

Questions from Senator Dick Durbin

1. Does Google support H.R. 275, the Global Online Freedom Act of 2007? Please explain.

Google supports the Global Online Freedom Act because of the company's deep belief in and commitment to internet freedom, and we believe that the legislation can be improved to help ensure that people around the world have even greater access to as much information as possible. For example, we invite the Subcommittee to consider a legislative proposal made recently by the Center for Democracy and Technology that would help protect individuals' freedom of expression and privacy while not hindering the proliferation of free expression technologies throughout the world.

We also believe that the most effective aspect of GOFA would be to help ensure that the United States government engages in direct government-to-government discussions and robust international efforts to better ensure individuals' protection from government persecution and their right to free expression. Accordingly, we support initiatives to address online freedom of expression through international human rights and trade mechanisms.

Google's experience is that efforts to limit freedom of expression on the web exist in several nations around the world, and that the U.S. and other nations that cherish free expression are strongly positioned to fight these efforts to limit access to information on the Internet. As Nicole Wong testified at your Subcommittee's hearing on global internet freedom, we have recently seen several examples of censorship that ban several products and approximately 24 countries:

- ***YouTube***: Since 2007, our YouTube video sharing site has been blocked in at least 11 countries including China, Thailand, Turkey, Pakistan, Morocco, Brazil, Syria, Indonesia, Iran, Saudi Arabia, and Myanmar (Burma).
- ***Blogger and Blog*Spot***: In the last couple of years, we have received reports of our Blogger and Blog*Spot blogging sites being blocked in at least seven countries including China, Spain, India, Pakistan, Iran, Myanmar, and Ethiopia.
- ***orkut***: Our social networking site, orkut, has been blocked recently in Saudi Arabia, Iran, and the United Arab Emirates.

Specifically, we believe that, as part of any legislation considered, Congress should take into account the following policy recommendations, which we presented at your Subcommittee's May 20 hearing on global internet freedom:

- ***Leverage international trade mechanisms***. The U.S. government should continue to urge governments around the world to recognize that information restrictions on the Internet have a trade dimension. We urge the U.S. government to continue to use trade agreements and other trade tools to promote the free flow of information on the Internet, and to seek binding commitments wherever possible.
- ***Promote the universal ratification of the International Covenant***. Not every country that has signed the International Covenant on Civil and Political Rights (ICCPR) has fully embraced its obligations by ratifying it. Approximately 30 countries are not parties to the agreement, including China, Cuba, and Saudi Arabia. We would strongly recommend that

the U.S. renew diplomatic efforts to encourage these countries to ratify the ICCPR, and to file separate declarations under the treaty to consent to the United Nations Human Rights Committee's jurisdiction over complaints by States against other States. We also believe that more governments – including the U.S. – should be encouraged to join the ICCPR's First Optional Protocol, which enables individuals to file complaints.

- ***Strengthen and enhance the State Department's Global Internet Freedom Taskforce.*** Much has been accomplished by the State Department's Global Internet Freedom Taskforce, but the initiative could be given increased prominence, authority, and funding. Among other things, the agenda could be given increased prominence and authority by, for example, appointing an Ambassador-at-Large for Information Freedom – a position similar to the Ambassador-at-Large for International Religious Freedom.
- ***Support increased focus by the U.N. Human Rights Committee on internet freedoms.*** In the area of internet censorship, the States Parties to the ICCPR could focus more attention on impediments to free expression online. For example, the Human Rights Committee could issue a general comment addressing relevant articles in the ICCPR and how they apply to internet restrictions.
- ***Ensure that countries that are parties to the Covenant submit human rights reports enabling international review.*** The ICCPR requires States Parties to submit periodic reports on compliance with their ICCPR obligations – generally every four years – to the U.N. Human Rights Committee, which conducts a detailed review and issues an assessment of treaty compliance. Many governments have not complied with this requirement, and the U.S. itself was out of compliance until it submitted a report in late 2005. The U.S., now having fully embraced its reporting obligations, should work to ensure that States Parties file their reports on compliance with the ICCPR in a timely fashion. This may need to involve offers of support for developing countries who are daunted by the effort involved in drafting the reports and submitting them for review, but we believe that this would be a worthwhile investment that would help protect human rights around the world.
- ***Strengthen individuals' ability to file complaints under the ICCPR.*** The ICCPR enables individuals to file complaints with the Human Rights Committee. We believe that the governments that promote free expression could provide funding and other support to non-governmental organizations and other groups to assist individuals in filing such complaints, as well as increasing awareness among relevant populations of their rights under the ICCPR. In addition, participating governments could, through the U.N., provide additional funding that would enable the Human Rights Committee to address more individual complaints in a timely way, as the Committee is now substantially underfunded.
- ***Shine more light on violations of freedom of expression.*** We believe that more attention focused on instances of internet censorship will result in greater accountability and transparency and ultimately less censorship by governments. For these reasons we would urge the U.S. government to promote enhanced monitoring of instances of internet censorship by governments.
- ***Promote free expression as part of foreign aid.*** We believe that the U.S. government could use foreign aid and other programs to better promote ICCPR compliance and free

expression on the Internet. For instance, the U.S. government could incorporate internet freedom of expression into support for and assessments of good governance. In a related area, Google has already urged officials at the Millennium Challenge Corporation to incorporate internet censorship in their criteria for measuring whether candidate countries have achieved expectations for democratic governance.

