

Cross-national Information Policy Conflict Regarding Access to Information: Building a Conceptual Framework

Lei Zheng

Center for Technology in Government,
University at Albany, State University of New York
187 Wolf Road, Suite 301, Albany, NY 12205
lzheng@ctg.albany.edu

ABSTRACT

This paper addresses cross-national information policy conflict regarding access to information. This type of information policy conflict appears more complex and controversial than conflicts within one country's territory. The paper attempts to explore the nature of this cross-national conflict. The responses of the US and Chinese governments and the practices of three multinational companies Yahoo, Microsoft and Google are studied and analyzed. Two frameworks, Galvin's typology of information policy issues and Rowlands' structure of information policy, are used as foundations for analysis. Based upon those analyses, the paper develops a conceptual framework to model cross-national conflict regarding access to information. The paper also discusses the implications for policymakers and raises a number of critical questions that practitioners and scholars need to consider. In the end, the paper concludes with calls for multi-disciplinary and multi-national approaches to tackle the issue.

Categories and Subject Descriptors

K.5.2 [Programming Languages]: Government Issues – regulation, censorship.

General Terms

Legal Aspects

Keywords

Cross-national, Information Policy, Conflict, Access to Information, International

1 INTRODUCTION

Scholars have identified long ago conflict among values as one major theme of information policy (Galvin, 1994). Globalization and the Internet add another layer of complexity and controversies to this issue by creating a new type of information policy conflict: cross-national conflict. This new conflict constitutes a dilemma that governments and multinational companies have to face when dealing with cross-border issues.

Recent reports and debates around three American Internet companies' practices in China provide a classic example of this type of conflict. Being criticized for collaborating with the Chinese government to censor the Internet, Google, Yahoo, and Microsoft raised enormous public concern over the freedom of information [21]. One large issue in the case is information policy conflict across nations regarding free access to information.

Globalization and new information technology have made it significant and urgent to explore answers to these questions around the issue: What is the nature of cross-national conflict regarding access to information? How do companies and governments cope with the conflict? What factors may have influenced their decisions and practices? What type of framework could be developed to model and understand this conflict? What are the implications for government?

The paper begins with a literature review and introduction on research methods. It then briefly presents the background of the case and presents findings of content analysis on Congressional archives and news reports. Next, an exploratory conceptual framework is built upon these findings followed by discussion of the implications for government. The paper concludes with a discussion of limits and directions for future studies.

2 LITERATURE REVIEW

2.1 Conflict among Values

Many scholars have addressed the complexity of information policy. Hernon and Relyea noted that "information policies tend to address specific issues and, at times, to be fragmented, overlapping and contradictory" [9]. Coates defined public policy as "a fundamental enduring conflict among or between objectives, goals, customs, plans, activities, or stakeholders which is not likely to be resolved completely in favor of any polar position in that conflict" [7].

Based on Coates' definition, Galvin identified "conflict" and "compromise" among values as two common themes of information policy issues. He viewed information policy as the product of striking a balance among competing values. He identified three information-related values: access rights, proprietary rights and privacy rights and then categorized information policy issues into three types [7]. The first is "concerned with establishing, implementing, or defining the limits of a single information-related principle or value." The second type involves a conflict between a principle of information-related values and some other competing actual or perceived societal, political or economic value such as national security, public decency and public safety etc. The third type refers to "a conflict between any two, or among all three, of the information-related values" [7].

With regard to access rights to information, Galvin observed the tension between those who consider access rights absolute and others who believe that restriction on access rights must be accepted in some instances. Galvin believed that although it is generally agreed that some restrictions on speech and on the

press are necessary, constraints on access to information should be few in number and should be imposed only under the most compelling circumstances [7].

Similarly, Rowlands identified and used two dimensions—“public good vs. tradable commodity” and “access vs. secrecy”—to map the normative structure of information policy debate [15]. He displayed these two sets of forces in a matrix and listed instances of information policy issues in each quadrant (see Figure 1) [15]. According to Rowlands, the value of free access to information may conflict with the value that tends to restrict information and the value that regards information as a tradable commodity. Moreover, echoing Galvin’s points, Rowlands stressed the need of finding a balance between these two strong but opposing forces [15]. Rowland shared Galvin’s observation that the practical realities of informing policy have much to do with the art of compromise. “There are neither ‘good’ nor ‘bad’ policies but maybe there can be effective compromises between competing interests [16].” He further addressed that information policy is flexible, dynamic and responsive to changing circumstance [16]. Like Galvin, Rowlands also noticed the inherent tension in the notion of access to information: “in many situations, the widest possible access to information is seen as a good thing; in other circumstances, there are real problems in allowing unrestricted information access [15].” Rowlands also pointed out that powerful sources in society might constrict information flows for their own advantage [15]. Though using different dimensions, Galvin’s framework and Rowlands’ structure are the same in essence especially in terms of their shared emphasis on two themes of information policy issues: conflict and compromise.

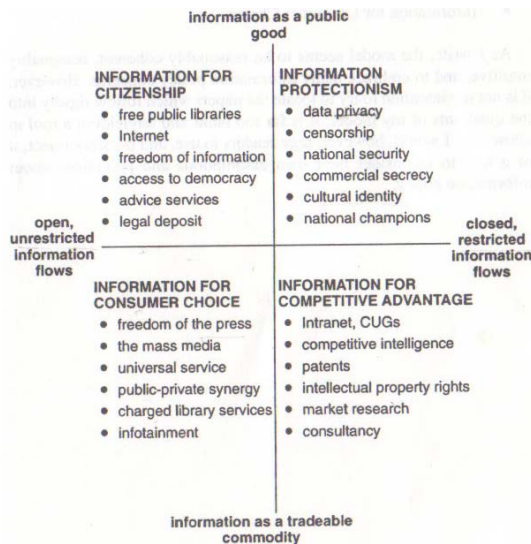


Figure 1. Rowlands' Map of Information Policy

Galvin and Rowlands both stressed that a balance among competing values is responsive to its contextual conditions. In this way, they may have implied that policy makers in different countries might take different approaches in the process of striking a balance among competing values. However, none of them discussed the potential conflict among those countries with different information policies. Therefore, although Galvin and

Rowland’s framework may work well in analyzing conflicts within one country’s territory, they seem to be insufficient in analyzing information policy conflicts across nations.

