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

IN THE HOUSE OF REPRESENTATIVES

Mr. Smith of New Jersey introduced the following bill; which was referred to the Committee on _______________________________

A BILL

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

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 2006".
(b) TABLE OF CONTENTS.—The table of contents of 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 search engines and content services.
Sec. 202. Integrity of search engines.
Sec. 203. Transparency regarding search engine filtering.
Sec. 204. Protection of United States-supported online content.
Sec. 205. Transparency regarding Internet censorship.
Sec. 206. Integrity of user identifying information.
Sec. 207. Penalties.

TITLE III—EXPORT CONTROLS FOR INTERNET-RESTRICTING COUNTRIES

Sec. 301. Establishment of export controls.
Sec. 302. Report.

3 SEC. 2. FINDINGS.

Congress makes the following findings:

(1) Freedom of speech and freedom of the press are fundamental human rights, and free use of the Internet is protected in Article 19 of the Universal Declaration of Human Rights, which guarantees freedom to “receive and impart information and ideas through any media regardless of frontiers”.
(2) The Internet has been a success because it quickly provides information to its more than 972 million users globally.

(3) The growth of the Internet and other information technologies can be a force for democratic change if the information is not subject to political censorship.

(4) The Internet has played a role in bringing international attention to issues the discussion of which are forbidden by authoritarian foreign governments, such as attempts by the Government of the People’s Republic of China to suppress news of the severe acute respiratory syndrome (SARS) outbreak in 2004.

(5) The rapid provision of full and uncensored information through the Internet has become a major industry of the United States, and one of its major exports.

(6) Political censorship of the Internet degrades the quality of that service and ultimately threatens the integrity and viability of the industry itself, both in the United States and abroad.

(7) Authoritarian foreign governments such as the Governments of Belarus, Burma, the People’s Republic of China, Cuba, Iran, Libya, the Maldives,
Nepal, North Korea, Saudi Arabia, Syria, Tunisia, Turkmenistan, Uzbekistan, and Vietnam block, restrict, and monitor the information their citizens try to obtain.

(8) Web sites that provide uncensored news and information, such as the Web sites of the Voice of America and Radio Free Asia, are routinely blocked in such countries.

(9) In June 2003, the Government of the Socialist Republic of Vietnam arrested, convicted of “spying”, and sentenced to 13 years’ imprisonment and 3 years’ house arrest (later reduced on appeal to 5 years’ imprisonment and 6 years’ house arrest) Dr. Pham Hong Son after he translated an Internet article titled “What is Democracy” from the Web site of the United States Embassy in Vietnam.

(10) According to the Department of State’s Country Reports on Human Rights Practices, the Government of Vietnam in 2004 tightened control of the Internet, requiring Internet agents, such as cyber cafes, to register the personal information of their customers and store records of Internet sites visited by customers. The Vietnamese Government also monitored electronic mail, searched for sensitive key words, and regulated Internet content.

(12) This censorship by the Chinese Government promotes, perpetuates, and exacerbates a xenophobic—and at times particularly anti-American—Chinese nationalism, the long-term effect of which will be deleterious to United States efforts to prevent the relationship between the United States and China from becoming hostile.

(13) Unchecked transfers of dual use technology have already increased China’s ability to successfully invade Taiwan, and correspondingly diminished United States and Taiwanese capacity to defend that democratic society, thereby greatly increasing tension in East Asia.

(14) United States technology companies have succumbed to pressure by authoritarian foreign governments to provide such governments with information about Internet users that has led to the arrest and imprisonment of cyber dissidents, in violation of
the corporate responsibility of such companies to
protect and uphold human rights.

(15) United States technology companies have
provided the technology and training to authori-
tarian foreign governments to assist such govern-
ments in filtering and blocking information that pro-
motes democracy and freedom.

(16) United States technology companies have
failed to develop standards by which they can con-
duct business with authoritarian foreign govern-
ments while protecting human rights to freedom of
speech and freedom of expression.

(17) The United States supports the universal
right to freedom of speech and freedom of the press.

**SEC. 3. DEFINITIONS.**

In this Act:

(1) **APPROPRIATE CONGRESSIONAL COMMIT-
TEES.**—Except as otherwise provided in this Act, the
term “appropriate congressional committees”
means—

(A) the Committee on International Rela-
tions of the House of Representatives; and

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

(2) **FOREIGN OFFICIAL.**—
(A) IN GENERAL.—The term “foreign official” means—

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

(ii) any person acting in an official capacity for or on behalf of any such government or 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, directly or indirectly, more than 50 percent of the outstanding capital stock or other beneficial interest in such commercial entity.

(3) INTERNET.—The term “Internet” means the combination of computer facilities, telecommunications facilities, electromagnetic transmission media, and related equipment and software, comprising the interconnected worldwide network of computer networks that employ the Transmission Control Protocol/Internet Protocol or any successor protocol to transmit information.
(4) 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, including the content of web pages, electronic mail, documents, images, audio and video files, online discussion boards, and weblogs; and

(B) makes such data available via the Internet.