2. At the hearing, you testified, “we have been talking about it at our company at our senior executive level over the last several weeks - we would support legislation in this area because we do feel like it is the thing that will bring all the companies to the same place.”

a. Please elaborate on the nature of legislation that Google would support.

We are supportive of GOFA and of the policy initiatives listed in response to question 1 above.

b. Would such legislation ensure that American internet companies operating in internet restricting countries protect user privacy and freedom of expression?

We believe that GOFA, along with the policy initiatives outlined in response to question 1 above, could help ensure the protection of user privacy and freedom of expression, especially if the legislation were improved to avoid impeding the spread of technologies around the world that promote free expression.

3. Cisco’s Mark Chandler testified, “We support restrictions on the ability of companies to locate within are internet-restricting country electronic communications that include personally-identifiable information.” Does Google support such restrictions?

Please see our answer to question 1 above.

4. You testified that Google “would support an external audit” of your operations.

a. Please elaborate on what sort of external audit you would support.

Google and other companies have joined human rights groups in support of the Global Network Initiative (GNI) which, in addition to establishing core principles for protecting freedom of expression and privacy around the world, includes an external audit for the companies. Having done our due diligence on the workability of the GNI principles, Google has committed to their implementation. Indeed, Google continues to adhere to the policies we ourselves announced in January 2006, committing the company to transparency about speech restrictions, and to carefully implemented protections for user data. We consult regularly with outside advisers to determine how to best respond to government requests that relate to freedom of expression or that involve our users’ information. When we believe that doing so will help promote the cause of free expression, we publicize instances of government requests and our response to such requests.

b. Would you support an audit which is conducted by a monitor who is independently selected?

In line with the Global Network Initiative principles, we support assessments by qualified outside experts that would be chosen based on close consultation with Google and the board of a proposed independent organization. As recognized in the Global Network Initiative, an effective audit in this area requires an auditor who has experience with business operations, human rights, and technology, and an appreciation for the complex technical and operational issues involved in implementing the principles

c. Would such a monitor be permitted to assess whether Google has policies designed to protect freedom of expression and user privacy, how those policies are implemented, and whether the policies actually protect user privacy and freedom of expression?

Please see our answer to question 4(a) above.

d. Would such a monitor have access to all relevant information, not just information Google chose to provide to him or her?

Please see our answer to question 4(a) above.

5. Regarding a code of conduct for internet companies, you testified that “the importance of having all of the companies and the addition of the human rights groups is not necessarily about looking about whether the companies are being held accountable to their processes.” Who do you believe it is not necessarily important to hold accountable internet companies operating in internet-restricting countries?

The observation was made to highlight a single point: An effective front against internet censorship requires broad, global participation in the principles.

The original premise of establishing agreed-upon free expression and privacy principles was for companies and human rights groups to stand together and speak with one voice against oppressive governments, and to enlist the support of governments that respect and protect free expression in those efforts. The focus on monitoring specific processes of individual companies that are already committed to the principles does not alone accomplish that goal. That is why the Global Network Initiative includes not only an independent assessment process, but new commitments among companies, human rights groups, investors and academics to collaborate to promote the rule of law and freedom of expression and privacy.

We believe strongly that, in order to be truly effective against government censorship, a broad, diverse, and global group of companies, human rights groups, and other stakeholders must work collaboratively to advocate before governments and international bodies to ensure that the principles of freedom of expression and individual privacy are respected by governments around the world.

6. What policies or practices does Google have in place to protect user privacy and freedom of expression in foreign countries?

As part of our commitment to making the world’s information universally accessible and useful,

Google takes seriously the protection of user privacy and freedom of expression in all the countries where we offer our products and services. Our general strategy includes three primary elements:

- **Political and legal environment.** In addition to business opportunities, we consider the political, legal, and human rights landscape of the countries where we offer our products and services. Among a number of factors, we consider whether a country's laws support free expression and individual privacy, whether the country operates under the rule of law, and whether individuals are empowered to protect their rights in the country's judicial system.
- **Technology and infrastructure.** As we design and localize our products, we strive to provide robust information and communication tools while offering technology features that protect user privacy and maintaining an infrastructure to keep user information secure. For example, in countries where we offer our Google Talk instant messaging service, we offer users the ability to go "off the record" so that their chats are not saved in Google's systems or their own computer. Likewise, we strive for transparency regarding our policies. In China, for example, we made the innovative decision to provide a notice to users of when we remove search results in compliance with Chinese laws, regulations, and policies.
- **Legal review.** Trained teams conduct careful review of all government requests to remove content or disclose personal information, as described in detail below.

With respect to our review of government requests for data, Google has dedicated teams within its legal department for receiving, evaluating, and responding to government requests to remove content from Google services or to provide information about Google users. These teams are global, multi-lingual, and cross-functional to ensure prompt and effective responses to such requests. The legal support teams are specifically trained by and under the supervision of senior Google attorneys. Government requests that appear to infringe upon individual freedom of expression or individual privacy are carefully reviewed and escalated to a supervising attorney and, in some cases, to Google executives.