2.2 Conflict Across Nations

In 1948, the United Nations proclaimed the Universal Declaration of Human Rights as “a common standard of achievement for all peoples and all nations”. The Article 19 states that “Everyone has the right to freedom of opinion and expression; this right includes freedom to hold opinions without interference and to seek, receive and impart information and ideas through any media and regardless of frontiers [20].”

However, Matua criticized the idea of having one universal set of human rights for all people in all nations. He commented that the Declaration “is fundamentally Eurocentric in its construction”. “Its emphasis on the individual egoist as the center of the moral universe underlines its European orientation. The basic human rights texts drew heavily from the American Bill of Rights and the French Declaration of the Rights of Man. There is virtually no evidence that they drew inspiration from Asian, Islamic, Buddhist, Hindu, African, or any other non-European traditions [13].”

A number of researchers identified and studied the differences and conflicts among countries. Hofstede identified five dimensions in differentiating cultures [10]. They are power distance, individualism, masculinity, uncertainty avoidance and long-term orientation. He then scored each country differently on these five dimensions. In conclusion, he argued that “culture is more often a source of conflict than of synergy” [10]. Davison and Martinsons [2] emphasized the increasing importance of cultural issues in many disciplines. They reminded researchers that people in different countries do things in different ways and use various approaches to develop and express their ideas. They stressed that many people often do not realize that their ways of doing, thinking or expressing is unlikely to be universal [2]. Evans and Yen identified a list of factors that could impact the e-government initiatives in different countries. These factors include economic divide, cultural issues, historical issues, style of government and ideology, social values, and different concerns about security and privacy. [6].

With regard to cross-national information policy conflict, there are many studies on international intellectual property and privacy issues, but only a few investigated the differences and conflicts across nations regarding access to information. Mayer-Schonberger and Foster studied the national regulations in a number of countries that restrict access to information. Those regulations target libel, pornography, subversive information, hate speech, privacy protection, obscenity, and subversive advocacy [12]. In each of these categories, they list examples to show how various countries regulate speech differently given different context. Countries studied include the US, the UK, Canada, Germany, Spain, Japan, Mexico, Egypt, Saudi Arabia, India, Singapore, and Vietnam etc [12]. They found that these national speech restrictions, which originally can be forced within the territory to which they apply, now face a challenge that is made possible by the Internet. Information that is legal in one country can now be disseminated by the Internet to countries with more restrictive speech and information

regulations. As a result, national speech regulators worry about the undermining effect of the Internet on domestic controls and enforcement, and meanwhile free speech advocates are upset with the fact that the Internet is not free of restrictions [12]. Conflicts are thus situated among countries with different—and sometimes opposing—information policies.

To date no study has attempted to build a conceptual framework for cross-national information policy conflict regarding access to information. This study attempts to fill the gap in order to understand and analyze the conflict more thoroughly,

3 METHODS

This exploratory investigation is a will carry out a qualitative study of the responses of the US and Chinese governments to cross-national conflict regarding access to information and practices of three American Internet companies, Yahoo, Google and Microsoft. The study attempts to identify common patterns across their responses and practices.

The units of analysis are national governments and multinational companies. The two national governments selected for the study are the US government and Chinese government. The substantive differences between the two countries with regard to political, economic, social, historical and cultural context may constitute an interesting and significant cross-national conflict for study. The three companies selected are all market leaders in the industry whose practices may have considerable impact on the industrial practices and set precedents for the followers.

The main method used is qualitative content analysis will be conducted of secondary data gathered from various sources, which include online news and congressional archives: testimony in the joint hearing on the Internet in China before the Committee on International Relations of the U.S. House of Representative held in February 2006. Three representatives who testified in the hearings are: Mr. Michael Challahan, Senior Vice President and General Counsel of Yahoo! Inc.; Mr. Jack Krumholtz, Managing Director of Federal Government Affairs and Associate General Counsel, Microsoft Corporation; Mr. Elliot Schrage, Vice President for Corporate Communications and Public Affairs of Google, Inc [1].

The background of the stories will be briefed based on information collected from different sources. Two frameworks, Galvin's typology of information policy issues and Rowlands' normative structure of information policy, will be used as foundations for analysis and model building.

4 BACKGROUND: CHINESE GOVERNMENT'S INTERNET CONTROL POLICY

China is becoming an increasingly huge and fast-growing market for the Internet. Domestic Internet Service Providers (ISPs) and Internet Content Providers (ICPs) are increasing continuously and the numbers of Internet users are booming due to rapid economic growth. By November 2006, over 123 million Chinese were utilizing the Internet [14].

While the government has aggressively adopted information technologies as an engine for its economic development, it has done so with attempts to minimize undesired political consequences that might undermine the government's governance over the country [3]. As a result, the Chinese government adopted an Internet control policy and blocked thousands of web pages within its borders [22].

A number of important measures were taken to accomplish this task. First, a large nation-wide intranet was built with four state-controlled nodes connecting to the world outside. This effort provided an outer layer of control and a basis for "firewall" technologies to be implemented [3]. Second, a number of blocking and filtering technologies are used by the government to control the Internet. These methods include but are not limited to: filtering on the basis of web server IP address; filtering on the basis of domain name server IP address; filtering on the basis of keywords in URL; filtering on the basis of keywords or phrases in HTML response [22]. Third, domestic websites are required to enforce self-censorship. Currently nearly all the ISPs, ICPs and Internet cafés in China have deployed self-censorship in order to survive and develop, and they have also formally pledged to the government to keep the web "clean" [11].

