111th Congress 1st Session  H. R. 2271

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

MAY 6, 2009

Mr. Smith of New Jersey (for himself, Mr. Sherman, Mr. Wolf, Mr. Burton of Indiana, Mr. Rohrabacher, 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.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,
SECTION 1. SHORT TITLE; TABLE OF CONTENTS.

(a) SHORT TITLE.—This Act may be cited as the "Global Online Freedom Act of 2009".

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

SEC. 2. FINDINGS.

Congress makes the following findings:

(1) A number of repressive foreign governments block, restrict, otherwise control, and monitor the Internet, effectively transforming the Internet into a tool of censorship and surveillance, in contravention of the International Covenant on Civil and Political
Rights and the Universal Declaration of Human Rights.

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

(3) A number of United States businesses have cooperated with the Internet censorship and surveillance of repressive governments by providing such governments with information about cyber-dissidents who were the company’s clients or were using the companies’ products, and this has led to the arrest and imprisonment of the dissidents.

(4) The actions of a number of United States businesses in cooperating with the efforts of repressive governments to transform the Internet into a tool of censorship and surveillance have caused Internet users in the United States and in foreign countries to lose confidence in the integrity of United States businesses.

(5) Information and communication technology companies are to be commended for cooperating with civil society organizations, academics, and investors in founding the Global Network Initiative, in order to provide direction and guidance to the Information
and Communications Technology companies and others in protecting the free expression and privacy of Internet users.

(6) The United States Government has a responsibility to protect freedom of expression on the Internet, to prevent United States businesses from directly and materially cooperating in human rights abuses perpetrated by repressive foreign governments, and to restore public confidence in the integrity of United States business.

SEC. 3. DEFINITIONS.

In this Act:

(1) Appropriate congressional committees.—The term “appropriate congressional committees” means—

(A) the Committee on Foreign Affairs, the Committee on the Judiciary, and the Committee on Energy and Commerce of the House of Representatives; and

(B) the Committee on Foreign Relations, the Committee on the Judiciary, and the Committee on Commerce, Science and Transportation of the Senate.

(2) Electronic communication and other Title 18 definitions.—The terms “electronic com-
(3) FOREIGN OFFICIAL.—

(A) IN GENERAL.—The term “foreign official” means—

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

(ii) any person acting in an official capacity for or on behalf of, or acting under color of law with the knowledge of, any such government or such department, agency, state-owned enterprise, or instrumentality.

(B) STATE-OWNED ENTERPRISE.—For purposes of subparagraph (A), the term “state-owned enterprise” means a commercial entity in which a foreign government owns or controls, directly or indirectly, more than 50 percent of the outstanding capital stock or other beneficial interest in such commercial entity.
(4) **INTERNET.**—The term “Internet” has the meaning given the term in section 231(e) of the Communications Act of 1934 (47 U.S.C. 231(e)).

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

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

(A) means a method for providing communications services via the Internet, including electronic mail, Internet telephony, online chat, online text messaging, Internet bulletin boards, or Web pages; and

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

(ii) does not include activities conducted by a financial institution (as such term is defined in section 5312 of title 31, United States Code) that are financial in nature, even if such activities are conducted using the Internet.

(7) **INTERNET CONTENT HOSTING SERVICE.**—The terms “Internet content hosting service” and “content hosting service” mean a service that—
(A) stores, through electromagnetic or other means, electronic data, such as the content of Web pages, electronic mail, documents, images, audio and video files, online discussion boards, or Web logs; and

(B) makes such data available via the Internet.

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

(9) INTERNET SEARCH ENGINE.—The term “Internet search engine” or “search engine” means a service made available via the Internet that, on the basis of a query consisting of terms, concepts, questions, or other data input by a user, searches information available on the Internet and returns to the user a means, such as a hyperlinked list of Uniform Resource Identifiers, of locating, viewing, or downloading information or data available on the Internet relating to such query.