In reviewing government requests for the removal of content from a Google product, our trained legal support team responds to all court orders or other government requests seeking removal of content. Each complaint is reviewed for procedural and substantive validity. In matters where the content violates a specific country's law, Google's policy is to narrowly remove content whenever possible. For example, a search result linking to Nazi material in violation of German law is removed from the German (or .de) domain, but not from all country domains. In circumstances where the content at issue is on a global .com domain (for example, on www.youtube.com), Google endeavors to narrowly block the display of content only in the jurisdiction where such content is illegal and to leave the content available for the rest of the world.

Google takes seriously all requests for the disclosure of information about its users. We design our products with user privacy in mind and only collect and maintain information as appropriate to provide the service. Many of our products do not require any personal information in order to use them. To the extent we have information about a user, Google's policy is to require valid legal process before providing any personal information to government authorities. In regard to non-U.S. requests for user information, in countries where Google has an office or other legal presence, local attorneys review the request to ensure that it complies with local law. Once valid legal process is confirmed, the request is passed to a trained team in Google's U.S. headquarters for further review

and, if appropriate, processing.

7. How will Google respond if during the Olympics the Chinese government asks you to identify a non-Chinese journalist who uses his Google.com Gmail account from an Internet cafe in Beijing to send what the Chinese government considers sensitive information to his editors in another country?

Google did not receive any such request. Had we received such a request from the Chinese government, we would have operated pursuant to the Mutual Legal Assistance Treaty or equivalent executive agreement between the U.S. and China. We made this commitment to Senators Durbin and Coburn by letter dated August 1, 2008, in which we stated that we would not provide to the Chinese government with any sensitive personal information about American athletes, journalists, or tourists during the Beijing Olympics unless required to do so by U.S. law pursuant to the MLAT or other equivalent executive agreement between the U.S. and China.

8. Google's witness at "The Internet in China: A Tool for Freedom or Suppression," the House International Relations Committee hearing on February 15, 2006 (2006 HIRC hearing) testified "As a practical matter, when we hear from government officials about how they define; the laws and what they define compliance to mean, we generally accept that." Is that still Google's practice or do you make an independent assessment of whether a request from a foreign government complies with the foreign government's law?

Google has a long-standing policy of ensuring that government requests are valid, legal, and binding. Furthermore, it is our policy and our practice to make case-by-case assessments, to the extent we are in a position to do so, of whether requests from a given government comply with that government's laws.

9. You testified that Google.cn does not offer Gmail or Blogger because Google might be required to provide personally identifiable user information to the Chinese government. However, Google.com offers Gmail and Blogger to users around the world, including in China. What process does Google follow when you receive a request from a foreign government for the personally identifiable information of a Gmail.com or Blogger.com user in that country?

Please see our answer to question 6 above. In the specific case of China, we do not store our users' Gmail and Blogger-related personal and confidential information in China, and we would refuse to provide such information to the Chinese government except pursuant to the Mutual Legal Assistance Treaty or equivalent executive agreement between the U.S. and China. Because we take the issue of user privacy and security very seriously and believe that offering more communication platforms in China and other countries promotes free expression, we continue to dedicate considerable effort into developing ways to expand the offering of such products while minimizing risks to users.

10.

a. Please provide a list of all the localized services that Google offers.

We offer several of our products in localized versions that are identified with a country's country

code top-level domain (e.g., .ca for Canada and .mx for Mexico). In addition to Google Search, which we offer in 153 localized versions, we offer localized versions of products like YouTube, Chrome, orkut, Google News, Google Groups, Google Earth, and iGoogle.

b. Which of these localized services host Gmail, Blogger, and Orkut?

Though Google offers Gmail in over 50 languages and Blogger in over 40 languages, we do not offer localized versions of these products. We currently offer localized versions of orkut on country domains for Brazil and India only.

11.

a. What process does Google follow when you receive a request from a foreign government for the personally identifiable information of a user of the localized service' Gmail, Blogger, or Orkut?

Please see our answer to question 6 above.

b. In what circumstances would you decline or challenge in court such a request?

Each government request for personally identifiable information is reviewed by a trained member of Google's legal department for both procedural and substantive validity. If the requested data is not available in the country or if the request is not procedurally or substantively valid, Google may decline or challenge such a request.

c. Have you ever declined or challenged such a request? Please explain.

As described above, Google's policy is to require valid legal process before providing any personal information to government authorities. As a matter of practice, Google regularly engages law enforcement and other government authorities when they request user information and challenges or declines requests that are substantively or procedurally deficient.

For example, in June 2007, we received an informal request from the Royal Thai Police investigating several videos on YouTube that allegedly violated the Thai law prohibiting criticism of the Thai King, Bhumibol Adulyadej. In particular, the police sought the Internet Protocol (IP) addresses and other non-public information of the users who uploaded the videos. Google declined to provide such information and referred the police to the Mutual Legal Assistance Treaty or letter rogatory process – a process which works through the U.S. State Department – in order to obtain information.

d. Who at Google is ultimately responsible for authorizing the disclosure of personally identifiable user information?

Government requests that appear to infringe upon individual freedom of expression or individual privacy are carefully reviewed and, where appropriate, escalated to a supervising attorney and, in some cases, to Google executives.