According to the government regulation, the following content should not be produced, reproduced, released and disseminated by the ISPs: "content that opposes the basic principles set forth in the Constitution;" "jeopardizes national security, divulges State secrets, subverts the government or undermines national unity;" "is detrimental to the dignity and interests of the State;" "incites ethnic hatred or racial discrimination, or that damages inter-racial unity;" "damages the State's policy on religion, or that advocates cults or feudal superstitions;" "spreads rumors, disrupts the social order or undermines social stability;" "shows obscenity, pornography, gambling, violence or murder, or is terrifying, or that incites criminal activities;" "insults or slanders other people, or that infringes upon their legitimate rights and interests;" and "other content prohibited by laws or administrative regulations" [17]. Though comprehensive and broad, this list appears implicit and vague without clear boundaries and definition.

5 NEWS REPORTS: YAHOO, MICROSOFT, GOOGLE'S PRACTICES IN CHINA

Yahoo started providing services in China in 1998. In October 2005, Yahoo partnered with Alibaba, a Chinese Internet company. As a result, Yahoo now holds a 40 percent stake as the largest investor in Alibaba [21][1]. According to Reporters Without Borders, since 2002, Yahoo has agreed to filter the results of its Chinese-version search engine in accordance with a blacklist provided by the Chinese government. In 2002, Yahoo signed a pledge of "self-discipline" promising to follow China's censorship laws. Amnesty International revealed that in the last few years Yahoo's Chinese division provided Chinese authority with information that lead to the sentencing of two Chinese dissidents. The information provided includes email account holders' information and messages from those accounts [21][1].

Microsoft set up its first office in China in 1992. According to Amnesty International, Microsoft's search engine MSN blocks websites with certain key words like "democracy", "freedom" "human rights" etc. Microsoft Space, which provides tools for building personal blogs, also prohibits and removes blog titles and postings that contain these key words. In 2005, the company shut down, at the request of the Chinese authorities, the MSN space of a Beijing blogger, who posts information offensive to the Chinese government [21][1].

Around 2001, Google launched its Chinese-language search service. In September 2002, the access to its service within China was blocked by the Chinese government [19]. Possible reason is that Google search results can show up information that the government doesn't want to be revealed, even though the government can actually block the links to these websites. [21][1].

Under domestic and international pressures, the block on Google was lifted two weeks later. Instead, the government started to take a softer and more discreet approach. Google found that its service in China constantly experiences delay and temporary showdown [19]. These problems seriously affect the service quality of Google in China compared to its competitor Baidu, a Chinese domestic search engine. In January 2006, Google launched google.cn, a Chinese-language version of its search engine, which is self-censored so as to make its service quicker and more accessible in China [8].

On Feb 15, 2006, being criticized for collaboration with the Chinese government for censoring the Internet and for "decapitating the voice of the dissidents", Yahoo, Microsoft and Google were requested to testify in a joint hearing on the Internet in China before the Committee on International Relations of the U.S. House of Representative [21].

6 FINDINGS

Content analysis identifies a couple of patterns across responses of the two national governments and the three companies' practices in China. I categorize those patterns into several themes as follows with related quotes.

6.1 Explicit Cross-national Conflict

The U.S and Chinese government both guarded their own information policies firmly. A cross-national conflict appeared between the two countries prominently. Politicians and officials in the U.S Government affirmed the value of freedom of information and criticized the Internet control of the Chinese government.

"The Internet has become a malicious tool, a cyber-sledgehammer of repression of the Government of the People's Republic of China [1]." Said Representative Christopher H. Smith, Republican of New Jersey.

"...the right to freedom of expression is firmly anchored in international law and in multilateral conventions and is an American foreign policy priority. We intend to sustain a robust foreign policy response to these challenges [1]." Mr.

James R. Keith, senior advisor for China and Mongolia, U.S. Department of State, wrote in his testimony.

At the same time, the Chinese government officials also defended their policy firmly. Liu Zhengrong, deputy chief of the Internet Affairs Bureau, the State Council Information Office said:

"The Chinese Government has been very positive in supporting the Internet and has enacted only necessary legislation to support its development [5]."

"When users are blocked access to some foreign websites, it is usually because these sites contain information in violation of Chinese law [5]."

"Penalties imposed on websites carrying illegal and harmful information have been lenient in China, no website has been shut down in the country for providing a few pieces of such information [5]." "No one in China has been arrested simply because he or she said something on the Internet [5]."

At a regular press conference, Foreign Ministry Spokesperson Liu Jianchao responded to a question on the issue as follows:

"Some media and critics attacked China relating to activities of Google and Yahoo. I do not believe that they know well of our policy on internet. The Chinese Government values the development of internet. Since you live in China, I believe that you are very clear of the development of internet and the rapid increase of internet users in China. Up to the end of last year, 110 million users in China can have unimpeded and fast access to information from over 700,000 websites. These figures are continuing to grow. Wider coverage of internet has promoted China's economic development and facilitated people's work, study and life [4]."

6.2 Chinese Government: Regulating the Internet is International Practice

Chinese officials further argued that regulating the Internet is an international practice. Access to the Internet in western countries is also subject to restriction due to various concerns and what the Chinese government does is just the same thing. Liu Zhengrong said:

"Regulating the Internet according to law is international practice," "After studying Internet legislation in the West, I've found that we basically have identical legislative objectives and principles [5]."

"Some leading US websites, including those of Yahoo and The New York Times, have explicit stipulations when it comes to posting messages in forums." "For example, The New York Times website says: 'We reserve the right to delete, move or edit messages that we deem abusive, defamatory, obscene, in violation of copyright or trademark laws, or otherwise unacceptable. We reserve the right to remove the posting privileges of users who violate these

standards of Forum behavior at any time.’ It is unfair and smacks of double standards when (they) criticize China for deleting illegal and harmful messages while it is legal for US websites for doing so [5].”

Foreign Ministry Spokesperson Liu Jianchao also argued: “Various countries have adopted corresponding policies and regulations. The Chinese Government has done the same to manage the Internet in accordance with law.” “The purpose, which is reasonable, rational and legal, is to protect the interest of the general public [4].”

