

**AMENDMENT IN THE NATURE OF A SUBSTITUTE
TO H.R. 3605
OFFERED BY MR. SMITH OF NEW JERSEY**

Strike all after the enacting clause and insert the following:

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 2012”.

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. Annual designation of Internet-restricting countries; report.
- Sec. 105. Report on trade-related issues or disputes due to government censorship or disruption of the Internet.

**TITLE II—CORPORATE TRANSPARENCY AND ACCOUNTABILITY TO
PROTECT ONLINE FREEDOM**

- Sec. 201. Disclosure of human rights due diligence.

**TITLE III—EXPORT CONTROLS ON CERTAIN
TELECOMMUNICATIONS EQUIPMENT**

- Sec. 301. Export controls on certain telecommunications equipment.

6 SEC. 2. FINDINGS.

7 Congress makes the following findings:

1 (1) The political and economic benefits of the
2 Internet are important to advancing democracy and
3 freedom throughout the world, but the potential ben-
4 efits of this transformative technology are under at-
5 tack by authoritarian governments.

6 (2) A number of repressive foreign governments
7 block, restrict, otherwise control, and monitor the
8 Internet, effectively transforming the Internet into a
9 tool of censorship and surveillance.

10 (3) A number of United States businesses have
11 enabled repressive regimes to compromise the secu-
12 rity of Internet users engaged in peaceful discussion
13 of political, social, and religious issues and severely
14 limit their access to information and communication
15 channels by selling these governments or their
16 agents technology or training.

17 (4) A number of United States businesses have
18 provided repressive governments with information
19 about Internet users who were the company's clients
20 or were using the companies' products, that has led
21 to the arrest and imprisonment of the Internet
22 users.

23 (5) The actions of a number of United States
24 businesses in cooperating with the efforts of repres-
25 sive governments to transform the Internet into a

1 tool of censorship and surveillance have caused
2 Internet users in the United States and in foreign
3 countries to lose confidence in the integrity of
4 United States businesses.

5 (6) Information and communication technology
6 companies are to be commended for cooperating with
7 civil society organizations, academics, and investors
8 in founding the Global Network Initiative, in order
9 to provide direction and guidance to the information
10 and communications technology companies and oth-
11 ers in protecting the free expression and privacy of
12 Internet users. Human rights due diligence by com-
13 panies makes a difference.

14 (7) The United States Government has a re-
15 sponsibility to protect freedom of expression on the
16 Internet, to prevent United States businesses from
17 directly and materially cooperating in human rights
18 abuses perpetrated by repressive foreign govern-
19 ments, and to restore public confidence in the integ-
20 rity of United States business.

21 **SEC. 3. DEFINITIONS.**

22 In this Act:

23 (1) APPROPRIATE CONGRESSIONAL COMMIT-
24 TEES.—The term “appropriate congressional com-
25 mittees” means—

1 (A) the Committee on Foreign Affairs and
2 the Committee on Financial Services of the
3 House of Representatives; and

4 (B) the Committee on Foreign Relations
5 and the Committee on Finance of the Senate.

6 (2) FOREIGN OFFICIAL.—The term “foreign of-
7 ficial” means—

8 (A) any officer or employee of a foreign
9 government or of any department; and

10 (B) any person acting in an official capac-
11 ity for or on behalf of, or acting under color of
12 law with the knowledge of, any such govern-
13 ment or such department, agency, state-owned
14 enterprise, or instrumentality.

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

18 (4) INTERNET-RESTRICTING COUNTRY.—The
19 term “Internet-restricting country” means a country
20 designated by the Secretary of State pursuant to
21 section 104(a) of this Act.

22 (5) LEGITIMATE FOREIGN LAW ENFORCEMENT
23 PURPOSE.—

24 (A) IN GENERAL.—The term “legitimate
25 foreign law enforcement purpose” means for the

1 purpose of enforcement, investigation, or prosecution
2 by a foreign official based on a publicly
3 promulgated law of reasonable specificity that
4 proximately relates to the protection or promotion
5 of the health, safety, or morals of the
6 citizens of the jurisdiction of such official.

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

19 (C) RULE OF CONSTRUCTION.—No provision under this Act shall be construed to affect
20 a country’s ability to adopt measures designed
21 to combat infringement of intellectual property.
22 to combat infringement of intellectual property.