12. According to media reports, Google recently helped authorities in India to identify

Rahul Krishnakumar Vaid, who allegedly posted vulgar comments about Indian official Sonia Gandhi on Orkut. Under Indian law, Mr. Vaid could face up to five years in prison.

a. Why did Google provide information about Mr. Vaid to the Indian authorities?

As a threshold matter, there is a significant difference between the situation of Mr. Vaid and cases of the investigation and prosecution of cyberdissidents in other countries. India is a representative democracy with an independent judiciary and due process of law. By contrast, certain regimes that censor political and religious expression – on the Internet and through other media – are often not democratic or bound by the rule of law.

We believe that it is important to acknowledge that democracies can pass laws regarding pornography and obscenity laws and other laws that limit freedom of expression – and, indeed, Mr. Vaid’s case involved Indian obscenity laws. However, we believe that it is incorrect to suggest equivalence between democracies bound by the rule of law and undemocratic regimes. We also believe that it is important to underscore that U.S. companies cannot necessarily impose American legal standards on communications platforms operating in other countries, any more than foreign companies can impose their legal standards in the U.S.

Freedom of expression can best be promoted if significant groups of companies and other stakeholders work together to establish best practices with the hopes that they will be broadly adopted, and – maybe more importantly – if countries that respect and uphold principles of free expression work within the international community to ensure that these principles are respected and upheld globally.

In Mr. Vaid’s case, Google provided only limited subscriber and IP address information about his orkut account to police investigators in Pune, India, where prosecutors charged Mr. Vaid under Section 292 of the Indian Penal Code and Section 67 of the Information Technology Act, 2000. The laws criminalize the publication of obscene materials on the Internet and through other media. Google provided information relating to Mr. Vaid’s account to the investigating Indian authorities because the request for information in our assessment constituted valid legal process under Indian law.

b. Please explain the process Google used to handle this request.

We followed the process described in our answer to question 6 above.

c. Did Google make an independent assessment of whether the request complied with Indian law?

Yes, Google made an independent assessment informed by our outside legal counsel in India that the request from the Pune police for information about Mr. Vaid was valid legal process under Indian law.

d. Did Google evaluate whether complying with the request would lead to Mr. Vaid being prosecuted for exercising his right to free expression?

Yes, Google did conduct an evaluation of whether complying with the request could lead to his

prosecution under Indian law.

e. Did Google consider challenging the request in Indian courts?

Yes, and we concluded that the request in question was valid under Indian law, not likely to be overturned on appeal, and that an appeal on the facts might be counterproductive to the larger cause of free expression because it could result in harmful legal precedent.

f. If you determined that a request from Indian authorities violated Indian law, would you challenge the request in court?

It would depend upon a number of factors including but not limited to the facts of the specific case, the advice of counsel qualified to practice Indian law, and the likelihood of success versus the possibility of establishing a counter-productive precedent in the emerging area of online legal speech.

g. Where was the information about Mr. Vaid physically stored?

The orkut service is owned and operated by Google Inc. and the data regarding Mr. Vaid was located on servers in the U.S. As such, the governing U.S. law for user information stored in connection with orkut – as with other electronic communications services – is the Electronic Communications Privacy Act. Under ECPA, service providers may disclose a limited subset of user information to third parties, including foreign governments. When Google receives valid legal process from a government in a country where we do business and which operates under the rule of law, we may provide such limited information to local authorities.

13.

a. In addition to Google.cn, for which other localized services do you censor political or religious content?

As stated in Nicole Wong's testimony before your Subcommittee, German law makes Nazi content illegal, so we remove such content from our products hosted on our German domain, Google.de, when we become aware of such material. However, we do not remove Nazi content because of German law from our global products hosted on Google.com. Likewise, we have removed content from localized services for Austria, Belgium, Brazil, Canada, Czech Republic, France, Germany, Israel, Poland, Switzerland, and the United Kingdom in accordance with the hate speech laws in those countries. In addition, we have terms of use and guidelines for user-generated content that is hosted by Google. For example, YouTube's community guidelines encourage free speech, including unpopular points of view. However, hate speech (speech which attacks or demeans a group based on race or ethnic origin, religion, disability, gender, age, veteran status, and sexual orientation or gender identity), and speech that is likely to lead to violence is not permitted on YouTube.

b. For each of these localized services, how do you determine what to censor?

In each of the above cases, Google conducted an independent legal analysis of relevant laws and our obligations under those laws. We then proceeded to remove content that we believed violates relevant national laws. In addition, we regularly receive reports from third parties of content on

local domains that allegedly violate national laws. In each of these cases, Google conducts an independent analysis of the report, determines whether the content reported violates the law, and acts accordingly.

c. What process does Google follow when you receive a request from a foreign government to censor political or religious content?

In general, for localized services Google conducts an independent legal analysis of relevant laws and our obligations under those laws. If appropriate, we then proceed to remove content that we believe violates relevant national laws. For example, in 2007, we received demands from authorities in Mumbai, India, to remove an orkut community that criticized a popular but violent religious sect known as Shiv Sena and its leader. In addition, the Mumbai police threatened to arrest local Google employees, supporters of Shiv Sena rioted outside of the Google office in Mumbai, and police detained Google's counsel for more than a day. We consulted with local counsel to confirm the validity of the police request and its authority under Indian law. After further evaluation by our U.S. legal team, we removed the communities that were confirmed as illegal. Our analysis may differ when the demand comes from a government where we do not have localized services or a business presence. Please see our response to question 13(e) below.

d. In what circumstances would you decline or challenge in court such a request?