(5) 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”.

(6) Internet-Restricting Country.—The term “Internet-restricting country” means a country designated by the President pursuant to section 105(a) of this Act.

(7) Internet Search Engine.—The term “Internet search engine” or “search engine” means a service made available via the Internet that, on the basis of query consisting of terms, concepts, questions, or other data input by a user, searches infor-
mation 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 that query.

(8) LEGITIMATE FOREIGN LAW ENFORCEMENT PURPOSES.—

(A) IN GENERAL.—The term “legitimate foreign law enforcement purposes” means for purposes 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 that jurisdiction.

(B) RULE OF CONSTRUCTION.—For purposes of this Act, the control, suppression, or punishment of peaceful expression of political or religious opinion does not constitute a legitimate foreign law enforcement purpose.

(9) PROTECTED FILTER TERMS.—The term “protected filter terms” means the words, terms, and phrases identified by the Office of Global Internet Freedom pursuant to section 104(b)(4) of this Act.
(10) 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 its peaceful political or religious content; or

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

(11) 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; 

(B) every issuer of a security registered pursuant to section 12 of the Securities Exchange Act of 1934 (15 U.S.C. 78l); and 

(C) any foreign subsidiary of an entity described in subparagraph (A) or (B) to the extent such entity—

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

(ii) authorizes, directs, controls, or participates in acts carried out by the foreign subsidiary that are prohibited by this Act.

[(12) 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. 

[(13) UNITED STATES-SUPPORTED INFORMATION ENTITY.—The term “United States-supported information entity” means—] 

(A) [any agency (as such term is defined in section 551 of title 5, United States Code)
of the Federal Government/ any authority of
the Government of the United States?]; and

(B) any entity that [NOTE: Describe the entities like Voice of America/ Radio Free Asia that receive Federal assistance to provide information.]

[(14) UNITED STATES-SUPPORTED WEBSITE.—
The term “United States-supported website” 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 the ability of all to access and contribute information, ideas, and knowledge via the Internet and to advance the right to receive and impart information and ideas through any media and
regardless of frontiers as a fundamental component of United States foreign policy;

(2) to use all 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; and

(3) to prohibit any United States businesses 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 Congress that—

(1) the President should commence negotiations in appropriate international fora, including the Organization of Economic Cooperation and Development (OECD), the World Trade Organization (WTO), the United Nations World Summit on the Information Society (WSIS), and the Internet Governance Forum (IGF), to obtain the agreement of other countries to enact legislation similar to this Act and to pursue the development of international agreements protecting Internet freedom; and

(2) to the extent that a United States business empowers or assists an authoritarian foreign govern-
ment in its efforts to restrict online access to the
Web sites of Radio Free Asia, the Voice of America,
or other United States-supported Web sites and on-
line access to United States Government reports
such as the Annual Country Reports on Human
Rights Practices and the International Religious
Freedom Report, that 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 repres-
sive 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 infor-
mation in each foreign country. Such assessment shall in-
clude 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 a person or group for the peaceful expression of political, religious, or dissenting views via the Internet, including electronic mail.

“(2) In compiling data and making assessments for the purposes of paragraph (1), United States diplomatic mission personnel shall consult with human rights organizations 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 following new subsection:

“(i)(1) The report required by subsection (b) shall include an assessment of the freedom of electronic information in each foreign country. Such assessment shall include 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 a person or group for the peaceful expression of political, religious, or dissenting views via the Internet, including electronic mail.

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

(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 freedom of electronic information abroad;

(2) develop and implement a global strategy to combat state-sponsored and state-directed Internet jamming by authoritarian foreign governments, and the intimidation and persecution by such governments of their citizens who use the Internet;

(3) provide assistance to the President 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, for purposes of compliance by United States businesses with the requirements of section 201 of this Act; and

(B) maintain, update, and make publicly available on a regular basis the key words,
(5) establish mechanisms by which United States businesses can transmit to the Office the information required to be reported by section 202 of this Act;

(6) work with appropriate human rights organizations, academic experts, and others to develop a voluntary code of minimum corporate standards related to Internet freedom; 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.—Each department and agency of the Government 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—

(1) cooperate fully with, and assist in the implementation of, the duties of the Office described in subsection (b), including the strategy developed by
the Office pursuant to paragraph (2) of subsection (b); and

(2) make such resources and information available to the Office as is necessary to achieve the purposes of this Act and the amendments made by this Act.

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

(1) the Committee on International Relations and the Committee on Energy and Commerce of the House of Representatives; and

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

(e) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to the Office to carry out this section such sums as may be necessary for fiscal year 2007 and each subsequent fiscal year.

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 President 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 President determines that the government of the country is directly or indirectly responsible for a systematic pattern of substantial restrictions on Internet freedom during the preceding one-year period.