Moreover, it is interesting that when the US government denounced China’s Internet control for the sake of political suppress, the Chinese government mainly defended its information policy for social and cultures concerns such as pornography, terrorism, protection of teenagers etc.

Liu Zhengrong said that Chinese people can access the Web freely, except a very few blocked foreign websites whose contents mostly involve illegal and harmful information in violation of Chinese law such as pornography or terrorism [5]. Liu Jianchao also stated:

“Like other countries, China also faces the same problem of how to tackle with online harmful and illegal contents, some of which have endangered the healthy development of youngsters [4].”

6.3 Governments Imposed Strong Pressure on Multinational Firms

The U.S. government criticized the compromises that those firms have made in China and attempted to stop them. Many criticized for betraying democratic values including the belief in freedom of information and universal access to information. They believed that by working with the Chinese government on the Internet censorship, those companies become tools of state repression. They cannot understand why a company like Google with the slogan "Don't Be Evil" would choose to compromise with the censorship of an authoritarian regime. "That makes you a functionary of the Chinese government," said Jim Leach, an Iowa Republican [19].

Congress tried to take measures to stop multinational companies’ compromises and to promote the American values aboard. Christopher H. Smith’s proposed a bill called the Global Online Freedom Act. The bill intends to establish an Office of Global Internet Freedom, which would establish standards for Internet companies operating abroad such as prohibiting companies from filtering out certain political or religious terms [1]. The State Department also announced the formation of a new Global Internet Freedom Task Force, charged with examining efforts by foreign governments "to restrict access to political content and the impact of such censorship efforts on U.S. companies [1].”

Meanwhile, a few members of the Congress defended those companies’ practices. They actually moderated the government pressures on firms.

“When you are talking about interacting with regimes that you disagree with, there are a lot of very complicated and

important issues that come up... [1]” “When we look at this particular issue, the one thing that occurs to me is, let us assume for the moment that no United States tech company does business in China. Does it get better? Is it less repressive? Does China move forward? I do not think so, not in the least bit. I think lashing out at the companies there as sort of enabling this is a little absurd. [1]”

At the same time, the Chinese government officials also imposed strong pressure on multinational firms and insisted that they should comply with Chinese laws and regulations when doing business in China:

“Companies, including Internet firms, that provide services in China must observe Chinese statutes.” “Global companies should know how to provide lawful services and what they should do when providing such services. It is their own business when it comes to specific methods and approaches [5].” Deputy Chief Liu Zhengrong said.

“Foreign companies will have to observe Chinese laws and regulations if they want to do business in China [4].” Foreign Ministry Spokesperson Liu Jianchao said.

6.4 Cross-national Conflict Identified and Understood by Multinational Firms

All three firms captured the distinctiveness, the complexity and controversy of the cross-national conflict they faced:

Yahoo

“We all face the same struggle between American values and the laws we must obey [1].”
“American companies face a choice: Comply with Chinese laws or leave [1].”

Microsoft

“The issues we face are global in scope [1].”
“...the challenges companies like Microsoft face in providing Internet services in countries whose laws and free speech protections do not mirror our own. [1]”
“The Internet raises issues of legitimate governmental concern...but authorities around the world have made different judgments about the standards appropriate to their cultures and national circumstances. The Chinese effort to manage content on the Internet is just the most troubling of these fundamental differences [1].”

Google

“We faced a difficult choice: compromise our mission by failing to serve our users in China or compromise our mission by entering China and complying with Chinese laws that require us to censor search results [1].”
“We recognize the conflict and the inconsistency [1].”

6.5 Compromises were Made by Multinational Firms

Cross-national information policy conflict constitutes a dilemma that multinational companies have to face. Which value system

should they follow, the value system of its home country or the value system of the country where it runs its business? Multinational companies actually took a pragmatic approach in order to survival in business. It is evident that all three companies have made compromises and taken efforts to strike a balance between the two countries. They did not ignore the information policy of either country; at the same time they did not make absolute concessions to either side.

Yahoo

Efforts and commitments are made by Yahoo in favor of American values:

“We will...explore policies...to promote the principles of freedom of speech and expression [1].”

“We took steps to make sure that our Beijing operation would honor such demands only if they came from authorized law enforcement officers and only if the demand for information met rigorous standards establishing the legal validity of the demand [1].”

“We will strive to achieve maximum transparency to the user. [1]”

Meantime, the following compromises were made towards the Chinese government:

“Yahoo! China was legally obligated to comply with the requirements of Chinese law enforcement [1].” “When we receive a demand from law enforcement authorized under the law of the country in which we are operating, we must comply [1].”

Microsoft

Microsoft made the following efforts and commitments leaning towards American values:

“We are actively seeking ways of reducing risks to individual users while maximizing the availability of information and opinion through these services [1].” “We comply with them (Chinese government) only to the extent required by law [1].” “Those who attempt to search for these words receive an error message announcing ‘this item contains forbidden speech’ [1].”

At the same time, arguments were made for its compromise towards the interests of the Chinese government.

“...there is not a government in the world, including the United States, which would accept the proposition that companies can set their own terms of operation in defiance of local law [1].”

Google

Google also took a series of measures to guard the values of the United States:

Other than the filtered google.cn, “...for those who want to seek unfiltered results, we will continue to make the unfiltered results available through google.com [1].” “We will provide them disclosure when we are filtering [1].” This notice is stated at the end of the search results on

google.cn: “According to local laws, regulations and policies, part of the search results are not displayed [1].”

“We will protect their privacy and confidentiality,” Products “such as Gmail and Blogger, that involve personal and confidential information, will not be introduced in China with the concern that Google may be forced to censor blog postings or handover dissidents’ personal information to the Chinese government [1].”

Similarly, Google has compromised to “be responsive to local conditions” in China.

“We have offered google.cn as a search Web site inside China for Chinese users...It will be faster, more reliable, with more and better search results for all but a handful of, yes, politically sensitive search requests. We are not happy about it, but that is the requirement [1].”