In general, we would decline or challenge in court such a request when it appears that removing the content in question does not violate relevant national laws. For example, in Turkey, prosecutors and the Turkish Telecommunications Authority have repeatedly demanded the removal of videos on YouTube that allegedly criticize Mustafa Kemal Atatürk, the founder of the Turkish republic, or "Turkishness" which is prohibited by law. Under court order, the Turkish Internet Service Providers have blocked the entire YouTube site multiple times over the last year. Indeed, YouTube has been blocked in Turkey for the last four months. Although we have offered to block videos for IP addresses in Turkey when those videos violate Turkish law, the prosecutors have stated they are not satisfied with such measures and insist upon the global removal of these videos. To date, we have declined to make those removals and we remain blocked in Turkey, and we continue to engage with the Turkish government on this matter.

As another example, earlier this year, the government of Tunisia requested that Google remove from its Google Earth product the satellite image of the Presidential Palace and accompanying user comments that are critical of the Tunisian President. We explained to the Tunisian officials that Google is not operating in Tunisia and not subject to Tunisian law and, thus, we would not be removing the content.

e. Have you ever declined or challenged such a request? Please explain.

In 2007, YouTube users outside Thailand uploaded several videos to the site containing political commentary on Thailand's military regime and royal family, including the country's revered king. In one video, for example, the Thai king's face was altered to resemble a monkey and feet were displayed next to his face, a severe insult in Thai culture.

Thailand is one of the few remaining countries to enforce actively a law of *lese majeste*, prohibiting insults to the king. As a result, the Thai minister of communications ordered Thai ISPs to block

access to the entire YouTube site, which became inaccessible to users within the country. This censorship had the unintended effect of blocking videos Thai users had posted in response expressing outrage and defending their king.

We opened a dialogue with the Thai ministry and requested a list of the allegedly illegal videos. With the benefit of video-by-video analysis from local counsel, we ultimately agreed to block from Thai IP addresses the videos that plainly violate the law of *lese majeste*, but declined to block videos critical of the military regime but not the king. While the government asked for the complete removal of this content, it is our policy, when we agree to limited blocking, to only narrowly block videos within the country where such material is illegal. We believe strongly that a given country's limitations on free expression should not affect users in other, less restrictive countries.

f. Who at Google is ultimately responsible for authorizing the censorship of political or religious content?

Government requests that appear to infringe upon individual freedom of expression or individual privacy are carefully reviewed and, where appropriate, to a supervising attorney and, in some cases, to Google executives.

14. At the hearing, I asked about the Chinese government's attempts to suppress information about the SARS epidemic. In the event of another public health emergency in a country that suppresses such information, how would Google respond to a censorship or takedown request regarding information about that health threat?

If it were clear from the face of a given filtering request that an attempt was being made to suppress information relevant to a public health emergency of SARS-like proportions, Google employees would escalate the issue to senior legal personnel in Google's U.S. headquarters. Google's senior legal personnel would, in turn, evaluate the request, taking into the legality and validity of the request, the need to communicate information about the situation, and any legitimate government purposes such as wanting to avoid panic or incorrect rumors that could harm public health efforts.

15. How do you determine what content should be censored on Google.cn?

As has been described in various reports and news articles, commercial web services operating in China – and, in particular, search engines – are held responsible for monitoring their own services. This monitoring and filtering is performed primarily in response to and pursuant to government requests. These requests typically are for the removal of certain content or for the restriction of access to certain content.

In Google's case, we have two search services that are available in China. The first is our global search service, Google.com, which is available in Chinese. The second is our localized search service, Google.cn. Google.com is available in China, except when it is blocked. Google.cn has faster performance, but it also has certain results censored in accordance with Chinese laws, regulations, and policies.

The goal of offering the Google.cn service is to provide more information and transparency to Chinese users than they otherwise would receive. However, a small percentage of search results are

filtered. These typically relate to topics deemed sensitive in China, such as Tiananmen Square, Tibet, and Falun Gong. We endeavor to filter results in a way that minimizes censorship, and we believe that we filter less than our competitors in China. We also believe that we provide significant transparency to our users in China, and we are working hard to improve transparency to our Chinese users.

Government requests to filter content may refer to specific keywords, combinations of keywords, uniform resource locators (URLs), and topics. Requests relating to content appearing on google.cn are processed by Google's China joint venture, which may contact the requesting authority to discuss whether a filtering request can be implemented in a less restrictive manner. Joint venture employees try to minimize filtering by limiting responses to a restricted set of websites in the overwhelming majority of cases, rather than blocking all responses, and by narrowly interpreting requests to filter results on certain topics. The employees also regularly review what is being filtered to determine whether keywords and URLs can be removed, generally based on whether relevant information is otherwise available on the Internet.

A Google employee receives reports of filtering activity. The Google employee reviews these reports to see whether filtering is being done in a manner that is inconsistent with Google's core values.