(10) LEGITIMATE FOREIGN LAW ENFORCEMENT PURPOSES.—
(A) IN GENERAL.—The term “legitimate foreign law enforcement purpose” means for the purpose of enforcement, investigation, or prosecution by a foreign official based on a publicly promulgated law of reasonable specificity that proximately relates to the protection or promotion of the health, safety, or morals of the citizens of the jurisdiction of such official.

(B) RULE OF CONSTRUCTION.—For purposes of this Act, the control, suppression, or punishment of peaceful expression of political, religious, or ideological opinion or belief shall not be construed to constitute a legitimate foreign law enforcement purpose. Among expression that should be construed to be protected against control, suppression, or punishment when evaluating a foreign government’s claim of a legitimate foreign law enforcement purpose is expression protected by article 19 of the International Covenant on Civil and Political Rights.

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

(A) computer storage or processing by facilities of a “remote computing service”, as
such term is defined in section 2711 of title 18, United States Code;

(B) electronic storage by any electronic or computer server or facility of an electronic communications system; and

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

(12) PERSONALLY IDENTIFIABLE INFORMATION.—The term “personally identifiable information”—

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

(B) does not include—

(i) any traffic data; or

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

(13) PERSONALLY IDENTIFIABLE INFORMATION USED TO ESTABLISH OR MAINTAIN AN ACCOUNT.—

The term “personally identifiable information used to establish or maintain an account” does not include—
(A) information collected in the course of establishing or operating accounts for communications within a company;

(B) information collected in the course of the purchase, sale, shipment, or distribution of goods, including transactions for goods or services utilizing the Internet, other than communication services on which a political, religious, or ideological opinion or belief may be expressed;

(C) personally identifiable information volunteered in an electronic communication, other than in a communication made in the course of establishing an account for Internet communications services, such as an electronic mail signature line or an electronic mail, on-line video, or Web page in which the author voluntarily provides personally identifiable information; or

(D) with respect to the collection of personally identifiable information required in order to provide Internet communications services, information that is located in an Internet-restricting country temporarily at the time of
establishing an account for Internet communications services, if—

(i) a system exists that promptly transfers such information to another location outside of any Internet-restricting country;

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

(iii) no transfers occur that violate section 202.

(14) **Substantial restrictions on Internet freedom.**—The term “substantial restrictions on Internet freedom” means actions that restrict or punish the free availability of information via the Internet for reasons other than legitimate foreign law enforcement purposes, including—

(A) deliberately blocking, filtering, or censoring information available via the Internet based on the expression of political, religious, or ideological opinion or belief, including by electronic mail; or

(B) persecuting, prosecuting, or otherwise punishing an individual or group for posting or transmitting peaceful political, religious, or ide-
ological opinion or belief via the Internet, including by electronic mail.

(15) Traffic data.—The term “traffic data” means, with respect to an electronic communication, any information contained in or relating to such communication that is processed for the purpose of the conveyance of the communication by an electronic communications system or for the billing thereof, including any Internet Protocol address or other means of identifying a location within an electronic communications system, but that cannot be used to identify a particular person. Such term cannot be used to include the contents of any electronic communication.

(16) United States business.—The term “United States business” means—

(A) any corporation, partnership, association, joint-stock company, business trust, unincorporated organization, or sole proprietorship that—

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

(ii) is organized under the laws of a State of the United States or a territory,
possession, or commonwealth of the United States; and


(17) United States-supported content.—The term “United States-supported content” means content that is created or developed, in whole or in part, by a United States-supported information entity.

(18) United States-supported information entity.—The term “United States-supported information entity” means—

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

(B) any entity that—

(i) receives grants from the Broadcasting Board of Governors to carry out international broadcasting activities in accordance with the United States International Broadcasting Act of 1994 (title III of Public Law 103–236; 22 U.S.C. 6201 et seq.);

(ii) exists within the Broadcasting Board of Governors and carries out non-
military international broadcasting activities supported by the Government of the United States in accordance with such Act; or

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

(19) UNITED STATES-SUPPORTED WEB SITE.—The term “United States-supported Web site” means a location on the World Wide Web that is owned or managed by, or is registered to, a United States-supported information entity.