23 (6) SUBSTANTIAL RESTRICTIONS ON INTERNET
24 FREEDOM.—The term “substantial restrictions on
25 FREEDOM.—The term “substantial restrictions on

1 Internet freedom” means actions that restrict or
2 punish the free availability of information via the
3 Internet for reasons other than legitimate foreign
4 law enforcement purposes, including—

5 (A) deliberately blocking, filtering, or cen-
6 soring information available via the Internet
7 based on the expression of political, religious, or
8 ideological opinion or belief, including by elec-
9 tronic mail; or

10 (B) persecuting, prosecuting, or otherwise
11 punishing an individual or group for posting or
12 transmitting peaceful political, religious, or ide-
13 ological opinion or belief via the Internet, in-
14 cluding by electronic mail.

15 (7) 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 **SEC. 4. SEVERABILITY.**

7 If any provision of this Act, or the application of such
8 provision to any person or circumstance, is held invalid,
9 the remainder of this Act, and the application of such pro-
10 vision to other persons not similarly situated or to other
11 circumstances, shall not be affected by such invalidation.

12 **TITLE I—PROMOTION OF**
13 **GLOBAL INTERNET FREEDOM**

14 **SEC. 101. STATEMENT OF POLICY.**

15 It shall be the policy of the United States—

16 (1) to promote as a fundamental component of
17 United States foreign policy the right of every indi-
18 vidual to freedom of opinion and expression, includ-
19 ing the right to hold opinions, and to seek, receive,
20 and impart information and ideas through any
21 media and regardless of frontiers, without inter-
22 ference;

23 (2) to use all appropriate instruments of United
24 States influence, including diplomacy, trade policy,
25 and export controls, to support, promote, and

1 strengthen principles, practices, and values that pro-
2 mote the free flow of information without inter-
3 ference or discrimination, including through the
4 Internet and other electronic media; and

5 (3) to deter any United States business from
6 cooperating with officials of Internet-restricting
7 countries in effecting the political censorship of on-
8 line content.

9 **SEC. 102. SENSE OF CONGRESS.**

10 It is the sense of the Congress that—

11 (1) the President should, through bilateral, and
12 where appropriate, multilateral activities, seek to ob-
13 tain the agreement of other countries to promote the
14 goals and objectives of this Act and to protect Inter-
15 net freedom; and

16 (2) to the extent possible in every country in
17 which they operate, United States businesses should
18 work to—

19 (A) ensure access to the Web sites of the
20 Voice of America, Radio Free Europe/Radio
21 Liberty, Radio Free Asia, Al-Hurra, Radio
22 Sawa, Radio Farda, Radio Marti, TV Marti, or
23 other United States-supported Web sites and
24 online access to United States Government re-
25 ports such as the annual Country Reports on

1 Human Rights Practices, the annual Reports
2 on International Religious Freedom, and the
3 annual Trafficking in Human Persons Reports;
4 and

5 (B) promote the security of Internet users
6 and expand their access to information and
7 communication channels by limiting censorship
8 of protected political and religious speech and
9 information.

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

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

16 “(g)(1) The report required by subsection (d) shall
17 include an assessment of freedom of expression with re-
18 spect to electronic information in each foreign country.
19 Such assessment shall consist of the following:

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

23 “(B) An assessment of the extent to which gov-
24 ernment authorities in that country attempt to filter,
25 censor, or otherwise block or remove nonviolent ex-

1 pression of political or religious opinion or belief via
2 the Internet, including electronic mail, as well as a
3 description of the means by which such authorities
4 attempt to block or remove protected speech.

5 “(C) An assessment of the extent to which gov-
6 ernment authorities in that country have persecuted,
7 prosecuted, or otherwise punished an individual or
8 group for the nonviolent expression of political, reli-
9 gious, or ideological opinion or belief via the Inter-
10 net, including electronic mail.

11 “(D) An assessment of the extent to which gov-
12 ernment authorities in that country have sought to
13 collect, request, obtain, or disclose the personally
14 identifiable information of a person in connection
15 with that person’s nonviolent expression of political,
16 religious, or ideological opinion or belief, including
17 without limitation communication that would be pro-
18 tected by the International Covenant on Civil and
19 Political Rights.

20 “(E) An assessment of the extent to which wire
21 communications and electronic communications are
22 illicitly monitored in that country.

23 “(2) In compiling data and making assessments for
24 the purposes of paragraph (1), United States diplomatic
25 mission personnel shall consult with human rights organi-

1 zations, technology and Internet companies, and other ap-
2 propriate nongovernmental organizations.