According to the most recent internal testing comparing google.cn search results with those of other major search engines in China, google.cn's results are the least restrictive. In addition, less than 0.3% of queries are filtered, and the overwhelming majority of filtered keywords relate to pornography and other non-political content. A 2006 Reporters Without Frontiers report indicates that google.cn censors less than search competitors in China. (Report located at http://www.rsfs.org/article.php?id_article=18015.) A more recent report published last month by Nart Villeneuve, a University of Toronto internet researcher, substantiates the 2006 Reporters Without Frontiers. (Report located at <http://www.citizenlab.org/papers/searchmonitor.pdf>.) That report states:

Internet users in China are able to retrieve a slightly wider array of content (20% more, on average) due to the presence of foreign search engines. . . When the results from Google, Microsoft and Yahoo are combined, 20% of the sites censored by Baidu are available. However, individually they provide more information, especially Google and Microsoft . . . Google maintained the lowest average number of censored sites at a rate of 15.2% and was closely followed by Microsoft 15.7%. Baidu ranked the highest at 26.4% and Yahoo! averaged 20.8%.

Users are provided with clear notice when google.cn filters search results. The full, unfiltered results are still available on google.com. The google.cn homepage links to google.com, which is offered in Chinese and provides unfiltered information when it is available to users in China.

a. During the 2006 HIRC hearing, Google's witness said that Google initially determined what to censor on Google.cn "by looking at the performance of the filtering of government authorities." Is that still how Google determines what to censor on Google.cn?

Please see our answer to question 15 above.

b. Has the Chinese government ever given Google any direction or guidance regarding what to censor?

Please see our answer to question 15 above.

16. You testified, “in China, we believe we are the least filtered, most transparent search engine available,” Google co-founder Sergei Brin recently defended Google’s activities in China by saying, “Google has a far superior track record than other search companies with respect to making information freely available.” What is the basis for your and Mr. Brin’s claim that: Google.cn filters less and makes more information available than other search engines in China?

Please see our answer to question 15 above.

17. You testified that “whenever we offer censored results on our Google.cn search engine, we present clear notification on the results page to users.” You also noted that, “After we did it, the other major search engines in China are now having a similar type of notice.” Since other search engines in China now provide a notice of censored results, what is the basis for your claim that Google.cn is the most-transparent search engine in China?

As a threshold matter, the fact that our presence in China has led to greater transparency even from our local competitors is a very positive development. Our engagement in China through Google.cn has driven industry advances in transparency to users. Today, leading search engines in China, including the market leader Baidu, have followed our lead and now provide disclosures when they remove results.

This was not the case before Google.cn established this practice with its launch in 2006. This fact is noted by the Villeneuve report, which states, “Since this report was finalized, the domestic Chinese search engine Baidu, following the foreign search engines, introduced a censorship notification [located at http://blockpage.com/main.php?g2_itemId=135] indicating that it is possible to make progress through engagement.” To build on these accomplishments, Google continues to focus on increasing transparency in Google.cn, for example by stating more clearly that at times we do not provide results because we are unable to do so, rather than merely saying that we are not providing results.

18. Human Rights Watch’s Arvind Ganesan testified, “disclosing censorship is not enough, but actually actively trying to reduce it to where your minimum level is whatever the government says it is.” Please describe what Google has done to reduce censorship to the minimum level.

Google’s mission is to make the world’s information universally accessible and useful. As such, we view our products as powerful vehicles for reducing censorship around the world because they enable access to and communication of information for anyone in the world with an internet connection. We have seen – in Myanmar, Venezuela, Egypt, and many other countries – the power of the Internet to elude government censorship. Furthermore, as described in our responses above, we approach specific government demands to censor seriously and we make any removals required narrowly by localizing it to a specified country domain or country IP addresses. Also, please see our

answer to question 15 above.

19. Global Internet Freedom Consortium's Shiyu Zhou testified, "for companies like Google and Yahoo!, there is self-censorship in China I would say is more damaging than other kinds of censorship, because for Chinese people in such a closed society, they take Google and Yahoo! as role models of freedom of information. When they look on the websites and they find the information, they believe it is factual and it is true." Do you agree?

We agree that there are cases where American internet companies should operate in countries that censor, in large part because companies like Google represent a culture of more access to information, more debate, and more free expression. In addition, companies like Google can serve as a check on the practices of local competitors. And if American companies do not provide search services, video sharing services, blogs, and other internet products and services, local competitors will do so. We know that this is true in countries like China, where Google and other American companies face strong competition from local companies that sometimes benefit from strong relationships with and the patronage of the government.

We also agree with Mr. Shiyu's suggestion that censorship runs contrary to our mission statement, which is to organize the world's information and make it universally accessible and useful. In China, we have chosen the imperfect solution of offering a filtered search service through Google.cn because we believe that, on balance, it is better for Google to offer all but a handful of information to users in China than to not provide our search at all. To this day, our Google.com search service is regularly blocked or degraded in China, and without Google.cn Chinese users would not have regular access to our search engine.

It is important to emphasize that our search service is focused on providing access to information, not on passing judgment on the information. This is important because for Google's search service to be useful, it must provide results that our users are looking for.

