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H. R. 6530

To combat trade barriers that threaten the maintenance of an open Internet, that mandate unique technology standards as a condition of market access and related measures, and to promote online free expression and the free flow of information.

IN THE HOUSE OF REPRESENTATIVES

SEPTEMBER 21, 2012

Ms. ZOE LOFGREN of California introduced the following bill; which was referred to the Committee on Ways and Means, and in addition to the Committees on Foreign Affairs, the Judiciary, and 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 combat trade barriers that threaten the maintenance of an open Internet, that mandate unique technology standards as a condition of market access and related measures, and to promote online free expression and the free flow of information.

1 *Be it enacted by the Senate and House of Representa-*
2 *tives of the United States of America in Congress assembled,*

3 **SECTION 1. SHORT TITLE.**

4 This Act may be cited as the “Global Free Internet
5 Act of 2012”.

1 **SEC. 2. FINDINGS.**

2 Congress finds the following:

3 (1) A single, open, global Internet is a vital tool
4 for facilitating the free and secure flow of informa-
5 tion and products without regard to distances or na-
6 tional boundaries.

7 (2) The goal of a single, open, global Internet
8 is best supported by policies that—

9 (A) encourage utilization on a global basis
10 of technology standards set by international
11 standards-setting organizations, including in-
12 dustry-led and other voluntary bodies, and se-
13 lected by the market;

14 (B) respect the security of information and
15 privacy of Internet users;

16 (C) promote investment in Internet-related
17 innovation;

18 (D) refrain from compelling Internet serv-
19 ice providers and other intermediaries to re-
20 strict the free flow of information on the Inter-
21 net; and

22 (E) allow trade in Internet-related goods,
23 services, information, and content.

24 (3) Certain governments and international bod-
25 ies are adopting or considering policies contrary to
26 the goal of a free, open Internet, including—

1 (A) mandating unique technology stand-
2 ards favoring domestic producers as a condition
3 of market access or pursuing related policies re-
4 garding standard-setting that are discrimina-
5 tory and subvert the open, global nature of the
6 Internet;

7 (B) sponsoring or tolerating the use of
8 Internet-related tools to gain unauthorized ac-
9 cess to public-sector and private-sector net-
10 works in the United States to disrupt their op-
11 eration;

12 (C) blocking, filtering, or otherwise re-
13 stricting Internet communications in a manner
14 that discriminates against Internet-based serv-
15 ices and content originating in other countries;

16 (D) monitoring Internet use and commu-
17 nications in a manner that restricts individual
18 privacy and freedom; and

19 (E) imposing market access requirements
20 or liabilities that discriminate against or other-
21 wise impede Internet-related goods, services and
22 content from other countries.

23 (4) Such actions threaten the interests of the
24 United States by—

1 (A) facilitating attempts by foreign govern-
2 ments to restrict or disrupt the free flow of in-
3 formation on the Internet;

4 (B) promoting “national Internets” in con-
5 flict with the underlying rationale and architec-
6 ture of the Internet as originally envisioned and
7 constructed, thereby compromising the Inter-
8 net’s full functionality and promise;

9 (C) harming United States workers and
10 businesses, undermining a strong United States
11 industrial base, and putting foreign competitors
12 at an advantage; and

13 (D) putting at risk the utility of the Inter-
14 net as a tool of open communication, assembly,
15 and commerce, and the individuals who seek to
16 use it for such purposes.

17 **SEC. 3. TASK FORCE ON THE GLOBAL INTERNET.**

18 (a) ESTABLISHMENT.—

19 (1) IN GENERAL.—There is established within
20 the executive branch a Task Force on the Global
21 Internet (in this Act referred to as the “Task
22 Force”), hosted by the Department of Commerce.

23 (2) CHAIRPERSON.—The President shall select
24 from among the members of the Task Force under
25 subsection (b) an individual to serve as Chairperson.