3 “(3) In this subsection—

4 “(A) the term ‘electronic communication’ has
5 the meaning given the term in section 2510 of title
6 18, United State Code;

7 “(B) the term ‘Internet’ has the meaning given
8 the term in section 231(e)(3) of the Communications
9 Act of 1934 (47 U.S.C. 231(e)(3));

10 “(C) the term ‘personally identifiable informa-
11 tion’ means data in a form that identifies a par-
12 ticular person; and

13 “(D) the term ‘wire communication’ has the
14 meaning given the term in section 2510 of title 18,
15 United State Code.”.

16 (b) REPORT RELATING TO SECURITY ASSISTANCE.—
17 Section 502B of the Foreign Assistance Act of 1961 (22
18 15 U.S.C. 2304) is amended by adding at the end the fol-
19 lowing new subsection:

20 “(j)(1) The report required by subsection (b) shall
21 include an assessment of freedom of expression with re-
22 spect to electronic information in each foreign country.
23 Such assessment shall consist of the following:

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

4 “(B) An assessment of the extent to which gov-
5 ernment authorities in that country attempt to filter,
6 censor, or otherwise block or remove nonviolent ex-
7 pression of political or religious opinion or belief via
8 the Internet, including electronic mail, as well as a
9 description of the means by which such authorities
10 attempt to block or remove protected speech.

11 “(C) An assessment of the extent to which gov-
12 ernment authorities in that country have persecuted,
13 prosecuted, or otherwise punished an individual or
14 group for the peaceful expression of political, reli-
15 gious, or ideological opinion or belief via the Inter-
16 net, including electronic mail.

17 “(D) An assessment of the extent to which gov-
18 ernment authorities in that country have sought to
19 collect, request, obtain, or disclose the personally
20 identifiable information of a person in connection
21 with that person’s communication of ideas, facts, or
22 views where such communication would be protected
23 by the International Covenant on Civil and Political
24 Rights.

1 “(E) An assessment of the extent to which wire
2 communications and electronic communications are
3 illicitly monitored in that country.

4 “(2) In compiling data and making assessments for
5 the purposes of paragraph (1), United States diplomatic
6 mission personnel shall consult with human rights organi-
7 zations, technology and Internet companies, and other ap-
8 propriate nongovernmental organizations.

9 “(3) In this subsection—

10 “(A) the term ‘electronic communication’ has
11 the meaning given the term in section 2510 of title
12 18, United State Code;

13 “(B) the term ‘Internet’ has the meaning given
14 the term in section 231(e)(3) of the Communications
15 Act of 1934 (47 U.S.C. 231(e)(3));

16 “(C) the term ‘personally identifiable informa-
17 tion’ means data in a form that identifies a par-
18 ticular person; and

19 “(D) the term ‘wire communication’ has the
20 meaning given the term in section 2510 of title 18,
21 United State Code.”.

22 **SEC. 104. ANNUAL DESIGNATION OF INTERNET-RESTRICT-**
23 **ING COUNTRIES; REPORT.**

24 (a) DESIGNATION.—

1 (1) IN GENERAL.—Not later than 180 days
2 after the date of the enactment of this Act, and an-
3 nually thereafter, the Secretary of State shall des-
4 ignate Internet-restricting countries for purposes of
5 this Act.

6 (2) STANDARD.—A foreign country shall be
7 designated as an Internet-restricting country if the
8 Secretary of State, after consultation with the Sec-
9 retary of Commerce, determines, based on the review
10 of the evidence that the government of the country
11 is directly or indirectly responsible for a systematic
12 pattern of substantial restrictions on Internet free-
13 dom during any part of the preceding 1-year period.

14 (b) REPORT.—

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

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

24 (B) An identification of each government
25 agency and quasi-government organization re-

1 sponsible for the substantial restrictions on
2 Internet freedom in each foreign country des-
3 ignated as an Internet-restricting country under
4 subsection (a).

5 (C) A description of efforts by the United
6 States to counter the substantial restrictions on
7 Internet freedom referred to in subparagraph
8 (B), including a description and details of pro-
9 grams funded under any other provision of law
10 with the purpose of promoting Internet free-
11 dom.

12 (D) A description of the evidence used by
13 the Secretary of State to make the determina-
14 tions under subsection (a)(2).

15 (2) FORM.—The information required by para-
16 graph (1)(C) may be provided in a classified form if
17 necessary.

18 (3) PUBLIC AVAILABILITY.—All unclassified
19 portions of the report shall be made publicly avail-
20 able on the Internet Web site of the Department of
21 State.

