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ABSTRACT

Computer & Communications Industry Association

INTERNET FREEDOM & ONLINE CENSORSHIP

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- *The free flow of information is essential to Internet freedom. Filtering or regulation by private carriers or by governments curtails the democratizing effect of the Internet. CCIA applauds Obama Administration efforts to combat censorship, filtering and invasions of online privacy by foreign regimes. Online censorship is a barrier to free trade in goods and services on the Internet.*
- *Businesses possess limited tools to combat government censorship and demands for information. A supportive U.S. Government response is essential when foreign regimes attempt to strong-arm U.S. businesses regarding censorship or human rights violations. Government-to-government engagement including multilateral efforts and the Global Network Initiative (GNI) will prove more effective than punitive measures against U.S. businesses.*

Background: The Internet's capability to broadly disseminate information and ideas has been the greatest tool for freedom since the printing press. Safeguarding the free flow of information and ideas over the Internet should be at the top of both our trade agenda and our human rights diplomatic agenda. The Internet industry takes pride in the fact that technology has greatly expanded global trade and citizens' freedom of expression.

During a visit to China in November 2009, President Obama urged his hosts to stop censoring Internet access, calling for their cooperation on the free flow of information to build stronger societies. In January 2010, Secretary of State Hillary Clinton gave a speech in which she established global Internet freedom as a major new diplomatic priority. In March 2010, Congressmen Chris Smith (R-NJ) and David Wu (D-OR) announced the launch of the Congressional Internet Freedom Caucus to promote online free expression; and a bipartisan Senate Global Internet Freedom Caucus was formed, led by Sen. Bob Casey, (D-PA). Chairman Dick Durbin (D-IL) of the Senate Judiciary Committee's Human Rights and the Law Subcommittee held a hearing last year on Global Internet Freedom. Durbin believes that Congress has a role because governments, not companies, must be the primary protectors of Internet freedom.

Last year, the Treasury Department lifted a trade embargo and authorized downloads of free mass market software from companies such as Microsoft and Google to facilitate the flow of information to citizens in Iran, Cuba and the Sudan.

Also last year the Congressional Executive Committee on China, chaired by Senator Byron Dorgan (D-ND), held a hearing on Internet Control in China. Ed Black of CCIA testified, as did Google and GoDaddy. The domain name registrar company had decided that it would no longer register new .cn domain names for websites in China because the Chinese government had

decided to require photo identification and a signed document along with other personal information from each domain registrant. The GoDaddy witness said the company refuses to be an agent of the Chinese government. Later in November 2010, Black testified at a Senate Finance subcommittee hearing chaired by Sen. Wyden, D-Ore., to explain why Internet filtering and censorship are trade issues that must be enforced.

In January, the issue drew global attention when Egypt shut down all Internet traffic for days.

CCIA's Position: As an organization dedicated to the promotion of open markets, open systems, and open networks, CCIA highly values the ability of the Internet to facilitate the free flow of information and ideas.

CCIA encourages our government to partner with U.S. industry and make freedom of expression on the Internet a top foreign policy and trade priority. If Internet freedom is not even on the list of priorities when U.S. officials visit with foreign leaders, that omission sends the wrong message. The Executive Branch should conduct multilateral consultations to ensure that the United States actively participates in a family of nations acting to guarantee freedom of expression alongside peaceful development of the global economy. The Administration must also recognize censorship and the forced localization of data as trade barriers, and utilize all resources for adjudicating trade disputes.

The Chinese government's actions seem to constitute violations of its WTO-GATT obligations, as well as specifically scheduled commitments in relation to the General Agreement on Trade in Services (GATS) and China's WTO Accession Protocol.

Aside from evaluating WTO actions against China and other Internet Restricting Countries (IRCs), the USG should:

- Establish a Special 301-like process for the USTR to annually review and place on a watch list those U.S. trading partners which perpetuate the most egregious acts or practices of censorship that affect trade, and review the trade privileges of those trading partners whose attacks on Internet freedom impair U.S. enterprise and threaten U.S. jobs.
- Highlight Internet censorship policies in trade reports on China and other IRCs.
- Initiate multilateral consultations to ensure we are participating in family of nations acting to publicize the Universal Declaration of Human Rights and in particular, Articles 19 (freedom of expression) and 20 (freedom of assembly), including the 21st century "freedom to connect."
- Employ U.S. directors of Chinese companies to lobby/negotiate in private with the Chinese on behalf of e-commerce in general and intervene when necessary. Our Ambassador to China should also help bring fair access to the market for U.S. businesses in general to compete.

Further Background: Major technology companies such as Yahoo!, Microsoft, Google, and Cisco Systems faced harsh criticism from human rights organizations and some members of Congress in the past decade for allegedly collaborating with the Chinese government's efforts to monitor and censor Internet activities. Google once censored some search results in compliance

with Chinese “national security” law, while deliberately informing customers it was doing so, before discontinuing operations in China. Facebook and Twitter must deal with similar issues, although China often applies a different standard to its own companies. U.S. Companies argue that they have no choice but to obey local laws if they are to participate in the Chinese market. Last year, Google announced plans to stop censoring Google.cn in China after it discovered an infiltration of its technology and customer e-mail accounts. Dealing with conflicting pressures and foreign legal requirements can be difficult for individual companies, but the range of positive outcomes increases if the U.S. Government takes a diplomatic leadership role.

Internet companies, human rights organizations, academics and journalists embarked on groundbreaking discussions that culminated in the late 2008 announcement of the Global Network Initiative (GNI). CCIA members Microsoft, Google, and Yahoo! are among the founding members of GNI. GNI is dedicated to protecting freedom of expression and privacy in information and communications technologies by providing a framework to chart ethical and accountable business responses to growing threats to online freedom and privacy rights. GNI is working to expand internationally to build a global model for Internet freedom.

During the Bush Administration, the State Department established the Global Internet Freedom Task Force (GIFT) to identify and protect against abuses of Internet freedom by governments that seek to limit the flow of information and/or invade personal privacy online for repressive purposes. The Obama Administration has done more but must still go further to make Internet freedom a subject of multilateral consultations and recognize censorship as a trade barrier. The United States is not alone in making this a trade issue. In 2008 the European Parliament voted overwhelmingly in favor of a proposal to treat Internet censorship as a trade barrier."

Current Status: President Obama has consistently made clear his support of the full and free exchange of information through an open Internet, and its importance for democracy and commerce. We are encouraged that this Administration has begun to apply these principles to its international relations as well as domestic policy. The State Department has launched a Net Freedom Task Force. Senator Ron Wyden (D-OR) has called the Internet “the biggest shipping lane in the world.” CCIA will continue to work with Congress, the State Department and USTR officials as they develop innovative, holistic policies that promote global Internet freedom.