SEC. 4. SEVERABILITY.

If any provision of this Act, or the application of such provision to any person or circumstance, is held invalid, the remainder of this Act, and the application of such provision to other persons not similarly situated or to other circumstances, shall not be affected by such invalidation.

TITLE I—PROMOTION OF GLOBAL INTERNET FREEDOM

SEC. 101. STATEMENT OF POLICY.

It shall be the policy of the United States—

(1) to promote as a fundamental component of United States foreign policy the right of every indi-
individual to freedom of opinion and expression, including the right to hold opinions, and to seek, receive, and impart information and ideas through any media and regardless of frontiers, without interference;

(2) to use all appropriate instruments of United States influence, including diplomacy, trade policy, and export controls, to support, promote, and strengthen principles, practices, and values that promote the free flow of information without interference or discrimination, including through the Internet and other electronic media; and

(3) to deter any United States business from cooperating with officials of Internet-restricting countries in effecting the political censorship of online content.

SEC. 102. SENSE OF CONGRESS.

It is the sense of the Congress that—

(1) the President should, through bilateral, and where appropriate, multilateral activities, seek to obtain the agreement of other countries to promote the goals and objectives of this Act and to protect Internet freedom; and
(2) to the extent that a United States business empowers or assists an authoritarian foreign government in its efforts—

(A) to restrict online access to the Web sites of the Voice of America, Radio Free Europe/Radio Liberty, Radio Free Asia, Al-Hurra, Radio Sawa, Radio Farda, Radio Marti, TV Marti, or other United States-supported Web sites and online access to United States Government reports such as the Annual Country Reports on Human Rights Practices, the Annual Reports on International Religious Freedom, and the Annual Trafficking in Human Persons Reports, or

(B) to identify individual Internet users, such business is working contrary to the foreign policy interests of the United States and is undercutting United States taxpayer-funded efforts to promote freedom of information for all people, including those in undemocratic and repressive societies.

SEC. 103. ANNUAL COUNTRY REPORTS ON HUMAN RIGHTS PRACTICES.

(a) REPORT RELATING TO ECONOMIC ASSISTANCE.—Section 116 of the Foreign Assistance Act of
1961 (22 U.S.C. 2151n) is amended by adding at the end the following new subsection:

“(g)(1) The report required by subsection (d) shall include an assessment of the freedom of electronic information in each foreign country. Such assessment shall consist of the following:

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

“(B) An assessment of the extent to which government authorities in that country attempt to filter, censor, or otherwise block Internet content, as well as a description of the means by which they attempt to block such content.

“(C) A description of known instances in which government authorities in that country have persecuted, prosecuted, or otherwise punished an individual or group for the peaceful expression of political, religious, or ideological opinion or belief via the Internet, including electronic mail.

“(D) A description of known instances in which government authorities in that country have sought to collect, request, obtain, or disclose the personally identifiable information of a
person in connection with that person’s peaceful
expression of political, religious, or ideological
opinion or belief, including without limitation
communication that would be protected by the
International Covenant on Civil and Political
Rights.

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

(b) REPORT RELATING TO SECURITY ASSISTANCE.—

Section 502B of the Foreign Assistance Act of 1961 (22
U.S.C. 2304) is amended by adding at the end the fol-
lowing new subsection:

“(i)(1) The report required by subsection (b) shall in-
clude an assessment of the freedom of electronic inform-
ation in each foreign country. Such assessment shall consist
of the following:

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

“(B) An assessment of the extent to which
government authorities in that country attempt
to filter, censor, or otherwise block Internet
content, as well as a description of the means
by which they attempt to block such content.

“(C) A description of known instances in
which government authorities in that country
have persecuted, prosecuted, or otherwise pun-
ished an individual or group for the peaceful ex-
pression of political, religious, or ideological
opinion or belief via the Internet, including elec-
tronic mail.

