
17 inform the Director of the Office of Global Internet Free-
18 dom and the Attorney General of the exact words or na-
19 ture of the request, the circumstances relevant to deter-
20 mining how to respond to the request, and relevant com-
21 munications with officials of the Internet-restricting coun-
22 try.

23 (d) ORDER NOT TO COMPLY WITH REQUEST.—If
24 the Attorney General determines that there is a reasonable
25 likelihood that an Internet-restricting country has re-

1 requested of a United States business that collects or ob-
2 tains personally identifiable information through the pro-
3 vision of products or services on the Internet such infor-
4 mation for other than legitimate law enforcement pur-
5 poses, the Attorney General may issue an order to the
6 United States business that it shall not comply with the
7 request.

8 (e) PRIVATE RIGHT OF ACTION.—Any person ag-
9 grieved by a violation of subsection (a) or (c), or by a vio-
10 lation of an order issued under subsection (d), may bring
11 in the appropriate United States district court an action
12 against the United States business that committed the vio-
13 lation for damages, including punitive damages, or other
14 appropriate relief, without regard to the amount in con-
15 troversy, and without regard to the citizenship of the par-
16 ties.

17 **SEC. 203. TRANSPARENCY REGARDING SEARCH ENGINE**
18 **FILTERING.**

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

1 (1) at the request of, or by reason of any other
2 direct or indirect communication by, any foreign of-
3 ficial of an Internet-restricting country; or

4 (2) to comply with a policy or practice of re-
5 strictions on Internet freedom in an Internet-re-
6 stricting country.

7 **SEC. 204. TRANSPARENCY REGARDING INTERNET CENSOR-**
8 **SHIP.**

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

16 (1) removed from the Internet content hosting
17 service of such business;

18 (2) blocked from availability on the Internet; or

19 (3) blocked from transmission via the Internet
20 into or within an Internet-restricting country.

21 (b) CIRCUMSTANCES.—The circumstances referred to
22 in subsection (a) are that the United States business took
23 the action under subsection (a)—

1 (1) at the request of, or by reason of any other
2 direct or indirect communication by, any foreign of-
3 ficial of an Internet-restricting country; or

4 (2) in order to comply with a policy or practice
5 of restrictions on Internet freedom in an Internet-re-
6 stricting country.

7 **SEC. 205. PROTECTION OF UNITED STATES-SUPPORTED ON-**
8 **LINE CONTENT.**

9 A United States business that maintains an Internet
10 content hosting service may not conduct Internet jamming
11 of a United States-supported Web site or United States-
12 supported content in an Internet-restricting country.

13 **SEC. 206. PENALTIES.**

14 (a) **IN GENERAL.**—Any United States business that
15 violates this title or any order issued under section 202(d)
16 shall be subject to a civil penalty of not more than
17 \$2,000,000 imposed in an action brought by the Attorney
18 General.

19 (b) **LIABILITY OF UNITED STATES BUSINESSES FOR**
20 **ACTS OF FOREIGN ENTITIES.**—A United States business
21 shall be subject to the penalties under subsection (a) for
22 the acts carried out by a foreign entity that would be a
23 violation under this Act if engaged in by a United States
24 business, if the United States business—

1 (1) controls a controlling interest in the voting
2 shares or other equity securities of the foreign enti-
3 ty;

4 (2) authorizes, directs, controls, or participates
5 in the acts by the foreign entity; or

6 (3) authorizes, in whole or in part, by license or
7 otherwise, the foreign entity to use the trade name
8 of the United States business in connection with
9 goods or services provided by the foreign entity.

10 (c) CRIMINAL PENALTIES FOR KNOWING VIOLA-
11 TIONS.—Whoever knowingly provides to a foreign official
12 of an Internet-restricting country information in violation
13 of an order issued under section 202(d), knowing that so
14 providing such information will further a policy on the
15 part of the government of such country of prosecuting,
16 persecuting, or otherwise punishing individuals or groups
17 on account of the peaceful expression of political, religious,
18 or ideological opinion or belief, and with the result that
19 so providing such information leads to the death, torture,
20 serious bodily injury, disappearance, or detention of any
21 individual on such account, shall be fined under title 18,
22 United States Code, or imprisoned not more than 5 years,
23 or both.

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

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

8 (1) the government of the country has ceased
9 the activities giving rise to the designation of the
10 country 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 national interest of the United States
14 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 waiv-
20 er.

1 **TITLE III—EXPORT CONTROLS**
2 **FOR INTERNET-RESTRICTING**
3 **COUNTRIES**

4 **SEC. 301. FEASIBILITY STUDY ON ESTABLISHMENT OF EX-**
5 **PORT CONTROLS.**

6 Not later than 180 days after the date of the enact-
7 ment of this Act, the Secretary of Commerce, in consulta-
8 tion with the Secretary of State, shall complete a feasi-
9 bility study and make recommendations regarding the de-
10 velopment of export controls and export license require-
11 ments with respect to the export of any item subject to
12 sections 730 through 774 of title 15, Code of Federal Reg-
13 ulations (commonly known as the “Export Administration
14 Regulations”) to an end user in an Internet-restricting
15 country for the purpose, in whole or in part, of facilitating
16 substantial restrictions on Internet freedom.

17 **SEC. 302. REPORT.**

18 Not later than 30 days after the end of the 180-day
19 period described in section 301, the Secretary of Com-
20 merce, in consultation with the Secretary of State, shall
21 submit to the appropriate congressional committees a re-
22 port describing the actions taken to carry out section 301.

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