(3) INITIAL DESIGNEES.—The People’s Republic of China, Iran, and Vietnam shall each be deemed to be designated as an Internet-restricting country pursuant to paragraph (1) beginning on the date of the enactment of this Act and ending on the date on which the President certifies to the appropriate congressional committees that the People’s Republic of China, Iran, or Vietnam, as the case may be, is no longer directly or indirectly responsible for a systematic pattern of substantial restrictions on Internet freedom.

(b) REPORT.—

(1) IN GENERAL.—Not later than 180 days after the date of the enactment of this Act, and annually thereafter, the President 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 pursuant to 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 pursuant to subsection (a).

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

(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 SEARCH ENGINES AND CONTENT SERVICES.

Any United States business that creates, provides, or hosts any Internet search engine or maintains an Internet content hosting service may not locate that search engine or content hosting service with a designated Internet restricting country.

SEC. 202. INTEGRITY OF SEARCH ENGINES.

(a) LOCATION.—Any United States business that creates, provides, or hosts any Internet search engine may not locate that search engine with a designated Internet restricting country.

(b) ALTERATION OF OPERATION.—Any United States business that creates, provides, or hosts any Internet search engine may not alter the operation of such search engine with respect to protected filter terms either—

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

(2) in a manner intended or likely to produce different search engine results for users accessing
the search engine from within an Internet-restricting
country as compared to users elsewhere.

SEC. 203. TRANSPARENCY REGARDING SEARCH ENGINE
FILTERING.

Any United States business that creates, provides, or
hosts an Internet search engine shall provide the Office
of Global Internet Freedom, in a format and with a fre-
quency to be specified by the Office, with all terms and
parameters submitted, entered, or otherwise provided by
any foreign official of an Internet-restricting country, that
are used to filter, limit, or otherwise affect the [search
engine results of searches by other users/ results provided
by the search engine when used by other users?].

SEC. 204. 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 website or United States-
supported content in an Internet restricting country.

SEC. 205. TRANSPARENCY REGARDING INTERNET CENSOR-
SHIP.

Any United States business that maintains an Inter-
net content hosting service shall provide the Office of
Global Internet Freedom, in a format and with a fre-
quency to be specified by the Office, with copies of all data
and content that such business has, at the request of, or by reason of any other direct or indirect communication by, any foreign official of an Internet-restricting country—

(1) removed from the 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.

SEC. 206. INTEGRITY OF USER IDENTIFYING INFORMATION.

(a) USER PROTECTION.—Any United States business that maintains an Internet content hosting service may not provide to any foreign official of an Internet-restricting country information that personally identifies a particular user of such content hosting service, except for legitimate foreign law enforcement purposes as determined by the Department of Justice.

(b) PRIVATE RIGHT OF ACTION.—Any person aggrieved by a violation of this section may bring an action for damages, including punitive damages, or other appropriate relief in the appropriate district court of the United States, without regard to the amount in controversy, and without regard to the citizenship of the parties.
SEC. 207. PENALTIES.

(a) CIVIL PENALTIES.—(1) Any United States business or United States person that violates section 206(a) shall be fined not more than $2,000,000.

(2) Any United States business or United States person that violates sections 201, 202, 203, 204 or 205 shall be subject to a civil penalty of not more than $10,000 imposed in an action brought by the Attorney General.

(b) CRIMINAL PENALTIES.—(1) Any United States business that willfully violates, or willfully attempts to violate section 206(a) shall be fined not more than $2,000,000, or if a natural person who is an officer, director, employee, or agent of a United States business, or stockholder acting on behalf of such United States business, shall be fined not more than $100,000, or imprisoned not more than 5 years, or both.

(2) Any United States business that willfully violates, or willfully attempts to violate section 201, 202, 203, 204 or 205 of this Act shall be fined not more than $10,000, or if a natural person who is an officer, director, employee, or agent of a United States business, or stockholder acting on behalf of such United States business, shall be fined not more than $10,000, or imprisoned not more than 1 year, or both.

(3) Whenever a fine is imposed under paragraph (2) upon any officer, director, employee, agent, or stockholder
of a United States business, such fine may not be paid, directly or indirectly, by such United States business.

3 TITLE III—EXPORT CONTROLS FOR INTERNET-RESTRICTING COUNTRIES

6 SEC. 301. ESTABLISHMENT OF EXPORT CONTROLS.

7 Not later than 90 days after the date of the enactment of this Act, the Secretary of State, in consultation with the Secretary of Commerce, shall promulgate regulations to ensure the establishment of appropriate foreign policy control and export license requirements before any person subject to the jurisdiction of the United States may knowingly export 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 Internet censorship.

19 SEC. 302. REPORT.

20 Not later than 120 days after the date of the enactment of this Act, the Secretary of State, in consultation with the Secretary of Commerce, shall submit to the appropriate congressional committees a report describing the actions taken to implement the requirements of section 301 of this Act.