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C O N F I D E N T I A L SECTION 01 OF 03 ROME 000125

SIPDIS

STATE PLEASE PASS TO USTR FOR JENNIFER CHOE GROVES, ERIN

MCCONAHA, CHRISTOPHER WILSON

STATE PLEASE PASS TO PHILLIP VERVEER

STATE PLEASE PASS TO EEB/TPP/IPE FOR TOM O'KEEFE, JOELLEN

URBAN

COMMERCE PLEASE PASS TO SUSAN WILSON

E.O. 12958: DECL: 02/03/2020

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SUBJECT: OPPONENTS OF ITALIAN INTERNET BILL SAY IT STIFLES

FREE SPEECH, THREATENS DEMOCRACY

REF: 09 ROME 0143

Classified By: Classified by DCM Elizabeth Dibble for reasons 1.4 (b) and (d)

[1](#). (C) SUMMARY: Opponents of a new bill before Italian

parliament that would further regulate the Internet say it endangers free speech and is a threat to Italian democracy. The bill also appears to favor PM Berlusconi's Mediaset television service while disadvantaging Sky, one of its major competitors. The GOI says the bill is intended to implement an EU directive that harmonizes media regulation and that the provisions being criticised are designed to establish greater protection of copyrighted material, to protect children from inappropriate broadcasts, and to keep consumers from paying twice by being subjected to excessive advertising on pay-TV channels. Opponents say the law far exceeds the scope and spirit of the EU law and severely restricts free expression on the Internet. Due to advertising and content regulation in the bill, some have read it as an effort to give Berlusconi greater control over communication and to drive out Mediaset's competitors. Implementation of the bill has been postponed from its original date of January 27 and parliament is holding hearings on the matter. The GOI appears open to discussion of the bill's text. While reaction to the bill has been strong among opposition politicians and telecom professionals, the issue has not made it to the front pages of newspapers so there has been no strong public reaction. Despite GOI protestations, the bill is troubling as it appears to have been written to give the government enough leeway to block or censor any Internet content. END SUMMARY

¶2. (SBU) According to the GOI, the Romani Bill (named for Paolo Romani, Deputy Economic Development Minister, who covers communications issues) is designed to implement EU Directive 2007/65CE, which aims to harmonize media regulation in the EU. Many telecom sector professionals, however, believe that the bill vastly exceeds the scope and spirit of the EU law. The bill is complex, but there are three primary areas of concern: limits to uploading on the Internet, television advertising ceilings, and limits to content aimed for adults, which would also restrict films judged by the

Italian rating system as being for those 14 and older. This would likely include the vast majority if not all U.S.-produced PG-13 movies.

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LIABILITY FOR VIDEO ON THE INTERNET  
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¶3. (U) Provisions contained in the bill would make Internet service providers (ISPs), and hosting sites such as Blogspot and YouTube, liable for content in the same way a television station is. In the strictest interpretation of the law, the sites and ISPs would have to monitor all content on their sites, content which is uploaded by millions of individual users. This is widely viewed as impossible both in practical and economic terms. The Italian Communications Authority (AGCOM) would be responsible for oversight of the law, and some have interpreted the bill as requiring government permission before a video could be uploaded.

¶4. (C) Antonello Busetto, director of institutional relations for Confindustria Servizi Innovativi e Tecnologici, a business association representing the interests of IT companies, said the measure would mean "the death of the Internet in Italy."

¶5. (U) Italian communications commissioner Nicola D'Angelo was quoted in the press as saying, "Italy will be the only Western country in which it is necessary to have prior government permission to operate this kind of service...This aspect reveals a democratic risk, regardless of who happens to be in power." Likewise, AGCOM president Corrado Calabro has said that Italy would be unique in the West as imposing Internet restrictions until now only imposed by authoritarian governments.

¶6. (SBU) The GOI says the measure is aimed at protecting

copyrighted material from being uploaded and downloaded

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illegally, as well as at monitoring other potentially illegal activity on the Internet. The copyright industry has expressed some limited approval of the bill. Enzo Mazza, president of the Italian Music Federation, said the music industry is generally in favor of making ISPs and sites more responsible for protecting copyrighted material, though, he added that his industry's analysis of the bill was focused on this aspect and not other implications.

¶7. (SBU) Because this could make ISPs and opinion sites liable for defamation in the way television broadcasts are, some see this as an effort to control political discourse on the Internet. Others see a commercial angle aimed at limiting the video and TV available on the Internet as Mediaset moves into the Internet Protocol Television (IPTV) market. Alessandro Gilioli, who writes a blog for the liberal weekly magazine Espresso wrote "It's the Berlusconi method: Kill your potential enemies while they are small. That's why anyone doing Web TV -- even from their attic at home -- must get ministerial approval and fulfill a host of other bureaucratic obligations."