1 **SEC. 105. REPORT ON TRADE-RELATED ISSUES OR DIS-**
2 **PUTES DUE TO GOVERNMENT CENSORSHIP**
3 **OR DISRUPTION OF THE INTERNET.**

4 (a) REPORT.—Not later than 90 days after the date
5 of the enactment of this Act, the United States Trade
6 Representative, in consultation with the Secretary of State
7 and the Secretary of Commerce, shall transmit to the ap-
8 propriate congressional committees a report on—

9 (1) any trade-related issues or disputes that
10 arise due to government censorship or disruption of
11 the Internet among United States trade partners;
12 and

13 (2) efforts by the United States Government to
14 address the issues or disputes described in para-
15 graph (1) either bilaterally or multilaterally.

16 (b) SENSE OF CONGRESS.—It is the sense of Con-
17 gress that the United States should pursue trade policies
18 that expand the information economy by—

19 (1) ensuring the free flow of information across
20 the entire global network;

21 (2) promoting stronger international trans-
22 parency rules; and

23 (3) ensuring fair and equal treatment of online
24 services regardless of country of origin.

1 **TITLE II—CORPORATE TRANS-**
2 **PARENCY AND ACCOUNT-**
3 **ABILITY TO PROTECT ONLINE**
4 **FREEDOM**

5 **SEC. 201. DISCLOSURE OF HUMAN RIGHTS DUE DILIGENCE.**

6 (a) IN GENERAL.—Section 13 of the Securities Ex-
7 change Act of 1934 (15 U.S.C. 78m) is amended by add-
8 ing at the end the following:

9 “(r) DISCLOSURE OF HUMAN RIGHTS DUE DILI-
10 GENCE.—

11 “(1) DISCLOSURE.—Except as provided in
12 paragraph (3), each Internet communications service
13 company that operates in an Internet-restricting
14 country shall include in the annual report of the
15 company information relating to the company, any
16 subsidiary of the company, and any entity under the
17 control of either of such companies, relating to the
18 following:

19 “(A) HUMAN RIGHTS DUE DILIGENCE.—

20 Company policies applicable to the company’s
21 internal operations that address human rights
22 due diligence through a statement of policy that
23 is consistent with applicable provisions of the
24 Guidelines for Multinational Enterprises issued

1 by the Organization for Economic Co-operation
2 and Development, and whether such policy—

3 “(i) is approved at the most senior
4 level of the company;

5 “(ii) explicitly states the company’s
6 expectations of personnel, business part-
7 ners, and other parties under the control
8 of the company, products, or services;

9 “(iii) is publicly available and commu-
10 nicated internally and externally to all per-
11 sonnel, business partners, other relevant
12 partners, customers, and users;

13 “(iv) is reflected in operational poli-
14 cies and procedures necessary to embed it
15 throughout the company; and

16 “(v) is independently assessed by a
17 third party to demonstrate compliance in
18 practice, which should include—

19 “(I) whether the assessment was
20 conducted under the supervision of
21 any third party organization or multi-
22 stakeholder initiative;

23 “(II) a description of the assess-
24 ment process;

1 “(III) a description of measures
2 taken to ensure the assessor’s inde-
3 pendence; and

4 “(IV) inclusion of the assessor’s
5 public report.

6 “(B) NON-COMPLIANCE.—If the company’s
7 policy does not comply with any of the require-
8 ments of clauses (i) through (iv) of subpara-
9 graph (A), an explanation of why the company’s
10 policy does not meet each such requirement.

11 “(C) POLICIES PERTAINING TO DISCLO-
12 SURE OF PERSONALLY IDENTIFIABLE INFORMA-
13 TION.—If the company collects or obtains per-
14 sonally identifiable information, the contents of
15 wire communications or electronic communica-
16 tions in electronic storage, or the contents of
17 wire communications or electronic communica-
18 tions in a remote computing service on the
19 Internet, a summary of any internal policies or
20 procedures of the company that set out how the
21 company will assess and respond to requests by
22 the governments of Internet-restricting coun-
23 tries for disclosure of such personally identifi-
24 able information or communications.

1 “(D) RESTRICTIONS ON INTERNET SEARCH
2 ENGINES AND INTERNET CONTENT HOSTING
3 SERVICES.—If the company creates, provides,
4 or hosts an Internet search engine or an Inter-
5 net content hosting service, all steps taken to
6 provide users and customers with clear, promi-
7 nent, and timely notice when access to specific
8 content has been removed or blocked at the re-
9 quest of an Internet-restricting country.

