

# Statement of Chairman Lantos at hearing, Yahoo! Inc.'s Provision of False Information to Congress

When the news broke in August that this committee was investigating officials at Yahoo! Inc. in connection with repression in China, CNN International carried the story – but nobody in China saw it. As soon as the anchor started discussing this case, the screen faded to black. And that is typical. State control over media in China – from the printing presses to the airwaves to the Internet – is practically absolute.

Those who manage occasionally to pierce the veil of secrecy pay a heavy price. Such is the case with a young journalist named Shi Tao, who is languishing in a Chinese dungeon on a 10-year sentence because he pierced the veil, and a huge, U.S.-based multinational company practically led the police to his door.

On the eve of the 15th anniversary of the Tiananmen Square Massacre three years ago, the Chinese government issued a directive forbidding journalists from covering anything related to this anniversary.

In a brief second that would have a momentous impact on the rest of his life, Shi Tao hit the “forward” button on his Yahoo! email account, and sent the government’s message to a NGO overseas advocating for democratic change in China.

When the Chinese government set out to unlock the mystery of who had publicly disclosed this document, they went to the offices of Yahoo! China to provide the key. The flagship American company represented by our two witnesses today – Chief Executive Officer Jerry Yang and General Counsel Michael Callahan – complied with the request from the Chinese political suppression apparatus and provided the necessary identifying information to track down Shi Tao.

If you think our witnesses today are uncomfortable sitting in this climate-controlled room and accounting for their company’s spineless and irresponsible actions, imagine how life is for Shi Tao, spending ten long years in a Chinese dungeon for exchanging information publicly – exactly what Yahoo! claims to support in places like China.

In February 2006, under the then-Republican majority, this Committee convened a hearing on, and I quote, “The Internet in China: A Tool for Freedom or Suppression?” The hearing was chaired by my good friend and distinguished colleague, Representative Chris Smith. Witnesses included representatives from the State Department, Yahoo!, Microsoft, Google, Cisco Systems, and several NGOs. Yahoo! had been invited to testify specifically to address the facts of the Shi Tao case. They did so under oath, swearing to tell the truth, the whole truth and nothing but the truth.

Michael Callahan, the General Counsel of Yahoo, gave sworn testimony about the case and Yahoo!’s operations in China. Mr. Callahan has not been accused of perjury – that would be the willful violation of an oath either by swearing to what is untrue or by deliberately omitting information that is material. But as General Counsel for Yahoo! he did provide false information to this Committee in this critically-important hearing eighteen months ago.

In an effort to convince this Committee that Yahoo! was not a knowing agent of Chinese government repression, Mr. Callahan testified that Yahoo! had no knowledge of the facts surrounding the Shi Tao case at the time the company provided information to the Chinese authorities. Let me quote from what Mr. Callahan said:

“When Yahoo! China in Beijing was required to provide information about the user, who we later learned was Shi Tao, we had no information about the nature of the

investigation. Indeed, we were unaware of the particular facts surrounding the case until the news story emerged.”

Based upon a thorough investigation by the staff of this Committee, we now know that while Mr. Callahan may not have known the relevant facts personally, other Yahoo! employees, in fact, did know the nature of the Chinese investigation against Shi Tao prior to our committee hearing. Specifically, the document provided to Yahoo! China on April 22, 2004 by the Beijing State Security Bureau stated, “Your office is in possession of the following items relating to a case of suspected illegal provision of state secrets to foreign entities...”

Now, let me deal with the issue of what this means in a communist police state. The term “state secrets” is commonly used in China when a phony criminal case is concocted against political activists. A reasonable person who receives such an order would immediately know that the case in question involves a political or religious dissident. Even an unsophisticated person operating in the context of the Chinese police state would know full well that “state secrets” is a trick phrase used to fabricate a phony but devastating legal case against an innocent person who shares our values in an open and free society.

A key member of the Yahoo! briefing team that prepared Michael Callahan for his appearance before our Committee had a copy of the Beijing authorities’ document. Yahoo! China lawyers also had a copy of the document. Yet somehow, incredibly, Mr. Callahan apparently was not informed of these critical facts and the fundamental nature of the Yahoo!’s complicity with the persecution of Shi Tao.