Google also stated very clearly its effort of striking a balance among values:

“In an imperfect world, we had to make an imperfect choice [1].” “We reached our decision by balancing three commitments: our commitment to user interests, our commitment to access to information, and our commitment to responding to local conditions [1].”

6.6 Degree of Compromise Varies Across Firms

A comparison among three companies’ practices in China reveals a variation across them in terms of the direction and degree of making compromises. Yahoo seemingly goes farthest in catering to the requirements of the Chinese government by signing a pledge of self-censorship, by agreeing to filter the search results, and by going as far as to provide the Chinese government with personal information of its users. On the contrary, Google goes farthest in favor of the American values by retaining the unfiltered google.com in China in addition to the filtered google.cn, by disclosing filtering, and by providing limited services to protect the privacy and security of user information. Microsoft stands in the middle by blocking websites and blogs with certain key words and shutting down certain blogs occasionally, but at the same time also disclosing filtering in the search results [21][1].

The variation across them actually suggests that the direction and degree of their compromise is responsive to circumstances and may change over time. We will then explore the variables that may have impacts on their decisions in the next section.

6.7 Variables Influencing Firms’ Practices

Some of the factors that may have influenced their decisions are identified as below. Different companies may be constrained by or perceived those factors at different levels, and thus might act differently.

6.7.1 Governmental Factor

The government factor refers to the strength of the pressures from the two national governments respectively. It is evident in the material that both the U.S and Chinese government guarded their own information policies firmly and intended to pull the multinational firms to their side. The strength of their pressures

and determinations to enforce their information policies will then have an impact on a firm's decisions.

6.7.2 Market Factors

Market factors are identified in the case including market attractiveness and the degree of competition. One indicator of market attractiveness is the size and potential of the Chinese Internet market. The Vice President Schrage of Google illustrated:

"There is no question that, as a matter of business, we want to be active in China. It is a huge, rapidly growing, and enormously important market." "There are currently more than 105 million Internet users in China. Nearly half of them have access to broadband connections – an increase of 41% since 2003. Even so, Internet deployment in China is at a very clear stage, reaching only about 8% of the population. Among those under 24 years of age, more than 80% are Internet users. By 2010, China will have more than 250 million Internet users. And already, there are more than 350 million mobile phone, a number growing by roughly 57 million annually[1]."

Mr. Callahan of Yahoo said:

"The Internet has grown exponentially in China in ways that have increased China's openness to the outside world. More than 110 million in China use the Internet, with more than 400 million search queries taking place very single day. That represents an increase of almost 1,600 percent over the last 3 years. [1]"

The present market share of a firm in China represents the success of a firm in the market and is another indicator of market attractiveness.

"Since its introduction in China last May, our MSN Spaces blogging service has attracted more than three and a half million users and over fifteen million unique readers, making it the #1 such service in China [1]." Mr. Jack Krumholtz from Microsoft said.

In addition, the degree of competition in the market is also a variable that may affect a company's choice. Mr. Krumholtz from Yahoo said:

"There are Chinese competitors for your services. Competitors who would like nothing better than to see us forced to stop offering them in China [1]." "...and our key competitors are already there." Google's executive stressed [1].

6.7.3 Societal Factors

Societal actors such as media, domestic and international nonprofit organizations, universities and the general public together could also have significant impacts on multinational firms' practices. A series of media reports such as BBC and New York Times raised public concerns on the issue [8][19][21]. A number of organizations appeared at the Congressional hearing to present their opinions. Those organizations include Reporters without Borders, Radio Free Asia, Human Rights in China, China Internet Projects at University of California-Berkeley [1].

6.7.4 Internal Factors

Internal factors also have impacts. Those include the degree of a headquarter's control over its local operations and a firm's own preferences about information policy.

Yahoo argued that it has a loose control over its operation in China and that explains its practice there:

"It is very important to note that Alibaba.com is the owner of the Yahoo! China businesses, and that as a strategic partner and investor, Yahoo!, which holds one of the four Alibaba.com board seats, does not have day-to-day operational control over the Yahoo! China division of Alibaba.com. The Alibaba.com management team runs the business [1]."

Based on the favorableness of a country's information policy to its business, a firm may have its own preference about information policy. For Internet companies, the value of free access to information is vital to their business. The freer a country's information access policy is, the larger a country's potential market will be. Naturally, Internet companies themselves tend to lean more towards American values.

"Since our founding in 1995, Yahoo! has been guided by beliefs deeply held by our founders...We believe the Internet is built on openness [1]."

"Microsoft believes that issues of Internet content and customer security go to the heart of our values as a company. The Internet should be fostered and protected as a worldwide vehicle for reliable information and communications, personal expression...[1]"

"Self-censorship...is something that conflicts deeply with our core principles." "Google's objective is to make the world's information accessible to everyone, everywhere, all the time." "by serving our users better, we hope it will be good for our business. [1]"

6.8 Multinational Firms' Efforts to Make a Difference

Being constrained by the given environment, all three companies also attempted to transform their business environments and make them more favorable. They called for collective efforts to develop industry common practices and government involvement in reconciling the conflict. They also hope that the Internet itself will transform the political and social conditions in China and in long run will reduce the conflict between the two countries.

6.8.1 Collective Efforts

Realizing the disadvantages of dealing with the issue individually and the variance in practices across them, the three companies all urged collective efforts to develop common principles and policies.

Yahoo

"First, collective action. We will work with industry, government, academia, and NGOs to explore policies to guide

industry practices in countries where content is treated more restrictively than in the United States and to promote the principles of freedom of speech and expression [1].”

Microsoft

“The private sector also has a vital role to play...industry should advocate policies and principles that maximize the value of the Internet for individual users, including basic protections for freedom of expression, commercial integrity and the reliability of information...to consider the kinds of principles that would advance these values effectively on an industry basis [1].”

Google

“First, absolutely, there is a role for joint industry action. We certainly can and should come up with common principles around such issues as disclosure and transparency, perhaps public reporting of the kinds of censorship requests we get, as well as best practices for protecting user data [1].”