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

“(2) In compiling data and making assessments
for the purposes of paragraph (1), United States
diplomatic mission personnel shall consult with
human rights organizations, technology and Internet
companies, and other appropriate nongovernmental
organizations.”.
SEC. 104. OFFICE OF GLOBAL INTERNET FREEDOM.

(a) ESTABLISHMENT.—There is established in the Department of State the Office of Global Internet Freedom (in this section referred to as the “Office”). The head of the Office shall be a Director, who shall be appointed by the Secretary of State.

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

(1) serve as the focal point for interagency efforts to protect and promote abroad freedom of electronic information related to expression of political, religious, or ideological opinion or belief;

(2) develop and ensure the implementation of a global strategy and programs to combat state-sponsored and state-directed Internet jamming of communications that express political, religious, or ideological opinion or belief and to combat the intimidation and persecution by foreign governments of their citizens who use the Internet for the peaceful expression of such opinion or belief;

(3) provide assistance to the Secretary of State in connection with the annual designation of Internet-restricting countries required by section 105(a) of this Act;

(4) beginning not later than 180 days after the date of the enactment of this Act—
(A) identify key words, terms, and phrases relating to human rights, democracy, religious free exercise, and peaceful political dissent, both in general and as specifically related to the particular context and circumstances of each Internet-restricting country; and

(B) maintain, update, and make publicly available on a regular basis the key words, terms, and phrases identified pursuant to subparagraph (A);

(5) establish mechanisms to collect the information required to be reported by sections 116(g) and 502B(i) of the Foreign Assistance Act of 1961 (as added by section 103 of this Act) and sections 203 and 204 of this Act;

(6) establish a regularized consultative process with regard to the control, suppression, or punishment of peaceful expression of political, religious, or ideological opinion or belief with appropriate technology companies involved in providing, maintaining, or servicing the Internet, human rights organizations, academic experts, and others to develop a voluntary code of minimum corporate standards related to Internet freedom, and to consult with such companies, organizations, experts, and others regarding
new technologies and the implementation of appropriate policies relating to such technologies; and

(7) advise the appropriate congressional committees of legislative action that may be necessary to keep the provisions of this Act and the amendments made by this Act relevant to changing technologies.

(c) COOPERATION OF OTHER FEDERAL DEPARTMENTS AND AGENCIES.—

(1) IN GENERAL.—The head of each department and agency of the United States, including the Department of Commerce, the Office of the United States Trade Representative, the Department of Justice, the International Broadcasting Bureau, and the Office of the Director of National Intelligence, shall, as appropriate, cooperate with and assist the Office of Global Internet Freedom in the implementation of its duties, including the strategy developed by the Office under subsection (b)(2).

(2) COORDINATION WITH DEPARTMENT OF COMMERCE.—Notwithstanding the requirements of paragraph (1), the head of the Office shall fully coordinate its activities with those of the National Telecommunications and Information Administration of the Department of Commerce and the Assistant
Secretary of Commerce for Communications and Information.

(d) Authorization of Appropriations.—There are authorized to be appropriated to the Office to carry out this section such sums as may be necessary for each of the fiscal years 2010 and 2011.

(e) Construction.—Nothing in this section shall supersede the requirements of the National Telecommunications and Information Administration Organization Act (47 U.S.C. 901 et seq.) or affect the responsibilities of the National Telecommunications and Information Administration of the Department of Commerce and the Assistant Secretary of Commerce for Communications and Information established by such Act and amendments to such Act.

SEC. 105. ANNUAL DESIGNATION OF INTERNET-RESTRICTING COUNTRIES; REPORT.

(a) Designation.—

(1) In general.—Not later than 180 days after the date of the enactment of this Act, and annually thereafter, the Secretary of State shall designate Internet-restricting countries for purposes of this Act.