Yahoo! claims that this is just one big misunderstanding, that Yahoo’s false testimony was really just a matter of an internal miscommunication. Let me be clear – this was no misunderstanding. This was inexcusably negligent behavior at best, and deliberately deceptive behavior at worst. I wish to repeat this: This was inexcusably negligent behavior at best, and deliberately deceptive behavior at worst. In preparing for testimony before this Committee, Yahoo! did not see fit to hire a translator to make sure the document upon which it relied for its entire defense was translated properly. Mr. Callahan never asked to see the document. And the Yahoo! lawyer who had it – by Yahoo!’s own explanation – failed to consider the document “significant,” even after Congress ordered Yahoo! to appear to answer directly on this outrage, which landed an innocent Chinese journalist in prison for a decade. Yahoo’s own lawyers in Beijing also had the document, and knew full well its meaning. Either Yahoo! has little regard for providing full and complete information to a duly constituted committee of the Congress, or it has little regard for the issue of protecting human rights.

Based upon the Committee’s bipartisan investigation of the Yahoo testimony, we have reached the following conclusions.

Yahoo provided false information to Congress. Despite the sworn testimony before the Committee that Yahoo! did not know the nature of the investigation into the Shi Tao case, Yahoo! employees did know that the Chinese government wanted information related to Shi Tao because of a so-called “state secrets” investigation in order to imprison him.

When Mr. Callahan later discovered that he had provided false information, he did not make the slightest attempt, not the slightest attempt, to correct the information he had given to Congress under oath. Six months after his testimony, Mr. Callahan became aware that some officials of Yahoo! did know the nature of the investigation against Shi Tao at the time it complied with the Chinese request for information. Despite Mr. Callahan’s explicit recognition that his previous testimony was inconsistent with the facts, neither Mr. Callahan nor anybody at Yahoo contacted the Committee, orally or in writing, to advise us that Yahoo had provided false information to the Committee. Inexcusably, there was no effort whatsoever by Yahoo to set the record straight after providing false information to a duly constituted committee of Congress. Mr. Callahan did, however, tell his public relations operatives to spin the Shi Tao story in a different direction.

After discovering that its General Counsel had provided false information on this critical matter, Yahoo did not conduct an internal investigation into the circumstances under

which false information was provided to Congress. Yahoo tried to sweep this grave transgression under the rug. No internal review of the matter took place. No change in company procedures was instituted.

Nobody at Yahoo has been disciplined for providing false information to Congress. Key employees related to the provision of false information to Congress remain at their posts.

Yahoo had no means or, possibly, intent, to prevent Yahoo! China from being a willing participant in political witch-hunts emanating from Beijing. Yahoo! Inc. had no American lawyers in Beijing. There was no mechanism in place for Yahoo headquarters to review Chinese efforts to ferret out individuals who wish to see a more open and democratic China.

A company of Yahoo!'s resources and sophistication operating in the Chinese milieu should have taken every conceivable step to prevent the automatic compliance with a request from the Chinese police apparatus. And to this day, Yahoo! has failed to change any of its practices in order to prevent such collaboration in the future. Yahoo! Inc. is now a minority shareholder in Yahoo! China. But one of our witnesses today – CEO Jerry Yang -- sits on the Board of Alibaba, the parent company of Yahoo! China. If Chinese police today requested information from Yahoo! China related to a political dissident, Yahoo! China would turn over the individual's email records and identity, who might be subsequently sent to prison, perhaps for ten long years.

My colleagues, I do not deliver these conclusions lightly. High-tech companies like Yahoo! are enormously important to the American economy, as well as the global economy, and they have transformed the way in which information is conveyed worldwide.

That said, I do not believe that America's best and brightest companies should be playing integral roles in China's notorious and brutal political repression apparatus. I will ask our witnesses today, in light of these embarrassing and appalling facts, whether Yahoo! is now prepared to endorse legislation authored by congressman Chris Smith and approved by this Committee to ensure that American complicity with high-tech repression ends.

It should be self-evident that companies cannot get away with providing false information to Congress. So today, I call on Yahoo's top corporate executives to apologize to this Committee, the Congress of the United States, and the American people.

But first and foremost, I urge our two witnesses to face the family of the Chinese journalist who, as a result of Yahoo's actions, has been tossed into a Chinese prison. When he first appeared before this Committee, I asked Mr. Callahan whether he had reached out to Shi Tao's family to offer an apology and to provide assistance. The answer was a resounding "no." Fifteen months later, Yahoo has yet to provide any aid to Shi Tao's family. Mr. Yang, Mr. Callahan, Shi Tao's mother is sitting in the first row right behind you – I would urge you to beg the forgiveness of the mother whose son is languishing behind bars due to Yahoo's actions.