6.8.2 Government Assistance Urged:

Realizing the limitation of the efforts made by either one company alone or by the industry as a whole, all three companies unified around one common proposition that the government should take a leading role to promote American values abroad, reconcile conflicts and seek international consensus with regard to information policy on the Internet.

Yahoo

“We also think there is a vital role for a government-to-government dialogue of the larger issues involved. In this regard, we applaud the direction of the Secretary of State in establishing a Global Internet Freedom Task Force.” “We appeal to the U.S. Government to do all it can to help us continue to provide beneficial services to Chinese citizens lawfully and in a way that is consistent with our shared values.” “We cannot do it alone. Ultimately, the greatest leverage lies with the U.S. Government [1].”

Microsoft

“The issues we face are global in scope. It is essential that the U.S. Government play an active role in building a consensus for the widest possible availability of information over the Internet [1].”

Google

“There is a role for government. We do need your help, and you can help us. For example, censorship should become a central part of the bilateral and multilateral trade agenda. We could, for example, treat censorship as a barrier to trade and raise that issue in appropriate fora [1].”

6.8.3 Internet itself will Make a Difference

All three companies hope and actually believe that the Internet itself has the potential to transform China. They argued that the Internet will continue to improve free access to information in China in the long run.

Yahoo

“...the Internet forced the Chinese Government to be more open and more transparent. Many recent public comments, including from a researcher at the Chinese Academy of Social Sciences

and a former official from the China state media, have publicly recognized that the government cannot control the Internet [1].”

Microsoft

“Internet services like Microsoft MSN Spaces which host personal Web sites or ‘blogs’ are having a major positive impact in China despite the effort by various agencies of the Chinese Government to control certain kinds of political content.” “A survey of Chinese Internet users found that 48 percent believe that by going online, the Chinese will learn more about politics, and 60 percent believe that the Internet will provide more opportunities for criticizing government.” “The Internet has already transformed the economic, cultural, and political landscape of China. It is vital that companies...with the widest array of communications and information services, continue to offer services there [1].”

Google

“...we have determined that we can do the most for our users and do more to expand access to information if we accept the censorship restrictions required by Chinese law.” “Based on what we know today and what we see in China, we believe our decision ...is a reasonable one, better for Chinese users...[1].”

7 ANALYSIS AND FRAMEWORK

Based on the findings, I will develop an analytical framework to model cross-national information access policy conflict. I will start by applying Galvin’s and Rowlands’s model to the case.

Applying Galvin’s model identifies a type II problem in the case about a conflict between the value of access to information and other values such as political and social stability, national security, ethnic harmony, public decency and so forth. Similarly, Rowlands may identify in the case a conflict between the value of free access to information and the value of restricting information. However, while Galvin’s and Rowlands’s models may work well in analyzing information policy conflict within a country’s territory, they did not capture all the nuance in this cross-national case.

The Chinese government’s argument (Section 6.2) that regulation of the Internet exists in the US as well China actually suggests that conflicts and compromises between values occur in both US and China. However, since the governments of the two countries put different weights on various values in the process of balancing competing values, they actually take different approaches to strike a balance between these values.

Given its historical and cultural background, the U.S. puts high priority on the right of access to information that is stated in the First Amendment of its Constitution. As a result, the U.S. government moves the fulcrum more towards this value to achieve a balance (see Figure 2). On the contrary, the Chinese government put especially heavy weights on the value that tends to restrict information due to the interests of national security, political stability, social order, ethnic harmony, and public decency etc. Consequently, China moves the fulcrum more towards these interests to strike a balance in a way very different from the U.S. (see Figure 3).

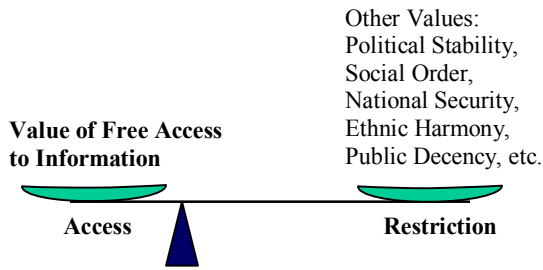


Figure 2. The US's Balance

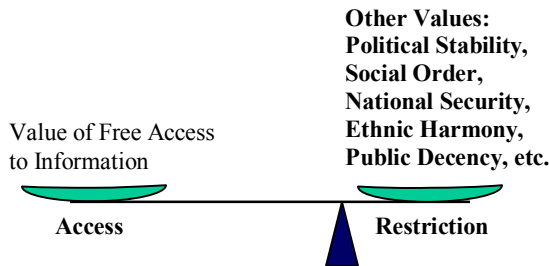


Figure 3. China's Balance

Therefore, it is the two countries' different approaches in the process of striking a balance among values that cause cross-national information policy conflict. While Galvin and Rowlands defined domestic information policy conflict as conflicts among competing values [7][16], I would like to define cross-national information policy conflict as "conflicts between nations' different approaches in the process of striking balances among competing values". Particularly, with regard to access to information, cross-national conflict is not simply about a battle between the value of "free access to information" versus the value of "restricting information", instead, it is about a conflict caused by the distance between two countries' different approaches in the process of striking a balance between "access" and "restriction". Therefore, cross-national conflict is a problem more of "degree" than "direction". A conceptual model is built to visualize this concept (see Figure 4).

This framework extended Galvin's and Rowlands's models by adding a new dimension—nation. In this model, the balances that the two countries have made are put on the trays of each side of the cross-national scale. The lever between the two trays represents cross-national information policy conflict. The length of the lever represents the degree of conflict between the two countries. The longer the lever is, the higher the degree of the conflict between the countries might be. Moreover, the degree of cross-national conflict is dynamic and could change over time, when the political, economic and cultural context of one or both countries changes.

When the US government attacked China's Internet control for political reasons, the Chinese government defended itself mainly for social and cultures concerns. This may indicate that cross-national information policy conflict may have two dimensions: political distance and cultural distance. The sum of the two distances determined the total length of the lever, namely, the degree of the cross-national conflict.

