



Written Statement of Edward J. Black
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Before the Senate Judiciary Subcommittee on Human Rights and the Law
Global Internet Freedom: Corporate Responsibility and the Rule of Law
March 2, 2010

The Computer & Communications Industry Association (CCIA) has been a longtime advocate of open markets, open systems, and open networks, and full, fair and open competition worldwide in the computer, telecommunications and Internet industries. We believe deeply in the free flow of information and ideas, and value the Internet's ability to facilitate this flow. We commend Senator Durbin for convening this hearing on "Global Internet Freedom: Corporate Responsibility and the Rule of Law" before the Senate Judiciary Committee's Subcommittee on Human Rights and the Law, and we appreciate the opportunity for our views to be considered.

We are here today partly because of the high profile battle of a major technology company in China. But the number of companies and countries impacted are far greater. There are few easy answers as companies try to bring their technology services and communications tools into nations that have different rules about privacy, free speech and freedom of expression.

Without the backing of their own government, companies often are faced with the unappealing decision to follow local laws or exit the market. Companies are working alongside government and human rights groups to support Internet freedom. The Global Network Initiative (GNI) is a collaborative project begun in 2009 in which a handful of American companies, including Microsoft, Google and Yahoo!, participate with international human rights organizations and academics.

Ultimately, however, countries – not companies – must battle countries on trade and human rights issues. We appreciate recent actions by the U.S. State Department on censorship and the Commerce Department and the United States Trade Representative on Internet filtering software. We need a greater, holistic commitment to use existing human rights agreements and trade laws to support a free, open Internet.

To respond to government crackdowns on protesters while looking away when a government cracks down on access to the open Internet sends a signal that we are not serious about Internet freedom. The U.S. government must consistently treat Internet freedom as a human rights issue and a trade issue in its dealings and communications with foreign governments.

While I now represent a wide variety of technology and communication companies, freedom of expression as a human rights and trade issue is a topic I have cared deeply about throughout my career. I was honored to served in the State and Commerce Departments under five Secretaries in the 1970's, and early 80's, where I worked on East-West trade and was actively involved in the approval of the first U.S./China trade agreement. I later chaired and still serve on the State Department's Advisory Committee on International Communication and Information Policy.

In my experience, we may not get very far lecturing the Chinese government about human rights, but treating Internet censorship as a trade barrier is a multilateral approach worth pursuing. The EU Parliament voted in 2007 to recognize Internet censorship as a trade barrier. The USTR could engage its European counterparts to jointly explore how Internet censorship by the Chinese government functions as a trade barrier, and bring an appropriate case before the WTO.

U.S. companies are leading vendors of information products and services. In this context, information discrimination fundamentally undermines market access for electronic commerce. When the Chinese government stifles online freedom for its citizens, it creates a hostile market environment by preventing them from fully using new products, applications and services offered by or through U.S. tech companies. In this context, censorship is a protectionist industrial policy as well as an information control policy.

Moreover, the Chinese government's actions seem to constitute violations of its WTO-GATT obligations, as well as specifically scheduled commitments in relation to GATS and China's WTO Accession Protocol. The WTO is a viable forum because it represents a global rules-based trade system that China, as the world's largest exporter and the world's most export-driven economy, must appear to respect.

Aside from bringing a WTO action against China, the U.S. government should:

1. Establish a Special 301-like process for the USTR to annually review to place on a watch list those U.S. trading partners which perpetuate the most egregious acts or practices of censorship that affect trade, and review the trade privileges of those trading partners whose attacks on Internet freedom impair U.S. enterprise and threaten U.S. jobs. If U.S. corporate content production is worthy of such a process, so too must be U.S. enterprise that depends on freedom of expression.
2. Highlight Internet censorship policies in trade reports on China.
3. Initiate multilateral consultations to ensure we are participating in the family of nations adhering to the Universal Declaration of Human Rights – in particular, Articles 19 (freedom of expression) and 20 (freedom of assembly), which in the 21st century must include the “freedom to connect.”
4. Actively support the Global Network Initiative (GNI).

The Chinese government needs to understand that access to its markets is not a coin that enables them to buy their way out of respecting human rights and freedom. Countries that have supported China's growth as a world player in the belief that its economic growth would lead to it becoming a “responsible stakeholder” need to object when the Chinese government's unreasonable demands on issues like Internet censorship prove inconsistent with such responsibility. Nations that support freedom of expression must elevate Internet freedom to the top of their human rights and trade agenda.