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***Advancing Freedom of Expression in Cyberspace Through European Union Policies
Regulating Trade and Communication Networks***

The open character and interconnectivity of the Internet facilitates the globalization of trade and the widespread availability of information. Most (organizations of) states encourage access to the Internet only for economic reasons. Trade interests, for example, influence China to allow businesses and private actors access to the Internet. Just a part of these (organizations of) states, the European Union (EU) and its member states among them, also encourages access to the Internet to advance freedom of expression.

Efficient functioning of trade markets depends on the availability of and access to information. On the Internet, the open character of the technical network matches and supports the desired open character of trade networks. A search engine limiting access to certain content is in conflict with fair trading rules promoting equal access to markets and information on the markets. Censorship through technical means does not distinguish between private and commercial content. It distorts fair trading and restricts freedom of expression including the right to provide and obtain information.

As a consequence there is a strong complementary relationship between the open character of the Internet, the open character of markets based on fair trading and the freedom of expression and information. Enforcing the open character of the Internet and enforcing competition rules to remove market distortions brought about by limiting the free flow of information and censorship benefits both market actors and freedom of expression. Inversely, advancing freedom of expression also improves the availability and access of information for the market.

The approach of (organizations of) states, such as the EU, the WTO, and the ITU, has been to deal with trade relations and human rights separately. The EU is committed to protect freedom of expression and information 'regardless of frontiers' (article 11, Charter of Fundamental Rights of the EU) and has an obligation to intervene where multinational businesses participate in censorship practices imposed by third countries. However, it is reluctant to intervene to protect freedom of expression based on human rights alone especially out of a fear of jeopardizing strategic trade markets.

This paper aims at identifying regulatory policies the EU, can employ to protect freedom of expression through the application of current rules on fair competition and telecommunication, developed at the local (EU) and international (WTO, ITU) level. To this aim it examines how the EU can use and enhance the open character and interconnectedness of the Internet to strengthen the global enforcement of fair competition rules; and how European business actors can be encouraged to participate.