

Google in China

Google has been having trouble in China. Luke Bentvelzen and Yong Lee look at the internet in China, what happening to Google, Google's response and the debate that's followed

Introduction

Google has been accused of infringing civil liberties by agreeing with the Chinese government to censor search results on its new www.google.cn search engine. The decision has raised questions about Google's otherwise impeccable corporate image and provoked fierce debate in the United States over the ability of multinationals to accede to other governments' politically sensitive requests.

The state of the internet in China

Google's decision to enter the Chinese market reflects a trend of rapidly increasing internet usage in that country. According to statistics released by the China Internet Network Information Center (CNNIC), on 17 January 2006, there were approximately 111 million internet users in China at the end of 2005. In July 2004, PricewaterhouseCoopers predicted that this number would increase at the rate of about 800,000 new Chinese users per week to 260 million in 2008, when internet-related spending would reach US\$63.6 billion.

The prospects for Google in China seem very bright. Although statistics on the Chinese internet search engine market are mixed, according to market research from Keynote Systems released on 18 January 2006, Google rated as the best search engine in China. Statistics released in August 2005 by CNNIC, however, show local Chinese search engine Baidu to be the clear leader in China in terms of internet traffic. In Beijing, for example, Baidu captured approximately 51.5% market share, ahead of Google's 32.9%.

Internet regulation

China's system of regulation and censorship over the internet is both complex and pervasive¹. There are multiple layers of legal regulations, often overlapping and restating each other, that are implemented by the numerous state agencies that are each responsible in part for controlling internet access and content. The overall responsibility for the supervision of the internet however lies with the Ministry of Public Security, by virtue of State Council Order No. 147².

In 2000, the State Council issued a directive stating that internet content providers must restrict information that may "harm the dignity and interests of the state" or that foster "evil cults" or "damage . . . social stability"³. The type of content available online is controlled through the use of prescriptive and proscriptive regulations, as well as licensing, registration and monitoring requirements. Internet Content Provider (ICP) licences are required to operate a website in China and, as an industry practice, foreign internet companies often use or operate under ICP licences owned by locally-owned companies. The Chinese authorities can assert pressure on foreign internet companies to conform with local regulations by questioning the 'legality' of their operations under such licensing arrangements.

The Ministry of Information Industries' investigation, launched in February 2006, into the legality of Google's licensing arrangement with the China-based Ganji.com has been viewed by some as a political action to pressure Google to comply with censorship requirements.

Google's agreement to censor

Earlier this year Google agreed to censor at the search engine level information concerning topics including Tiananmen Square, Tibet, Taiwanese independence, cult-based searches such as searches for the Falun Gong group, information about Communist Party supremacy and, according to some researchers, many other more controversial topics such as teen pregnancy, homosexuality and dating. It launched its new censored www.google.cn site on 25 January 2006.

Prior to this arrangement, the Chinese government had still filtered Google searches but did so at the Internet Service Provider level, the process becoming known as the 'Great Firewall of China'. This filtration substantially slowed Google searches and was considered to be a reason for entering the censorship agreement. Under the new arrangement, Chinese users can still access the www.google.com site but will be redirected to the censored www.google.cn site.

Google has attempted to pacify critics by assuring them that it will inform people con-

ducting searches that web pages have been removed due to governmental orders, with a note being placed on the results screen to this effect. It has also decided not to establish its email, chat room and blogging services on servers physically located in China, due to concerns that government officials could seize personal information stored on servers located in China. Google's message to the public is that the provision of a compromised search facility is better for the dissemination of information through China than abandoning its service in the country altogether.

The response to Google's concession

There has been a significant adverse reaction to Google's actions from the internet community and many US politicians. These groups believe Google is helping to facilitate restrictions on basic civil liberties such as freedom of political communication. In doing so, it is contradicting its corporate philosophy as stated on its website, which is "Don't be evil" as well as its mission statement which is to make all possible information available to everyone who has a computer or mobile phone.