1 (b) COMPOSITION.—The Task Force shall consist of
2 the following:

3 (1) Four United States persons with substantial
4 expertise in Internet policy and civil liberties who
5 are not employees or officers of Federal, State, local,
6 or tribal governments and who—

7 (A) are nominated by the public through a
8 process that solicits public recommendations
9 through the Internet and are appointed by the
10 President, acting through the President’s Coun-
11 cil of Advisors on Science and Technology; and

12 (B) shall serve on the Task Force for re-
13 newable terms not to exceed 3 years.

14 (2) The leader of the majority party in the Sen-
15 ate and the leader of the minority party in the Sen-
16 ate shall each appoint one United States person with
17 substantial expertise in Internet policy and civil lib-
18 erties to serve on the Task Force for renewable
19 terms not to exceed 3 years.

20 (3) The Speaker of the House of Representa-
21 tives and the leader of the minority party in the
22 House of Representatives shall each appoint one
23 United States person with substantial expertise in
24 Internet policy and civil liberties to serve on the

1 Task Force for renewable terms not to exceed 3
2 years.

3 (4) The United States Trade Representative,
4 the Secretary of Homeland Security, the Assistant
5 Secretary for Communications and Information of
6 the National Telecommunications and Information
7 Administration, the Chair of the Privacy and Civil
8 Liberties Oversight Board, the head of the Internet
9 Corporation for Assigned Names and Numbers, and
10 the heads of other Federal departments and agencies
11 as determined to be appropriate by the President,
12 acting through their respective designees.

13 (c) STAFF OF FEDERAL AGENCIES.—Upon request
14 of the Task Force, the head of any Federal department
15 or agency or other Federal official described in subsection
16 (b)(4) may detail, with or without reimbursement, any of
17 the personnel or services of the relevant Federal depart-
18 ment or agency to the Task Force to assist it in carrying
19 out its functions.

20 (d) FUNCTIONS.—In addition to such other respon-
21 sibilities the President may assign, the Task Force shall—

22 (1) develop and implement strategies in re-
23 sponse to foreign and domestic government policies
24 that—

1 (A) unjustifiably or unreasonably burden
2 or restrict international trade in Internet-re-
3 lated goods, services, and content;

4 (B) mandate or otherwise preference Inter-
5 net-related technology standards and related
6 measures;

7 (C) impede the free flow of information on
8 the Internet; or

9 (D) otherwise threaten the open, global na-
10 ture of the Internet, the interests of Internet
11 users and the United States in Internet-related
12 international trade and discourse;

13 (2) consult and share timely information with
14 civil society groups with expertise in Internet policy
15 and civil liberties;

16 (3) coordinate the activity of all Federal depart-
17 ments and agencies as necessary to implement the
18 strategies developed in accordance with paragraph
19 (1);

20 (4) prepare a report and action plan in accord-
21 ance with section 4;

22 (5) hold public hearings and solicit public com-
23 ment through the Federal Register and the website
24 for the Task Force as appropriate; and

1 (6) appoint a civilian Task Force member, re-
2 sponsible for leading the Task Force and serving as
3 a point of contact for correspondence and inquiries
4 related to the activities of the Task Force.

5 **SEC. 4. REPORT AND ACTION PLAN TO THE PRESIDENT**
6 **AND CONGRESS.**

7 (a) IN GENERAL.—Not later than 9 months after the
8 date of the enactment of this Act, and annually thereafter,
9 the Task Force shall transmit to the President, the Com-
10 mittee on Ways and Means of the House of Representa-
11 tives, the Committee on the Judiciary of the House of
12 Representatives, the Committee on Finance of the Senate,
13 and the Committee on the Judiciary of the Senate a report
14 and action plan that—

15 (1) identifies acts, policies, or practices of the
16 United States, foreign governments, or international
17 bodies, and related measures that—

18 (A) deny fair and equitable market access
19 to or otherwise unjustifiably or unreasonably
20 burden or restrict discourse or trade in Inter-
21 net-related goods, services, and content;