(2) Standard.—A foreign country shall be designated as an Internet-restricting country if the
Secretary of State, after consultation with the Secretary of Commerce, determines, based on the review of the evidence and any ongoing multilateral discussions on freedom of speech and the right to privacy, that the government of the country is directly or indirectly responsible for a systematic pattern of substantial restrictions on Internet freedom during any part of the preceding 1-year period.

(b) Report.—

(1) In general.—Not later than 180 days after the date of the enactment of this Act, and annually thereafter, the Secretary of State shall transmit to the appropriate congressional committees a report that contains the following:

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

(B) An identification of each government agency and quasi-government organization responsible for the substantial restrictions on Internet freedom in each foreign country designated as an Internet-restricting country under subsection (a).
(C) A description of efforts by the United States to counter the substantial restrictions on Internet freedom referred to in subparagraph (B).

(D) A description of the evidence used by the Secretary of State to make the determinations under subsection (a)(2) and any ongoing multilateral discussions on freedom of speech and the right to privacy referred to in such subsection.

(2) FORM.—The information required by paragraph (1)(C) of the report may be provided in a classified form if necessary.

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

TITLE II—MINIMUM CORPORATE STANDARDS FOR ONLINE FREEDOM

SEC. 201. PROTECTION OF PERSONALLY IDENTIFIABLE INFORMATION.

(a) LOCATION OF INFORMATION IN INTERNET-RESTRICTING COUNTRIES.—A United States business that creates, provides, or offers to the public for commercial
purposes an Internet search engine or that offers to the public for commercial purposes Internet communications services or Internet content hosting services may not locate, within an Internet-restricting country, any electronic communication containing personally identifiable information used to establish or maintain an account for Internet communications services.

(b) WAIVER.—Subject to subsection (c), the Secretary of State may waive the application of any of the provisions of subsection (a) with respect to a United States business or an Internet-restricting country, if the Secretary of State determines and so reports to the appropriate congressional committees that—

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

(2) the laws of the Internet-restricting country require the United States business that creates, provides, or offers to the public for commercial purposes an Internet search engine or that offers to the public for commercial purposes Internet communications services or Internet content hosting services to locate within the country electronic communications containing personally identifiable information used to
establish or maintain an account for Internet communications services; or

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

(c) CONGRESSIONAL NOTIFICATION.—Not later than the date of the exercise of a waiver under subsection (b), the Secretary of State shall notify the appropriate congressional committees of the waiver or the intention to exercise the waiver, together with a detailed explanation of the reason for the waiver.

SEC. 202. INTEGRITY OF PERSONALLY IDENTIFIABLE INFORMATION.

(a) USER PROTECTION.—If a United States business collects or obtains personally identifiable information through the provision of products or services on the Internet, such business shall—

(1) devise and maintain a system of internal policies and procedures which set out how the United States business will assess and respond to requests by Internet-restricting countries for disclosure of personally identifiable information, sufficient to provide reasonable assurances that—

(A) responses to such requests are executed in accordance with the specific authorization of the United States business; and
(B) responses to such requests are documented to include the exact words or nature of each such request, the information requested, circumstances relevant to determining how to respond to the request, communications with officials of the Internet-restricting country, and communications with the United States Government regarding the request or the response to the request; and

(2) make and keep records that, in reasonable detail, accurately document all requests by Internet-restricting countries for disclosure of personally identifiable information, as well as how the United States business has assessed and responded to such requests, including the exact words or nature of each such request, the information requested, circumstances relevant to determining how to respond to the request, and communications with officials of the Internet-restricting country and communications with the United States Government regarding the request or the response to the request.

(b) NOTIFICATION OF UNITED STATES GOVERNMENT OF INTERNAL POLICIES AND RECORD-KEEPING.—Within 90 days after a foreign country is designated as an Internet-restricting country, any United States busi-
ness that collects or obtains personally identifiable information through the provision of products or services on the Internet in the Internet-restricting country shall transmit to the Director of the Office of Global Internet Freedom a full account of its internal policies and procedures and its record-keeping practices instituted and undertaken in compliance with subsection (a).

