Chapter 11
Google in China:
Corporate Responsibility on a Censored Internet

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ABSTRACT

This chapter, focusing primarily on the search engine company Google, treats the normative issue of how U.S. or European companies should respond when asked to abet the efforts of countries like China or Iran in their efforts to censor the Web. Should there be international laws to prevent these technology companies from yielding to the demands of totalitarian regimes? We argue that such laws would be reactive and ineffectual and that the optimal solution is proactive corporate self-regulation that gives careful prominence to moral reasoning. Our moral analysis concludes that a socially responsible company must not cooperate with implementing the censorship regimes of these repressive 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 1990's 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 a self-discipline pledge when it entered the Chinese market, promising to abide by Chinese censorship law. Social media sites like Facebook are likely to face similar censorship requirements in the near future.

Despite the Internet's great promise as a border-less 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 law and software code in the form of filtering programs has enabled authoritarian societies to effectively undermine the Internet's libertarian ethos.

Many Western companies have been forced by these foreign governments to help regulate activities in cyberspace as a condition of doing business within that country. This regulation 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. In China, data is transmitted over the Internet through fiber-optic networks controlled by routers, and those routers controlling the flow that data are configured to filter out certain web sites that have blacklisted terms. This system has been called the "great firewall of China". Internet gatekeepers, which provide a service such as online access or search results, cannot subvert this firewall if they expect to do business in China. Countries like Iran and Saudi Arabia deploy similar techniques. The gate-keepers along with other technology and social media companies are caught in a vice between countries exercising their legitimate sovereignty and individual citizens seeking to exercise their basic speech rights. It was once thought that states would have a difficult time enforcing their

sovereignty in cyberspace but, thanks to code such as filtering software, freedom of expression is threatened by state power often assisted by private companies. But states are re-asserting their authority and demanding compliance with local law. As a result, the Internet loses some of its "generative" potential as a viable force for semiotic democracy (Zittrain, 2003).

The Internet gatekeepers are especially vulnerable and must find ways to responsibly navigate this perilous virtual terrain. Their corporate strategies, oriented to rapid global expansion, cannot ignore the question of the Internet's role in authoritarian societies like China, Iran, and Cuba. The problem is exacerbated by the lack of international laws that govern cyberspace along with the policy disputes that prevent the dissemination of anti-censorship technologies. Without the guidance of law, companies must determine whether to side with the host government or with many of their citizens who have a different conception about free speech.

Google's unfortunate experience in China will be the main springboard for our discussion, but we will also take into account the practices of companies like Microsoft and Yahoo. After briefly reviewing some background on Google, which is attracted to foreign markets by the need to sustain its economic growth, we will turn to the legal issues and the prospects that there may be some legal resolution on the horizon. We conclude that those prospects are dim and that corporate self-regulation is essential in the face of this policy vacuum. *Ethical self-regulation* subjugates rational self interest to the legitimate needs and rights of others and, above all, respect for the common good of the Internet community.

We then turn to a moral analysis of Google's strategy, which revolves around an apparently irresolvable polarity: either the company can initiate cultural and normative changes in China *or* compromise its core values and adapt to China's norms and law. This analysis pursues several key questions. If it chooses the latter alternative, can

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