If legal restrictions in a particular country stop us from providing certain results, then the most important action that we can take on behalf of our users is provide them with transparency – a statement that we have not provided complete results and that certain results have been omitted. This is what we do in China when we filter results on Google.cn, and as a result users of Google.cn know that there is additional information that exists and can be accessed – for example through Google.com, which is offered in Chinese and to which we provide a link on the Google.cn homepage.

20. Please provide a copy of any human rights guidelines, policies, and training that Google has in place.

Though our current materials are internal and confidential, the GNI documents that we recently signed onto are public and available at www.globalnetworkinitiative.org. The GNI documents, which consist of Principles, Implementation Guidelines, and a Governance, Accountability & Learning Framework, will serve as the framework for our internal documents as we implement GNI. We would be happy to discuss specific questions that your staff may have about our internal documentation at their convenience, and we will make sure to share with you our progress as we implement GNI.

21. You testified about Google’s “current practice of conducting risk assessments that consider the impact on free expression and other human rights of entering new markets or introducing new products into existing markets.” Please provide more information about these risk assessments, including for what new markets or new products you have conducted such assessments, how you conduct such assessments, and how the results of such assessments have affected whether to enter a new market or introduce new products into existing markets.

When we consider entering new markets, we conduct risk assessments that touch on a wide range of factors, including business environment, internet access, and internet use statistics. In addition, we evaluate the legal environment, rule of law, and substantive laws and regulations relating to data protection and privacy, freedom of expression, and human rights more broadly.

Our primary assessments are drawn from two sets of sources: (a) third-party evaluations such as the categorical ratings produced by the World Bank, Freedom House, Transparency International, the OpenNet Initiative, and Reporters Without Borders, as well as the annual country reports of Human Rights Watch, Amnesty International, and the U.S. Department of State, and (b) input from both in- and out-of-country experts in academia, business, trade associations, NGOs, and advisory and law firms.

For new product issues, these assessments are typically tailored to the specific product proposals or ideas. For larger decisions about new markets, the assessments take the form of intensive country reviews. In one form or another, we have assessed conditions in nearly every country on the planet. Our risk assessments have informed and shaped our decisions across many markets and product issues.

22. You testified, “We do not have an investment in Baidu. .. I believe we did previously and sold off the investment a few years ago. I can check that out for you.” Please explain.

Shortly prior to Google’s initial public offering in 2004, the company purchased a small equity stake in Baidu. We divested our 2.6 percent interest in Baidu in June 2006.

23. At the 2006 HIRC hearing, Google’s witness testified that Google decided to start a censored China service due to “our steadily declining market share” in China. He explained that Baidu, your largest Chinese competitor, had risen to 46% of the market share in 2005, while Google had dropped ‘to below 30%. Has your decision to launch Google.cn helped Google to regain market share? What are the market shares of Baidu and Google.cn today?

Our share of internet searches in China has decreased steadily from early 2005, when we reportedly had a 33 percent share. This share dropped to a low of 12 percent in 2006 when Google’s website was blocked by the Great Firewall. With the development of the Google.cn website, our search share has stabilized at approximately 21 percent. In the meantime, Baidu has launched many community and messaging products, and these additional product offerings have propelled Baidu’s share to over 73 percent.

We believe that our commitment not to store personally identifiable information unless it can be appropriately handled has harmed our business in China, reducing the range and value of services we can offer users. This harms not only our search business, but our ability to compete with local

competitors in other online services, such as webmail, bulletin boards, etc. For example, Baidu has more flexibility to launch localized services because it does not impose on itself the same restrictions that we impose on ourselves with respect to storing personally identifiable information in China.

However, as noted in previous answers, we believe that our localized presence in China has led to more transparency and less censorship for Chinese internet users. Though we would like to be more competitive in the Chinese market, we believe that these positive developments are, in and of themselves, significant accomplishments.

Question from Senator Sam Brownback

You indicate in your testimony that Google's goal is to "mak[e] sure that the Internet is a global platform for free expression." You assert that "our products are above all else platforms for free expression and access to information." Does that include free expression by terrorists and access to how-to guides for terrorists?

YouTube's policies prohibit users from uploading videos that contain hate speech and threats of violence against specific individuals or groups. Our policies also prohibit videos that promote dangerous or illegal activities (including bomb making, sniper attacks, or other terrorist acts), and videos that are posted with the purpose of inciting others to commit specific, serious acts of violence.

I understand that Google's YouTube makes Al-Qaeda training and propaganda videos available to users. These videos incite violence against the United States and other democracies throughout the world. What is Google's policy regarding accessibility to these videos?

YouTube's Terms of Use require all users to abide by our Community Guidelines before uploading videos. The Community Guidelines prohibit hate speech, threats of violence against specific individuals or groups, the promotion of dangerous or illegal activities (including bomb making, sniper attacks, and other terrorist acts), and content posted with the purpose of inciting others to commit specific, serious violent acts.

YouTube staff review videos flagged for violating our guidelines 24 hours a day, seven days a week. When we determine that content violates our guidelines, we act quickly to remove it. We also disable the accounts of repeat offenders.

What, if any, steps has Google taken to remove these videos? Please explain the rationale behind the steps Google has taken to remove these videos.

Every minute, 13 hours of video are uploaded to YouTube, totaling hundreds of thousands of videos every day. We cannot and do not review content before it goes live, anymore than a telephone company screens the content of calls before they are made, or an ISP edits emails before they are sent.

