Chapter 63
Internet Companies and the Great Firewall of China:
Google's Choices

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ABSTRACT

This chapter, focusing primarily on the search engine company Google, considers the problems Internet companies have confronted in adapting to the strict censorship regime in China, which is executed with the help of its "great firewall." Google initially decided to comply with that regime but later changed its mind to the detriment of its whole China strategy. Companies like Yahoo and Microsoft have encountered similar problems in China, while social media firms like Twitter have avoided the Chinese market because of these issues. The moral analysis concludes that a socially responsible company must not cooperate with the implementation of the censorship regimes of these authoritarian sovereignties. This conclusion is based on natural law reasoning and on the moral salience that must be given to the ideal of universal human rights, including the natural right of free expression.

INTRODUCTION

Since the 1990s the technology landscape has been dominated by Internet gatekeepers which provide tools like search engines and portals that help users access and navigate the Internet. As Yahoo, Microsoft, and Google have expanded into markets like China or Saudi Arabia they have been asked to support various censorship laws and other online restrictions. Yahoo, for example, signed the "Public Pledge on Self-Discipline for the Chinese Internet Industry" in 2002. This pledge required

Yahoo to "inspect and monitor" any information on domestic and foreign websites (Goldsmith and Yu, 2008, p.9).

Despite the Internet's great promise as a borderless global technology and a free marketplace of ideas, there has been considerable friction between the speech enabled by Internet technologies and the laws of authoritarian countries which define their culture in a more paternalistic fashion. Cyberspace was supposed to be an open environment where anyone could express their opinions, start a new business, or create a web

site. Its end-to-end design created an environment conducive to liberty and democracy, with unfettered access to information. As the U.S. Supreme Court eloquently wrote in its *Reno v. ACLU* (1997, p. 857) decision, the Internet enables an ordinary citizen to become "a pamphleteer,...a town crier with a voice that resonates farther than it could from any soapbox." But a lethal combination of stringent censorship laws and software code in the form of filtering programs has enabled totalitarian societies to effectively undermine the Internet's libertarian ethos. As a result, Internet freedoms have been replaced by "network authoritarianism" (MacKinnon, 2012, p. 32).

Many Western companies like Yahoo have been forced by these foreign governments to cooperate in the regulation of cyberspace activities as a condition of doing business within that country. This regulation or control most often comes in the form of code, filtering software which allows a sovereign nation to restrict its citizens from accessing or disseminating certain information on the Internet. Consider the case of China. There are eight large gateways coming into China from the global network that provides Internet access for Chinese citizens. The Chinese Government requires the Chinese telecomm companies that control these gateways to configure their routers in order to screen and filter out objectionable content. The Chinese government controls these telecom companies (such as China Telcom), which depend on simple routers for the "backbone" of the Chinese network. Those routers are equipped with packet filtering capability that enables the filtering out of unwanted content. While the primary purpose of routers is to direct or "route" Internet traffic to its correct destination, they can also be easily configured to block content and thereby *prevent* information from getting to its destination. These specially modified gateway routers, can block an entire web site (such as taiwandemocracy.com) based on an access control list, or process web content through "deep packet inspection." With deep packet inspection software, the router can

examine the specific content of data packets. Any message or "packet" of information that contains forbidden language will be blocked. The router itself, therefore, becomes the censor (Goldsmith and Wu, 2008, pp. 93-94).

Thus, China has transformed the Internet into a "giant cage," and the cage metaphor suggests the extent to which the Chinese government has infused regulatory controls into the Internet's architectures and processes. As Schmidt and Cohen (2013, p. 85) point out, "China is the world's most active and enthusiastic filterer of information." MacKinnon (2010) describes additional methods used by Chinese government to control online speech. These methods include cyber-attacks that undermine web sites or infect the email accounts of dissidents. In extreme cases the government relies on "localized disconnection" to deter Chinese citizens from using the Internet altogether (p. 5). When ethnic riots broke out in Xinjiang province, the government shut down the Internet in the entire province for six months.

However, with hundreds of millions of Internet users, China also represents an attractive investment opportunity for multinational high tech companies like Google, Yahoo, Twitter, and Facebook. But the Chinese government demands that companies investing in China play by their rules, and their rules include cooperating with its strict censorship and surveillance laws. As a consequence, multinationals like Yahoo and Google have had to navigate an ethical minefield in China, and many would argue that their navigation has been quite poor. Other companies like Twitter, whose services are completely blocked in China, have refused to comply with China's censorship laws. "We are not going to make the kinds of sacrifices... [necessary] to be unblocked in China," declares Twitter CEO Dick Costolo (Ovide, 2013, p. B2). Although many authoritarian regimes besides China censor the Internet aggressively, our focus of attention will be primarily on Chinese policies.

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