Many westerners tend to attribute the conflict between the two countries to the nature of China's political system. This view actually may tell only part of the story. After all, China is a

country with unique history, tradition and culture. Even if it becomes a democratic country according to western standards overnight, it may still take a very different approach in making information policy from those of western countries. When the political distance between the two countries might be reduced to some extent one day, the cultural distance may still exist for a very long period of time.

The conflict that these companies face in China is not the only examples of this kind. Google France and Google Germany also removed links to some extreme political websites such as Nazi sites and hate sites according to the local laws and regulations [18]. One reason that makes those cases not as controversial as the case of China might be that France and Germany are both politically and culturally closer to the US than China. Namely, the length of the lever between France (or Germany) and the US may be much shorter than the one between China and the US.

Multinational firms running business across borders actually faces two value system. Findings show us that firms made compromises trying to strike a balance between the two systems. The fulcrum under the lever thus represents the balance point of multinational companies. Again, the position of the balance point is dynamic and situational, and could be different for different companies at different times. Some governmental, market, societal, and internal factors that might influence a multinational firm's position of balance point on the lever are identified.

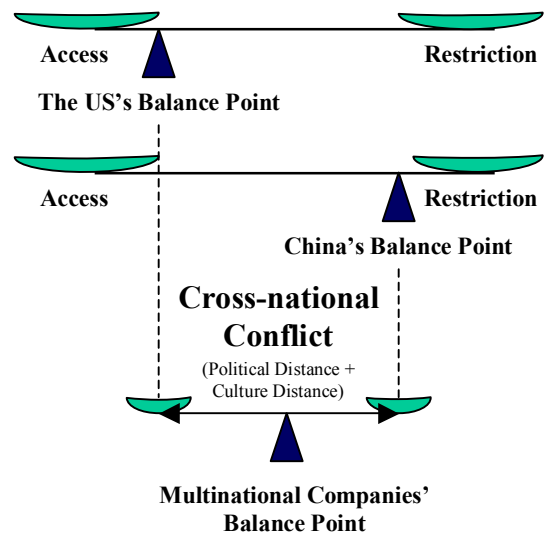


Figure 4. Conceptual Framework of Cross-national Information Policy Conflict

8 IMPLICATIONS

Findings of the study and the conceptual framework built could have a number of implications for policymakers. First, as a regulator, government is required to enforcement its information polices. When the study indicated that multinational firms' compromises seem to be common and inevitable, policymakers in one country may need to think about how far firms are allowed to go towards the other side of the lever and whether a

boundary needs to be set to limit their choices. Also, in order to better enforce its information policy and pull a multinational firm's balance point towards its side, other than imposing political pressures on firms, a government may also need to take into consideration other factors in market, society and firms' internal arrangements.

The study also indicates that as a regulator, other than imposing pressures on multinational firms, a national government may need to communicate with the national government of other countries and take a government-to-government approach to reduce the degree of the conflict. The framework suggests that the shorter the length of the lever, the closer a firm's balance point could be to one or both governments' side, and thus, the more effective a government's information policy enforcement could be.

Second, as an information user, a government itself may be faced with cross-national conflict directly. Due to globalization and increasing interdependence among countries, a national government often needs to share information with other nations on issues such as epidemic diseases, border control, anti-terrorism etc. This study suggests that cross-national conflict could be a barrier for transnational information sharing. A national government needs to negotiate directly with the government of other countries to reconcile the conflict, before they can achieve the goal of transnational information sharing successfully.

In sum, the study suggests that, faced with the cross-national conflict, a national government may also need to play another role: a negotiator in international arena. In this role, a national government is supposed to reduce the degree of cross-national conflict, that is to say, to shorten the length of the lever between the two countries. As what the above analysis has demonstrated, a shorter lever could help a government to play its role more effectively as both a regulator and an information user. In the most ideal situation, the length of the lever could be reduced to zero, namely, cross-national conflict is eliminated and a consensus is built between countries.

From the framework, we can see that a national government could shorten the length of the lever in two ways: bringing the other nation's position closer to itself or moving itself closer to the other nation as a result compromise. Whenever possible, a national government tends to choose the former way. Though theoretically it is possible, in reality it may be more often to see both approaches occurring at the same time in a government's practice. Namely, both countries make some compromise in negotiation in order to reconcile the conflict and build international consensus.

The degree of cross-national conflict could change over time with a country's political, economic and cultural transformation. Therefore, policymakers of one country may be able to reduce the degree of cross-national conflict through influencing the fundamental political, economic and cultural context in another country.

The study implies that government might need to deal with cultural distance and political distance separately. Although the former is usually less controversial and more acceptable than the

latter, the former could actually be more difficult to deal with, as culture is deeply embedded in people's beliefs and behaviors. The study also shows that the conflict is not simply about a battle between the value of "free access to information" and the value of "restricting information", but about a difference between two countries' approaches in the process of striking a balance between two values. Keeping this in mind, policymakers may be able to find more common languages in negotiations. Furthermore, policymakers in one country can even find allies in the other country who share the same value with them.

Compared to multinational firms' companies, governments are faced with more domestic and international constraints and pressures when they attempt to make compromise. Like the position of balance point for a multinational firm's compromise, where a consensus finally stands between two national governments is also dynamic and depends on circumstances. Some possible influential factors could include the relative international political, economic, and cultural power of a country, strength of domestic pressure, negotiation skills etc.

9 CONCLUSION

The paper probed the nature of cross-national information policy conflict and studied the responses of governments and multinational Internet companies to the challenge. Then it developed an analytic framework to model the conflict and came up with some implications of the framework to policymakers.

One limitation of this paper is that it only studied three companies and two national governments. It also only focused on the conflict regarding access to information. To make the findings more generalizable, future research can consider studying more cases, more countries and more information policy issues across countries. In addition, the materials used for content analysis in this paper are all secondary data. Other sources of information should be included in future studies to avoid bias.