¶8. (SBU) AGCOM would have the authority to enforce the law. Among the authority's powers would be the ability to block traffic into Italy of sites whose content did not meet the requirements of the law. For example, YouTube could be blocked because the content was not uploaded with government approval. AGCOM would also be able to levy fines of up to 150,000 euros against foreign companies violating the law. Though AGCOM is theoretically an independent agency, many fear that it may not be strong enough to resist political pressure.

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#### ADVERTISING CEILINGS

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¶9. (C) The bill would place limits on advertising on pay-TV channels that exceed the EU directive. It would reduce the EU ceiling of 20% to 12% in Italy by 2012. The provision would penalize Sky in particular. Some argue that the measure is designed to favor PM Berlusconi's free-to-air Mediaset channels, which would not be subject to the limit. Mediaset's pay channels would be subject to the advertising ceiling, but Mediaset's channels currently have less than 12% each hour dedicated to ads. In addition, reducing the overall possibility to advertise on pay-TV would push advertising towards free channels operated by Mediaset and by the Italian state network RAI. Busetto said this would allow Berlusconi to earn more money and also to exercise greater control of public information.

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#### ADULT CONTENT

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¶10. (SBU) The bill places stringent time restrictions on broadcasting of so-called "adult content," virtually prohibiting it between 7 a.m. and 11 p.m. Pay channels such as those offered by Sky would be subject to the restrictions; it appears pay-per-view content would be as well. Because they obtain a significant part of their income from pay adult content, pay-TV would suffer financially from this restriction. The bill would limit broadcast of any film rated for viewers above age 14 to after 10:30 p.m. One press report said this would make films such as Saturday Night Fever unavailable until late-night. Again, some opponents worry that the objective is to hurt Mediaset's competition.

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EU OPINION

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¶11. (U) Opinion at the EU appears to be conflicting.

According to press reports, the EU is threatening to start an infraction procedure against Italy for failing to swiftly implement the media directive. At the same time, other press reports say the restrictions in the Italian bill would likely violate the EU e-commerce directive.

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COMMENT

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¶12. (C) In official statements the government insists the bill is in no way intended to stifle free speech. Opponents are vocal and using alarmist language, but outside of telecom industries their numbers appear to be small. There has been no visible public outrage, and even Beppe Grillo, a public personality usually outspoken about government regulation, especially that involving the Internet, has said very little.

¶13. (C) After Berlusconi was attacked in Milan in December and a Facebook fan page for his attacker quickly amassed fans, the GOI expressed the need for regulation of social networking sites. At that time, Romani said the government would work with ISPs and sites to develop a method of self-regulation and that there would be no attempt to legislate internet content. Despite Romani's prior statements, this bill appears to have been written to give the government enough leeway to block or censor any Internet content it deems defamatory or to be encouraging criminal

activity.

¶14. (C) For years, the USG has urged the GOI to take action to protect copyrighted material on the Internet, in particular encouraging the establishment of clear notice-and-takedown procedures and cooperation among rights holders and ISPs to prevent illegal filesharing. Italy has done very little. Now, this bill skips over collaboration, and suddenly moves directly to very stern regulation. In light of its reluctance to take action on this issue in the past, and also given the many commercial advantages that this law appears to give Mediaset and state TV, the GOI claim that Internet provisions of this law are aimed at copyright protection alone are suspect.

¶15. (C) In all likelihood, if this bill were to become law as it is currently written, little would change immediately in the way Internet sites operate in Italy, and the average 11th grader uploading video to his blog would never be targeted for legal action. It would, however, provide a basis for legal actions against media operators that proved to be commercial or political competition for government figures. Over the last three years we have seen several GOI efforts to exert control over the Internet, including one infamous effort to require bloggers to obtain GOI journalism licenses.

¶16. (C) Advocates of Internet freedom have repeatedly warned us that Italy's traditional elites -- on both sides of the political spectrum -- are very uncomfortable with the Internet's ability to bypass the traditional media that they control. Because this new bill seems to address these kinds of concerns, and because it also serves Berlusconi's business interests, it is conceivable that this seemingly improbable legislation might actually come into force in Italy. We note that officers from SKY have told us that Deputy GOI Minister Romani (for whom the new bill is named) has been leading efforts within the GOI to help Berlusconi's Mediaset and to

put SKY at a disadvantage. This represents a familiar pattern: Berslusconi and Mediaset have been using government power in this way ever since the days of Prime Minister Bettino Craxi. In addition, this bill would set precedents that nations such as china could copy or cite as justification for their own crackdowns on free speech.

THORNE