Practically speaking, the only way we can offer YouTube at the scale we do is to rely on our user community to effectively police the site for inappropriate content. We have developed an innovative and reliable community policing system that involves our users in helping us enforce our content policies. Because our global community never sleeps, there is no bigger or more

comprehensive group in the world to identify inappropriate content on our site. Millions of users report potential policy violations by selecting the “Flag” link while watching videos.

All videos, including terrorist videos, brought to our attention through community flagging are reviewed against our content policies 24 hours a day, seven days a week, and typically in under an hour on average. We regularly remove videos that contain hate speech or threats of violence against specific individuals or groups, videos that promote dangerous or illegal activities (including bomb making, sniper attacks, and other terrorist attacks), and videos that are posted with the purpose of inciting others to commit specific, serious violent acts.

Specifically, we have removed several hundred videos that depict, among other things, attacks on U.S. military vehicles, hostages held in captivity, sniper attacks, and beheadings.

If Google is allowing any terrorist videos to remain on YouTube, please explain in detail the rationale behind this decision.

YouTube’s content policies include prohibitions on hate speech, graphic or gratuitous violence, threats of violence against specific individuals or groups, as well as videos that promote dangerous or illegal activities (including bomb making, sniper attacks, and other terrorist attacks), and videos that are posted with the purpose of inciting others to commit specific, serious violent acts. When flagged, videos that contain such content are promptly removed.

Additionally, it is YouTube’s policy to remove all videos and terminate any account known to be registered by a member of a designated Foreign Terrorist Organization (FTO) and used in an official capacity to further the interests of the FTO.

Questions of Senator Tom Coburn

In testimony before the House panel in February 2006, Google testified about its approach to China, describing the situation as presenting “only imperfect options.” At the time Google, felt that its decision to do business in that country was reasonable, but stated that, “If we determine that we are unable to achieve the objectives [we’ve outlined], we will not hesitate to reconsider our approach to China.” Now, more than two years later, how does Google feel about its approach to doing business in China?

In our February 2006 testimony before the House Committee of Foreign Affairs we stated that our approach is not the “single ‘right’ answer to the dilemma faced by information companies in China, but rather a reasonable approach that seems likely to bring our users greater access to more information than any other search engine in China.”

We believe that our decision to operate the Google.cn search service has been, on balance, the right one because our presence in China has led to improvements in freedom of expression. For example, we believe that more internet users in China can access more information outside of China through Google.cn than through other offerings.

And we work very hard to make sure we censor less in China than our competitors. According to the most recent internal testing comparing google.cn search results with those of other major search engines in China, google.cn’s results are the least restrictive. In addition, less than 0.3% of queries

are filtered, and the overwhelming majority of filtered keywords relate to pornography and other non-political content. A 2006 Reporters Without Frontiers report indicates that [google.cn](http://www.google.cn) censors less than search competitors in China. (Report located at http://www.rsfs.org/article.php?id_article=18015.) A more recent report published last month by Nart Villeneuve, a University of Toronto internet researcher, substantiates the 2006 Reporters Without Frontiers. (Report located at <http://www.citizenlab.org/papers/searchmonitor.pdf>.)

That report states:

Internet users in China are able to retrieve a slightly wider array of content (20% more, on average) due to the presence of foreign search engines. . . When the results from Google, Microsoft and Yahoo are combined, 20% of the sites censored by Baidu are available. However, individually they provide more information, especially Google and Microsoft . . . Google maintained the lowest average number of censored sites at a rate of 15.2% and was closely followed by Microsoft 15.7%. Baidu ranked the highest at 26.4% and Yahoo! averaged 20.8%.

Users are provided with clear notice when [google.cn](http://www.google.cn) filters search results. The full, unfiltered results are still available on [google.com](http://www.google.com). The [google.cn](http://www.google.cn) homepage links to [google.com](http://www.google.com), which is offered in Chinese and provides unfiltered information when it is available to users in China.

In addition, our engagement in China through Google.cn has driven industry advances in transparency to users. Today, leading search engines in China, including the market leader Baidu, have followed our lead and now provide disclosures when they remove results. This was not the case before Google.cn established this practice with its launch in 2006. This fact is noted by the Villeneuve report, which states, “Since this report was finalized, the domestic Chinese search engine Baidu, following the foreign search engines, introduced a censorship notification [located at http://blockpage.com/main.php?g2_itemId=135] indicating that it is possible to make progress through engagement.”

Does Google collect or store personally identifiable information on users in China or elsewhere who simply search the web? In other words, if I live in China and frequently search the terms “Falun Gong” or “Tibet freedom,” should I worry that the Government could discover my identity? If they did, would it be a crime?

We do not offer search services – or email or blogging services – that store our users’ personal information in China. For example, a user in Beijing could open a Gmail account, but the emails that the user composed, sent, and received using that service would not be stored in China. Because of this policy, we do not believe that we can be compelled to turn our users’ search-related information over to Chinese authorities and we would not do so except pursuant to the Mutual Legal Assistance Treaty or equivalent executive agreement between the U.S. and China. In order to provide more products in China, which we believe is important to enhancing free expression in that country, we continue to look for alternative ways to let users provide information with full notice and transparency as to the risk that it could be subject to disclosure to the government.

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