22 (B) mandate, give preference to, or pro-
23 mote Internet-related technology standards that
24 diverge from widely adopted international
25 standards, or otherwise lead to the adoption of

1 discriminatory or trade-restrictive technology
2 standards or conformity assessment procedures;
3 or

4 (C) otherwise threaten the interests of the
5 United States in the technical operation, secu-
6 rity, and free flow of global Internet commu-
7 nications;

8 (2) estimates the trade-distorting impact or ex-
9 tent of suppression of free expression of measures
10 identified under paragraph (1) on United States
11 commerce, the interests of Internet users, and the
12 functioning of the Internet;

13 (3) designates which measures identified under
14 paragraph (1) are priority concerns;

15 (4) sets forth a strategy and actions to be taken
16 by Federal departments and agencies in response to
17 measures identified under paragraph (1); and

18 (5) provides information with respect to any ac-
19 tion taken (or the reasons if no action is taken) in
20 response to any such measures identified in prior
21 years' reports, including such actions as are required
22 under section 5.

23 (b) FORM OF REPORTS.—The reports and action
24 plans required under subsection (a) may contain a classi-

1 fied annex if the Task Force determines that such is ap-
2 propriate.

3 (c) COORDINATION AND NOTICE.—In preparing each
4 annual report and action plan required under subsection
5 (a), the Task Force shall—

6 (1) seek public participation by—

7 (A) publishing a notice in the Federal Reg-
8 ister that includes instructions on how the pub-
9 lic may submit comments on the report and
10 plan;

11 (B) holding at least one public hearing;
12 and

13 (C) establishing a website for the Task
14 Force that publishes timely information regard-
15 ing the Task Force’s activities and provides an
16 opportunity for the public to submit comments
17 to the Task Force;

18 (2) consult and coordinate with all relevant ex-
19 ecutive branch departments and agencies;

20 (3) consult and share timely information with
21 civil society groups with expertise in Internet policy
22 and civil liberties; and

23 (4) take into account information from such
24 sources as may be available to the United States
25 Trade Representative and such information as may

1 be submitted to the Trade Representative by inter-
2 ested persons, including information contained in re-
3 ports submitted under section 181(b) of the Trade
4 Act of 1974 (19 U.S.C. 2241(b)) and petitions sub-
5 mitted under section 302 of such Act (19 U.S.C.
6 2412).

7 (d) PUBLICATION.—The Task Force shall publish in
8 the Federal Register the report and action plan trans-
9 mitted to Congress under subsection (a), but shall omit
10 information transmitted to Congress under subsection (b).

11 **SEC. 5. SECTION 301 INVESTIGATION AND POTENTIAL**
12 **SANCTIONS.**

13 Not later than 30 days after the transmission of each
14 annual report and action plan required under section 4,
15 the United States Trade Representative shall, in accord-
16 ance with the requirements of sections 301 through 304
17 of the Trade Act of 1974 (19 U.S.C. 2411 through 2414),
18 initiate an investigation, make any determinations re-
19 quired, and take any actions specified under such sections
20 with respect to any acts, policies, or practices of a foreign
21 government or international body that are identified in
22 each such annual report and action plan as priority con-
23 cerns, including restrictions on sale in the United States
24 of products developed and manufactured in countries im-
25 plementing such acts, policies, or practices.

1 **SEC. 6. REVIEW AND INVESTIGATION BY FEDERAL TRADE**
2 **COMMISSION AND DEPARTMENT OF JUSTICE.**

3 (a) REVIEW AND INVESTIGATION.—The Federal
4 Trade Commission and the Attorney General shall—

5 (1) review each act, policy, or practice described
6 in paragraph (1) of section 4(a) that is contained in
7 a report or an action plan transmitted under such
8 section to Congress; and

9 (2) investigate whether such act, policy, or
10 practice (or any related action by a nongovernmental
11 entity) violates the antitrust laws of the United
12 States.