Criticism has not been limited to Google, but has also been levelled against Cisco, Microsoft and Yahoo. In an article on The Nation's Web site posted on 24 February 2006, Rebecca MacKinnon, a research fellow at Harvard Law School's Berkman Center for Internet and Society, and a former CNN Beijing bureau chief, outlined the various 'evils' committed by these foreign companies. According to the article, Cisco has acknowledged selling routers with censorship capability and surveillance technologies to Chinese agencies and Microsoft has even admitted to removing the politically-sensitive blog of a Chinese journalist from its MSN Space site and censoring words like "freedom" and "democracy" from its Chinese MSN portal site. Yahoo has not only admitted to filtering its search engines in accordance with the wishes of Chinese authorities but has also been discovered to be providing information that helped Chinese officials convict dissidents, including Li Zhi who was jailed for 8 years in December 2003 and Shi Tao who was jailed for 10 years in April 2005.

The combination of these events has prompted some US politicians to speak out against multinational companies' approaches to regulatory compliance in countries such as China. In February 2006, representatives of Google, Yahoo, Cisco Systems and Microsoft

were called for questioning at a Congressional Human Rights Caucus hearing and a session of the House of Representatives subcommittee on Global Human Rights.

US Global Online Freedom Bill 2006

Following the House of Representatives hearings, a draft Global Online Freedom Bill 2006 (the Bill) was introduced on 16 February 2006 into the House of Representatives by Republican Christopher Smith and co-sponsored by 14 other Republicans. The Bill proposed to make it unlawful for US internet companies:

- to filter search results in response to the request of "internet restricting countries", defined as China, Iran, Vietnam and other nations deemed to be overly internet-restricting;
- to locate hardware within an "internet restricting country" (and thus giving the country jurisdiction to access information stored on the hardware); and
- to turn over information about users to certain governments unless the US Justice Department approves.

The draft legislation also seeks to impose new export restrictions on the "internet restricting countries" and require any website operator with US operations to provide information to the Office of Global Internet Freedom about content deleted or blocked by internet restricting countries. Certain breaches of the proposed Act can be punished by fines of up to US\$2 million and criminal penalties of up to 5 years imprisonment.

The definition of "internet restricting countries" means that the Bill would not prohibit censorship by Western nations such as Germany, which currently requires search engines to filter Nazi-related sites, or the US, which requires search engines to block results such as Kazaa under the Digital Millennium Copyright Act 1998.

The Future

The Bill is, as at 26 July 2006, still in committee phase. The last action taken on the Bill was its referral to the House Subcommittee on Commerce, Trade and Consumer Protection on 17 March 2006. The majority of Bills never make it out of committee and the future of this Bill remains uncertain. Whilst it appears that the condemnation of Google and other US companies at the House of Representatives hearing was widespread and relatively consistent, a number of Democrats did express hesitation about supporting "knee-jerk" attempts at government intervention in this field.

The Bill itself has also been subject to criti-



cism from various groups, with controversy surrounding the requirement that US internet companies report all content deleted or blocked at the request of an "internet restricting country" and also all lists of forbidden words provided to them by an official of an "internet restricting country" to a specially created US Office of Global Internet Freedom. This raises the concern that the Chinese government would take the view that US companies are acting as informers to the US government on potentially sensitive information.

Conclusion

Time will tell what impact Google's decision will have on its corporate image and, not unimportantly for Google's shareholders, its share price. The reputation Google has built for the integrity of its search results has undoubtedly been tarnished to some degree. Google must clearly have anticipated such an effect yet decided to accede to the Chinese government requests anyway, in order to tap the massive growth potential of the China market. Eric Schmidt, Google's chief executive, announced as recently as 12 April 2006 that it expected Google's Chinese revenue growth to be "large". This demonstrates that multinationals are finding that

the opportunities China presents are simply too profitable to ignore, irrespective of the political and regulatory difficulties involved in exploiting those opportunities.

These recent events also go some way toward dispelling the theory that the internet, due to its ubiquity, can never possibly be censored. Through the ongoing efforts of the Chinese government and compliance of companies like Google, information on the internet clearly can be restricted.

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1. For a comprehensive examination of the legal regulations, see OpenNet Initiative, Internet Filtering in China in 2004-2005: A Country Study, April 14 2005, at <<http://www.opennetinitiative.net/studies/china/#1>> (accessed, 19 April 2006)
2. Regulations for the Safety Protection of Computer Information Systems, State Council Order No. 147
3. Measures on Internet Information Services, State Council Order No. 292.