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“The Global Online Freedom Act” (H.R. 3605)

*Africa, Global Health and Human Rights Subcommittee
Mark-up Session of H.R. 1940, H.R. 3605, and H.R. 4141
Excerpts of Remarks by Chairman Chris Smith
March 27, 2012*

Good afternoon and welcome to this mark-up of the subcommittee on Africa, Global Health, and Human Rights.

In December I introduced H.R. 3605—an updating of the Global Online Freedom Act that I first introduced in 2006—that responds to the growing, global use of the Internet as a tool of censorship and surveillance.

The threat to human rights is very serious. Reporters without Borders just released its “Internet Enemies” list that names the countries that violate their citizen’s online freedoms. Their report tells us that China, Vietnam and Iran are the world’s biggest prisons for netizens.

Other countries are not lagging far behind. For example, the government of Pakistan recently announced a public bid for companies to help them build their own version of China’s Great Firewall. The public outcry caused the government to withdraw the bid, but I’m skeptical that plans for the firewall are actually scrapped – likely this procurement has simply been moved behind the scenes and out of public scrutiny.

Sadly, it’s through the assistance of Western companies and technology – and this includes American companies and technology – that governments like those of Iran, China, Syria, and many other countries are transforming the Internet into a “weapon of mass surveillance.”

Just as we jealously guard our media freedoms and our personal freedoms, and would be horrified if American companies sold newspaper censorship services abroad, we also need to ensure that our companies and our capital markets are not censoring the Internet abroad. The

Internet holds great promise but also, because it can be censored and surveilled, the potential of great peril.

The Global Online Freedom Act is designed to help ensure that U.S. companies are not complicit in repression of human rights. We need to move now, to ensure fundamental freedoms are protected.

First, GOFA requires the State Department to beef up its reporting on Internet freedom in the annual Country Report on Human Rights Practices, and to identify by name Internet-restricting countries. This country designation will be useful not only in a diplomatic context, in helping to advance Internet freedom through naming and shaming countries, but will also provide U.S. technology companies with the information they need to make good business decisions in difficult foreign markets.

Second, the bill requires Internet companies listed on U.S. stock exchanges to disclose to the Securities and Exchange Commission (SEC) how they conduct their human rights due diligence, including with regard to the collection and sharing of personally identifiable information with repressive countries, and the steps they take to notify users when they remove content or block access to content. This provision of the bill will help democratic activists and human rights defenders hold Internet companies accountable by creating a new transparency standard for Internet companies. And while we certainly want to hold U.S. companies accountable, this provision will also require foreign Internet service companies that are listed here in the U.S.—including the big-name Chinese companies such as Baidu, Sohu and Sina—to report this information as well.

And finally, in response to the numerous reports that we've all seen in the papers recently of U.S. technology being used to track down or conduct surveillance of activists through the Internet or mobile devices, this bill will prohibit the export of hardware or software that can be used for surveillance, tracking, blocking, etc. to the governments of Internet-restricting countries. Current export control laws do not take into account the human rights impact of these exports and therefore do not create any incentive for U.S. companies to evaluate their role in assisting repressive regimes. This section will not only help stop the sale of these items to repressive governments, but will create an important foreign policy stance for the United States that will help ensure that dissidents abroad know we are on their side, and that U.S. businesses are not profiting from this repression.

This export control law is long overdue. Right now the State Department spends millions of dollars to develop and deploy circumvention tools and other technologies to help dissidents get information and communicate safely. Truly it is absurd for us to allow U.S. companies to export blocking and surveillance technologies to these countries, only to have the State Department then spend money to help dissidents get around those same technologies.

What we do here in the United States is critically important to achieving our goals, and I believe that this legislation will send a strong message to companies that they have a unique role to play in preserving online freedom; and that we send an even stronger message to repressive governments that the Internet should not become a tool of repression.

Finally, I'd like to thank everyone who has supported the Global Online Freedom Act, but especially those who have released letters of support – this morning we have distributed letters of support from Yahoo!, Freedom House, Amnesty International, Human Rights Watch, Access, and a group letter signed by thirteen leading human rights groups.