(c) Notification of United States Government of Request for Personally Identifiable Information by Internet-Restricting Country.—If an Internet-restricting country requests personally identifiable information from a United States business that collects or obtains personally identifiable information through the provision of products or services on the Internet in that Internet-restricting country, that United States business shall promptly, and before responding to the request, inform the Director of the Office of Global Internet Freedom and the Attorney General of the exact words or nature of the request, the circumstances relevant to determining how to respond to the request, and relevant communications with officials of the Internet-restricting country.

(d) Order Not To Comply With Request.—If the Attorney General determines that there is a reasonable likelihood that an Internet-restricting country has re-
quested of a United States business that collects or obtains personally identifiable information through the provision of products or services on the Internet such information for other than legitimate law enforcement purposes, the Attorney General may issue an order to the United States business that it shall not comply with the request.

(e) **PRIVATE RIGHT OF ACTION.**—Any person aggrieved by a violation of subsection (a) or (e), or by a violation of an order issued under subsection (d), may bring in the appropriate United States district court an action against the United States business that committed the violation for damages, including punitive damages, or other appropriate relief, without regard to the amount in controversy, and without regard to the citizenship of the parties.

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

Any United States business that creates, provides, or hosts an Internet search engine shall provide the Director of the Office of Global Internet Freedom, in a format and with a frequency to be specified by the Director, with all terms and parameters used to filter, limit, or otherwise affect the results provided by the search engine that are implemented—
(1) at the request of, or by reason of any other
direct or indirect communication by, any foreign of-
official of an Internet-restricting country; or

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

SEC. 204. TRANSPARENCY REGARDING INTERNET CENSOR-
SHIP.

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

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

(2) blocked from availability on the Internet; or

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

(b) CIRCUMSTANCES.—The circumstances referred to
in subsection (a) are that the United States business took
the action under subsection (a)—
(1) at the request of, or by reason of any other
direct or indirect communication by, any foreign of-
ficial of an Internet-restricting country; or

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

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

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

SEC. 206. PENALTIES.

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

(b) Liability of United States Businesses for
Acts of Foreign Entities.—A United States business
shall be subject to the penalties under subsection (a) for
the acts carried out by a foreign entity that would be a
violation under this Act if engaged in by a United States
business, if the United States business—
(1) controls a controlling interest in the voting
shares or other equity securities of the foreign enti-

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

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

(c) **Criminal Penalties for Knowing Violations.**—Whoever knowingly provides to a foreign official
of an Internet-restricting country information in violation
of an order issued under section 202(d), knowing that so
providing such information will further a policy on the
part of the government of such country of prosecuting,
persecuting, or otherwise punishing individuals or groups
on account of the peaceful expression of political, religious,
or ideological opinion or belief, and with the result that
so providing such information leads to the death, torture,
serious bodily injury, disappearance, or detention of any
individual on such account, shall be fined under title 18,
United States Code, or imprisoned not more than 5 years,
or both.
SEC. 207. PRESIDENTIAL WAIVER.

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

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

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

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

(b) CONGRESSIONAL NOTIFICATION.—Not later than the date of the exercise of a waiver under subsection (a), the President shall notify the appropriate congressional committees of the waiver or the intention to exercise the waiver, together with a detailed justification for the waiver.
TITLE III—EXPORT CONTROLS
FOR INTERNET-RESTRICTING COUNTRIES

SEC. 301. FEASIBILITY STUDY ON ESTABLISHMENT OF EXPORT CONTROLS.

Not later than 180 days after the date of the enactment of this Act, the Secretary of Commerce, in consultation with the Secretary of State, shall complete a feasibility study and make recommendations regarding the development of export controls and export license requirements with respect to the export of any item subject to sections 730 through 774 of title 15, Code of Federal Regulations (commonly known as the “Export Administration Regulations”) to an end user in an Internet-restricting country for the purpose, in whole or in part, of facilitating substantial restrictions on Internet freedom.

SEC. 302. REPORT.

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