Some of the directions for future research could be: testing the model to other cases; investigating government's negotiation practices in international arena; studying deeply the relationship and dynamics among multinational companies, national governments, international organizations, societies and Internet users. In addition, a series of controversial and fundamental questions need to be considered and discussed by researchers and practitioners to further probe the issue:

- 1) Are there any universal values across nations? If yes, who has the right to decide whether a value is universal or not? Who has the right to define such a value? How and by what kind of mechanism to make those decisions? By a unilateral, a bilateral or a multilateral approach? And most important, how can we prevent such rights from being abused?
- 2) Other than the universal values, do we also need to respect local values?
- 3) If we agree that we need to respect local laws and values, is there an exception when we deal with an authoritarian regime in which a government's value and policy may not represent the will of its people? If there is such an exception, then who has the right and how to decide whether a local law represents the will of its people? Is it appropriate and safe to let any one

country to make a decision for people in another country with regard to its policy and value system?

Discussions around the topic have gone into the domains of international law, international politics, public policy, information studies, sociology, anthropology, information technology etc. We need to bridge those disciplines together to study the issue from various perspectives. Whatever answers we may come up with, one thing may be certain: there will be no one right answer as long as this world remains as diverse as it is today, and there will be no one static answer over time as long as the world keeps changing in the future as it did in the past.

10 ACKNOWLEDGEMENT

The author wishes to thank Professor Sharon Dawes for her great guidance and support in the process of writing this paper.

11 REFERENCES

- [1] Committee on International Relations, House of Representative. The Internet in China: a tool for freedom or suppression. *Joint Hearing Before the Subcommittee on Africa, Global Health Rights and International Operations and the Subcommittee on Asia and the Pacific of the Committee on International Relations, House of Representatives*, 15 Feb, 2006, <<http://www.internationalrelations.house.gov/109/26075.pdf>> (15 Dec, 2006).
- [2] Davison, R. and Martinson, M. Guest editorial cultural issues and IT management: past and present. *IEEE Transactions on Engineering Management*, 50, 1 (Feb.2003), 3-7.
- [3] Deibert, R. J. Dark guests and great firewalls: the Internet and Chinese security policy. *Journal of Social Issues*, 58, 1, (2002), 143-159.
- [4] Embassy of the People's Republic of China in the United States of America. Foreign ministry spokesperson Liu Jianchao's press conference on 14 February 2006, 14 Feb, 2006, <<http://www.china-embassy.org/eng/fyrth/t235451.htm>> (14 Dec, 2006).
- [5] Embassy of the People's Republic of China in the United States of America. Regulation of Internet in line with world norms: China, 15 Feb, 2006, <<http://www.china-embassy.org/eng/gyzg/t235534.htm>> (15 Feb, 2006)
- [6] Evans, D. and Yen, D. E-government: An analysis for implementation: framework for understanding cultural and social impact. *Government Information Quarterly*, 22, 3 (2005), 354-373.
- [7] Galvin, T.J. Rights in conflict: public policy in an information age. In *New worlds in information and documentation: Proceedings of the 46th FID Conference and Congress*. (The Hague, The Netherlands, October 22-29, 1992). FID, The Hague, The Netherlands, 1994, 59-66.
- [8] Google censors itself for China. *BBC*, Jan 25, 2006, <<http://news.bbc.co.uk/1/hi/technology/4645596.stm>> (15 Dec, 2006).
- [9] Hernon, P. and Relyea, H.C. Information Policy. In *Encyclopedia of library and information science 48 II*. Dekker, New York, NY, 1968.
- [10] Hofstede, G. Geert Hofstede cultural dimensions, <<http://www.geert-hofstede.com/>> (17 Dec, 2006).
- [11] Li, C. Internet content control in China. *International Journal of Communications Law and Policy*, 8 (winter), (2003/2004). 1-38.
- [12] Mayer-Schonberger, V. and Foster, T. A regulatory web: free speech and the global information infrastructure. In *Borders in Cyberspace: Information Policy and the Global Information Infrastructure*. The MIT Press, Cambridge, MA, 1997.
- [13] Mutua, Makau. *Human Rights: A Political and Cultural Critique*. University of Pennsylvania Press, Philadelphia, PA, 2002
- [14] Miniwatts Marketing Group. Internet World Stats (2006), <<http://www.internetworldstats.com/stats3.htm>> (15 Dec, 2006).
- [15] Rowlands, I. General Overview. *Understanding Information Policy*. Bower-Saur, East Grinstead, West Sussex, UK, 1996, 3-16.
- [16] Rowlands, I. Understanding information policy: concept, frameworks and research tools. *Understanding Information Policy*. Bower-Saur, East Grinstead, West Sussex, UK, 1996, 27-45.
- [17] State Council. Measures for the Administration of Internet Information Services (2000), <<http://www.perkinscoie.com/page.cfm?id=67>> (15 Dec, 2006).
- [18] Sullivan, Danny. Google Now Censoring In China. *SearchEngineWatch*, Jan. 25, 2006, <<http://blog.searchenginewatch.com/blog/060125-072617>> (15 Dec, 2006).
- [19] Thompson, Clive. Google's China Problem (and China's Google Problem). *New York Times*. April 23, 2006, <<http://www.nytimes.com/2006/04/23/magazine/23google.html?ex=1303444800&en=972002761056363f&ei=5090>> (15 Dec, 2006).
- [20] United Nations, Universal Declaration of Human Rights (1948), <<http://www.un.org/Overview/rights.html>> (March 12, 2007).
- [21] Zeller, T. House member criticizes Internet companies for practices in China. *New York Time*. 15 Feb, 2006, <<http://www.nytimes.com/2006/02/15/technology/15cnd-internet.html?ex=1297659600&en=1d2dce56f6c4a728&ei=5088&partner=rssnyt&emc=rss>> (15 Dec, 2006).
- [22] Zittrain, J. and Edelman, B. Internet filtering in China. *IEEE Internet Computing*, March/April, (2003), 70-77