10 “(2) AVAILABILITY OF INFORMATION.—The
11 Commission shall make all information reported by
12 an issuer pursuant to this subsection available online
13 to the public.

14 “(3) SAFE HARBOR.—

15 “(A) IN GENERAL.—An Internet commu-
16 nications service company that operates in an
17 Internet-restricting country shall not be re-
18 quired to include in the annual report of the
19 company information described in paragraph
20 (1) if the company includes in the annual re-
21 port of the company a certification of the Glob-
22 al Network Initiative or a multi-stakeholder ini-
23 tiative described in subparagraph (B) that the
24 company participates in good standing in the

1 Global Network Initiative or the multi-stake-
2 holder initiative (as the case may be).

3 “(B) MULTI-STAKEHOLDER INITIATIVE.—
4 A multi-stakeholder initiative referred to in sub-
5 paragraph (A) is an initiative that—

6 “(i) is composed of civil society orga-
7 nizations, including human rights organi-
8 zations and Internet communications serv-
9 ice companies;

10 “(ii) promotes the rule of law and the
11 adoption of laws, policies, and practices
12 that protect, respect, and fulfill freedom of
13 expression and privacy; and

14 “(iii) requires each company partici-
15 pating in the initiative to undergo assess-
16 ments by an independent third party de-
17 scribed in subparagraph (C) of the com-
18 pany’s compliance with the standards de-
19 scribed in clause (ii).

20 “(C) INDEPENDENT THIRD PARTY.—An
21 independent third party referred to in subpara-
22 graph (B)(iii) is an entity accredited by the
23 multi-stakeholder initiative to conduct assess-
24 ments based on criteria that include—

1 “(i) general expertise in legal and
2 human rights standards; and

3 “(ii) specific expertise in global busi-
4 ness processes relating to information and
5 communication technology, including oper-
6 ations, product development cycles, market
7 segments and industry relationships, infor-
8 mation technology privacy, safety, and se-
9 curity standards, data retention systems,
10 and database forensics.

11 “(4) DEFINITIONS.—In this subsection:

12 “(A) ELECTRONIC COMMUNICATION AND
13 OTHER TITLE 18 DEFINITIONS.—The terms
14 ‘electronic communication’, ‘electronic commu-
15 nication service’, ‘electronic storage’, ‘wire com-
16 munication’, and ‘contents’ have the meanings
17 given such terms in section 2510 of title 18,
18 United States Code.

19 “(B) INTERNET.—The term ‘Internet’ has
20 the meaning given the term in section 231(e)(3)
21 of the Communications Act of 1934 (47 U.S.C.
22 231(e)(3)).

23 “(C) INTERNET COMMUNICATIONS SERV-
24 ICE COMPANY.—The term ‘Internet communica-
25 tions service company’ means an issuer that—

1 “(i) is required to file an annual re-
2 port with the Commission; and

3 “(ii)(I) provides electronic commu-
4 nication services or remote computing serv-
5 ices, but does not include—

6 “(aa) businesses that provide
7 such services as an ancillary service to
8 the provision of lodging, transpor-
9 tation, or food services; or

10 “(bb) activities conducted by a fi-
11 nancial institution (as such term is
12 defined in section 5312 of title 31,
13 United States Code) that are financial
14 in nature, even if such activities are
15 conducted using the Internet; or

16 “(II) is a domain name registrar, do-
17 main name registry, or other domain name
18 registration authority.

19 “(D) INTERNET CONTENT HOSTING SERV-
20 ICE.—The term ‘Internet content hosting serv-
21 ice’ means a service that—

22 “(i) stores, through electromagnetic or
23 other means, electronic data, such as the
24 content of Web pages, electronic mail, doc-

1 uments, images, audio and video files, on-
2 line discussion boards, or Web logs; and

3 “(ii) makes such data available via the
4 Internet.

5 “(E) INTERNET-RESTRICTING COUNTRY.—
6 The term ‘Internet-restricting country’ has the
7 meaning given such term under section 3 of the
8 Global Online Freedom Act of 2012.

9 “(F) INTERNET SEARCH ENGINE.—The
10 term ‘Internet search engine’ means a service
11 made available via the Internet that, on the
12 basis of a query consisting of terms, concepts,
13 questions, or other data input by a user,
14 searches information available on the Internet
15 and returns to the user a link to or other
16 means of locating, viewing, or downloading in-
17 formation or data available on the Internet re-
18 lating to such query.