13 (b) DEFINITION.—For purposes of this section, the
14 term “antitrust laws” has the meaning given it in sub-
15 section (a) of the first section of the Clayton Act (15
16 U.S.C. 12(a)), except that such term includes section 5
17 of the Federal Trade Commission Act (15 U.S.C. 45) to
18 the extent such section 5 applies to unfair methods of com-
19 petition.

20 **SEC. 7. REPORT TO CONGRESS ON INTERNATIONAL TRADE**
21 **AGREEMENTS.**

22 (a) REPORT.—Not later than 2 years after the date
23 of the enactment of this Act, the Task Force shall submit
24 to Congress and the President a report that—

25 (1) assesses the sufficiency of existing multilat-
26 eral and bilateral trade agreements in—

1 (A) promoting international trade in Inter-
2 net-related goods, services, and content;

3 (B) encouraging the utilization on a global
4 basis of technology standards set by inter-
5 national standard-setting organizations;

6 (C) protecting the security and functioning
7 of the Internet;

8 (D) facilitating the free flow of information
9 on the Internet; and

10 (E) protecting the interests of Internet
11 users; and

12 (2) recommends, as appropriate, modifications
13 of existing agreements or the negotiation of new
14 agreements to advance the objectives identified in
15 paragraph (1).

16 (b) SENSE OF CONGRESS.—It is the sense of Con-
17 gress that the negotiating objectives of the United States
18 for future bilateral and multilateral trade agreements
19 should include the goals specified in subsection (a)(1).

20 (c) FORM OF REPORTS.—The report required under
21 subsection (a) may contain a classified annex if the Task
22 Force determines that such is appropriate.

23 (d) COORDINATION AND NOTICE.—In preparing each
24 report required under subsection (a), the Task Force
25 shall—

1 (1) seek public participation by—

2 (A) publishing a notice in the Federal Reg-
3 ister that includes instructions on how the pub-
4 lic may submit comments on the report and
5 plan;

6 (B) holding at least one public hearing;
7 and

8 (C) establishing a website for the Task
9 Force that publishes timely information regard-
10 ing the Task Force’s activities and provides an
11 opportunity for the public to submit comments
12 to the Task Force;

13 (2) consult and coordinate with all relevant
14 Federal departments and agencies;

15 (3) consult and share timely information with
16 civil society groups with expertise in Internet policy
17 and civil liberties; and

18 (4) take into account information from such
19 sources as may be available to the United States
20 Trade Representative and such information as may
21 be submitted to the Trade Representative by inter-
22 ested persons, including information contained in re-
23 ports submitted under section 181(b) of the Trade
24 Act of 1974 (19 U.S.C. 2241(b)) and petitions sub-

1 mitted under section 302 of such Act (19 U.S.C.
2 2412).

3 (e) PUBLICATION.—The Task Force shall publish in
4 the Federal Register the report and action plan trans-
5 mitted to Congress under subsection (a), but shall omit
6 information transmitted to Congress under subsection (b).

7 **SEC. 8. STANDARDS-RELATED TRAINING.**

8 The Task Force shall coordinate with intergovern-
9 mental, national government, and private sector entities,
10 including the National Institute of Standards and Tech-
11 nology, the Patent and Trademark Office, the Trade and
12 Development Agency, the United States Telecommuni-
13 cations Training Institute, the Department of Justice, the
14 Federal Trade Commission, and any other appropriate en-
15 tities, for the purpose of organizing training of foreign and
16 domestic government officials and national standard-set-
17 ting and conformity assessment bodies with respect to best
18 practices, including coordination with nongovernmental
19 international and domestic standards bodies, in accord-
20 ance with the annual report and action plan required
21 under section 4.

22 **SEC. 9. OUTSIDE CONSULTATION.**

23 The Task Force shall establish a regularized process
24 to receive and respond to timely input from businesses,

- 1 organizations, experts, and other interested parties re-
- 2 garding the fulfillment of its functions.

