Written Testimony for the Senate Judiciary Subcommittee on Human Rights and the Law on "Global Internet Freedom and the Rule of Law, Part II"

Committee to Protect Journalists

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Internet companies play vital role in defending internet journalists

The Committee to Protect Journalists would like to thank the chairman and committee members for this opportunity to present our written testimony on the subject of global Internet freedom, the responsibility of corporations to promote and defend it, and the importance of the rule of law across the world.

When CPJ began in 1981, journalists at risk of reprisal for their work frequently had some element of institutional support. They were often employed as professionals by newspapers or other media companies. Their publishers and editors would stand by their employees, even as those journalists were harassed, imprisoned, or tortured.

Last year, for the first time, our research found that half of all journalists jailed around the world worked online. Most of them were freelancers or independent journalists with little or no institutional support.

Google, Yahoo, and other Internet companies are not publishers or the editors of their sites' content: their millions of users are. But we believe their actions play a profound role in today's media. These companies in effect provide the phone lines journalists use to gather news. They manage virtual newsstands and create online, public gathering places.

While the Internet has allowed people across the world to have their own virtual printing press, to publish without needing anyone else's permission, and to instantly speak to a potential audience of more than a billion people, it has also given us "information chokepoints"—a handful of companies and facilities that repressive governments use to silence users. Governments no longer have to shut down dozens of newspapers and individual radio stations. Now they can simply halt the circulation of information by pulling the plug on the Web. When they want to make pictures of Tiananmen Square protests vanish from the historical record, they need only force a few search engines to comply.

The responsibilities of Internet companies are not the same as those formed by the close relationship between traditional editors and publishers and their reporters. But we must all recognize the key role these companies play in freedom of expression across every modern state. We urge governments and the companies you have contacted (Amazon, Apple, AT&T, Cisco, Dell, eBay, Facebook, Fortinet, HP, IAC, IBM, Juniper, Lenovo, McAfee, Motorola Acer, News Corporation, Nokia, Nokia Siemens, Oracle, RIM, SAP, Siemens, Skype, Sprint Nextel, Toshiba, Twitter, Verizon, Vodafone, and Websense) to take steps to better defend the Internet freedom their own businesses, and the functioning of modern democratic society, now depend upon.

Below are our suggestions for action that we respectfully offer to those companies, and to the committee.

Companies must include at-risk journalists when considering user privacy

Companies should require due process when law enforcement seeks access to information, and minimize the data they collect. In January 2010, Google was alerted to the human rights implications of

a serious attack on its internal systems because the attackers sought out private information on Chinese activists held within the company

That shows that it is more urgent than ever that Internet companies pay close attention to the security of their users' data. Corporations should be encouraged to use encryption to protect personal data within their own systems, and SSL or other secure protocols to protect communications as they pass over the Internet.

But companies should also be wary of how information about their users can leak out in other ways. Just a few months after that deliberate attack, Google launched the social networking service Google Buzz, a new Twitter-like feature that inadvertently leaked out private information about who wrote to whom using their Gmail accounts.

The personal information that these companies work so hard to protect in one scenario may be revealed by their own subsequent business practices. Facebook recently changed its privacy policy, making it harder for its users to hide their list of friends from strangers. This was after *The Wall Street Journal* reported that the Iranian government was using Facebook to track and identify ex-patriot dissidents and connect them to vulnerable family and friends. By changing privacy settings universally, Google and Facebook risk handing information to those who seek to harm or discredit journalists, or to unmask their sources or identities.

The responsible course for companies whose services are used in repressive regimes is to include in their testing these new services a new category—along with "early adopter," "power user," "soccer mom" and "digital native"—that of "at-risk journalist" or "dissident author." These are people who depend as much, and perhaps more so, on these companies' services, and deserve not to be put at risk by their decisions.

American companies must not collaborate in creating the tools of surveillance and censorship

All of the companies who have given testimony to the committee have contributed to the construction of an incredible instrument for free expression. The Internet that journalists use every day, in every country, has been built and improved upon by these companies' innovation.

But there is increasing revenue to be made by undermining that amazing tool, by building its opposite: software and hardware that enables Internet censorship and surveillance beyond the principles of due process and the rule of law.

We must ensure that American companies do not sell repressive countries the equipment for censorship. Corporations need to conduct human rights audits of their businesses in repressive regimes, and forbid their employees from offering consultation or providing services that directly contribute to government monitoring or control in countries where the rule of law and defense of human rights is weak or nonexistent.

If these companies fail to live up to these basic ethical standards, it may be necessary to enforce it through further regulation. But we must be cautious that well-meaning but overbroad sanctions or trade controls do not have the effect of preventing beneficial technological innovation from reaching journalists in the very worst conditions. The Treasury Department's March 8 announcement of the relaxing of sanctions in Cuba, Iran, and Sudan for personal Internet communication products and services is an important step forward in this regard. We hope the State Department will continue to regularly revisit the question of sanctions and how they affect local and international journalists who use American online services in these and other sanctioned countries. For the avoidance of liability, many companies continue to interpret sanction provisions broadly and may, for instance, block Internet addresses in sanctioned countries or even prohibit citizens from using their services at all. Clear

statements encouraging companies to support Internet communication in these countries and suggested terms-of-service language provided by the State or Treasury departments would encourage American companies to offer powerful tools for free speech in the very nations that need them most.

The fight for Internet freedom requires a united international approach

Secretary Clinton has said that making a principled stand on censorship should be part of America's national brand. With great respect to what we believe was a groundbreaking and compelling speech on Internet freedom, we believe a principled stand on censorship is an international standard, to which all countries and companies should adhere.

We firmly believe that companies' actions to defend freedom of expression and defend online journalists should not be seen as an arm of American foreign policy, but as an obligations to comply with the framework of international human rights laws. It is important that the international community support these actions. Our trade partners and allies can, and should be encouraged, to play their part in promoting the basic values of free expression and a free press that we all share.

Nonetheless, the United States can do more. Many companies that are not based in the U.S. nonetheless benefit from its financial and investment infrastructure. For instance, the Chinese search engine Baidu trades on the NASDAQ exchange, and recently benefited in a dramatic increase in its stock price after Google's January announcement that it would challenge China's requirement that it censor its local search results. It would be a travesty for American companies to rise to the challenge of defending Internet free expression and the work of online journalists only to have other global corporations, supported by American investment, undermine their work.