19 “(G) PERSONALLY IDENTIFIABLE INFOR-
20 MATION.—The term ‘personally identifiable in-
21 formation’ means data in a form that identifies
22 a particular person.

23 “(H) REMOTE COMPUTING SERVICE.—The
24 term ‘remote computing service’ has the mean-

1 ing given such term under section 2711(2) of
2 title 18, United States Code.”.

3 (b) RULEMAKING.—Not later than the end of the
4 270-day period beginning on the date of the enactment
5 of this Act, the Securities and Exchange Commission shall
6 issue final rules to carry out section 13(r) of the Securities
7 and Exchange Act of 1934, as added by subsection (a).

8 **TITLE III—EXPORT CONTROLS**
9 **ON CERTAIN TELECOMMUNI-**
10 **CATIONS EQUIPMENT**

11 **SEC. 301. EXPORT CONTROLS ON CERTAIN TELECOMMUNI-**
12 **CATIONS EQUIPMENT.**

13 (a) IN GENERAL.—Section 6 of the Export Adminis-
14 tration Act of 1979 (50 U.S.C. App. 2405), as continued
15 in effect under the International Emergency Economic
16 Powers Act, is amended by adding at the end the fol-
17 lowing:

18 “(t) CERTAIN TELECOMMUNICATIONS EQUIP-
19 MENT.—

20 “(1) IN GENERAL.—The Secretary, in consulta-
21 tion with the Secretary of State, the Secretary of
22 Defense, and the heads of other appropriate Federal
23 departments and agencies, shall establish and main-
24 tain, as part of the list maintained under this sec-
25 tion, a list of goods and technology that would serve

1 the primary purpose of assisting, or be specifically
2 configured to assist, a foreign government in acquir-
3 ing the capability to carry out censorship, surveil-
4 lance, or any other similar or related activity
5 through means of telecommunications, including the
6 Internet, the prohibition or licensing of which would
7 be effective in barring acquisition or enhancement of
8 such capability.

9 “(2) INTERNET-RESTRICTING COUNTRIES.—
10 Notwithstanding any other provision of law, the Sec-
11 retary shall prohibit the export of goods or tech-
12 nology on the list established under paragraph (1) to
13 a government end user in any Internet-restricting
14 country.

15 “(3) WAIVER.—The President may waive the
16 application of paragraph (2) with respect to export
17 of goods or technology on the list established under
18 paragraph (1) on a case-by-case basis if the Presi-
19 dent determines and certifies to Congress that it is
20 in the national interests of the United States to do
21 so.

22 “(4) DEFINITIONS.—In this subsection—

23 “(A) the term ‘Internet’ has the meaning
24 given the term in section 231(e)(3) of the Com-
25 munications Act of 1934 (47 U.S.C. 231(e)(3));

1 “(B) the term ‘Internet-restricting coun-
2 try’ means a country designated by the Sec-
3 retary of State pursuant to section 104(a) of
4 the Global Online Freedom Act of 2012;

5 “(C) a ‘government end user’ in a coun-
6 try—

7 “(i) is an end user that is a govern-
8 ment of that country, or of a political sub-
9 division of that country, or is an agency or
10 instrumentality of such a government; and

11 “(ii) includes a telecommunications or
12 Internet service provider that is wholly or
13 partially owned by a government of that
14 country; and

15 “(D) an ‘agency or instrumentality’ of a
16 government is an ‘agency or instrumentality of
17 a foreign state’, as defined in section 1603 of
18 title 28, United States Code.”.

19 (b) REGULATIONS.—

20 (1) IN GENERAL.—Not later than 1 year after
21 the date of the enactment of this Act, the President
22 shall revise the Export Administration Regulations
23 and any other regulations necessary to carry out the
24 amendment made by subsection (a).

1 (2) EXPORT ADMINISTRATION REGULATIONS.—

2 In this subsection, the term “Export Administration
3 Regulations” means the Export Administration Reg-
4 ulations as maintained and amended under the au-
5 thority of the International Emergency Economic
6 Powers Act and codified, as of the date of the enact-
7 ment of this Act, in subchapter C of chapter VII of
8 title 15, Code of Federal Regulations.

9 (c) EFFECTIVE DATE.—Section 6(t) of the Export
10 Administration Act of 1979, as added by subsection (a),
11 shall take effect on the date of the enactment of this Act
12 and shall apply with respect to the export of goods or tech-
13 nology on the list established under paragraph (1) of such
14 section on or after 1 year after the date of the enactment
15 of this Act.

