

Week 13, 31 Mar 2010

Mark your diary now**CSR Asia
Summit 2010**

Now calling for sponsors, speakers and supporting partners.

14-15 September, Hong Kong

Please complete our new survey:**CSR in Asia -
Who is getting it done?**

Companies are increasingly recognising the strategic importance of building business practices that create sustainable bottom lines, sustainable global economies, environments and societies. This survey is designed to determine the status of CSR professionals in Asia and how companies are building capacity within their organisations to meet these challenges.

This survey was first conducted in 2008/9 and is being repeated as a way of tracking the development of the increasing number of companies which are employing CSR managers. The results of this questionnaire combined with the results of the previous report will allow those working in CSR roles within companies in Asia to understand how their role compares to others and how the profession is evolving.

Visit www.csr-asia.com to take the survey**DIARY 2010****APRIL****Training: Climate Change and Carbon
Footprinting**

13 Apr | Singapore

**Briefing: Minimising Business Impacts on
Biodiversity**

14 Apr | Malaysia

Training: Reporting and Communications

20 Apr | Malaysia

Training: CSR Solutinos

29 Apr | Hong Kong

CONTENTS

• Google Theatre	1-4
• Hot debate over minimum wage in Hong Kong	5
• Rio Tinto, human rights and business risk in China	6,7
• Southeast Asia View	9
• Japan View	10
• China View	11
• Index	14

FEATURED**Google Theatre**

by **Rob Hanlon** hanlon@cityu.edu.hk and
Stephen Frost sfrost@csr-asia.com



The portrayal of Google as a socially responsible business standing-up for human rights in China is a theatrical performance. The company's decision – to challenge China's legislation by refusing to self-censor searches and move operations offshore – has less to do with human rights and more to do with extreme business risk that potentially could have undermined the firm's business model.

We introduce three points that urgently need to be raised: (1) Google's motivation for leaving China, (2) the issue of business and human rights in Mainland China, and (3) how human rights defenders have responded to Google's withdrawal. First, we argue Google's claim to self-censor and leave China in the name of human rights is an evolving public relations strategy. Second, firms that claim to have withdrawn from China over human rights abuse are manipulative and most likely have experienced business related struggles that have little or nothing to do with human rights. Third, human rights organisations and activist politicians have misread Google's intentions. To begin, it is important to revisit Google's original statement on why the company left China.

On 12 January of this year, Google's Senior Vice-President of Corporate Development and Chief Legal Officer David Drummond claimed in the second sentence of a post on the Google blog that a

*continued on page 2***CSR Asia Strategic Partners (CASPs)**

Google Theatre

continued from front page

sophisticated cyber attack had targeted the company's "corporate infrastructure originating from China that resulted in the theft of intellectual property from Google". Google then cited the following three points explaining why the attack was unique:

First, this attack was not just on Google. As part of our investigation we have discovered that at least twenty other large companies from a wide range of businesses—including the Internet, finance, technology, media and chemical sectors—have been similarly targeted. We are currently in the process of notifying those companies, and we are also working with the relevant U.S. authorities.

Second, we have evidence to suggest that a primary goal of the attackers was accessing the Gmail accounts of Chinese human rights activists. Based on our investigation to date we believe their attack did not achieve that objective. Only two Gmail accounts appear to have been accessed, and that activity was limited to account information (such as the date the account was created) and subject line, rather than the content of emails themselves.

Third, as part of this investigation but independent of the attack on Google, we have discovered that the accounts of dozens of U.S.-, China- and Europe-based Gmail users who are advocates of human rights in China appear to have been routinely accessed by third parties. These accounts have not been accessed through any security breach at Google, but most likely via phishing scams or malware placed on the users' computers.

(Google Blog, 12 Jan 2010)

These statements clearly articulate how Google's services had been breached. Moreover, the phrase 'human rights' is used twice suggesting local and international rights defenders had been the target. However, the attack on 'corporate infrastructure' and the 'theft of intellectual property' remain the primary concern as clearly stated in the second sentence of Drummond's release. Google then released a second statement on 22 March voicing similar concerns and announced its refusal to self-censor; however, this time the company used human rights in the Mainland as a primary motivator for its decision. The statement reads as follows:

On January 12, we announced on this blog that Google and more than twenty other U.S. companies had been the victims of a sophisticated cyber attack originating from China, and that during our investigation into these attacks we had uncovered evidence to suggest that the Gmail accounts of dozens of human rights activists connected with China were being routinely accessed by third parties, most likely via phishing scams or malware placed on their computers. We

also made clear that these attacks and the surveillance they uncovered—combined with attempts over the last year to further limit free speech on the web in China including the persistent blocking of websites such as Facebook, Twitter, YouTube, Google Docs and Blogger—had led us to conclude that we could no longer continue censoring our results on Google.cn.

(Google Blog, 22 Mar 2010)

The second statement goes on to announce Google's withdrawal from the Mainland and the company's intention to direct all Google users to its Hong Kong servers. The second statement makes no reference to 'corporate infrastructure' or 'theft of intellectual property'. Google has essentially moved its argument from being a victim of IP theft to a defender of human rights. While we cannot deny human rights may have influenced Google's decision on some level, we *can* ask what has changed from Google's point of view to make human rights a business issue in China now?

The answer to that question is financial risk. As Google has said, the attack was on 'corporate infrastructure' and 'theft of intellectual property'. We infer that the attack was so severe that it put the company's business model at risk. Moreover, the company could not protect personal information of individuals. This suggests that Google's withdrawal has nothing to do with human rights; rather, it has to do with Google's inability to protect the personal information of its customers.

The helplessness of Google to protect client information would surely have brought catastrophic consequences for its business. This is the reason Google pulled-out. The human rights claims are a

continued on page 3



Continuous Improvement CSR in China and Vietnam

We understand your need to partner with your factory in China on CSR issues. That's why our program focuses on brand-factory-worker win-win-win relationships.

Not just Health & Safety issues, but productivity improvement through lean manufacturing training. Reducing total work hours and OT hours. We provide the necessary training and implementation support to achieve your targets while the factory reduces its costs.

Professional CSR Specialists backed by the power of lean.



**Asia
Management
Consultants**

www.amchkg.com
csr@amchkg.com
 +86 13928701953

CSR Asia Strategic Partners (CASPs)



Google Theatre

continued from page 2

public justification from a company that has come under consistent home-based criticism for operating in the Mainland. Positioning the firm as a champion of human rights wins more support than acknowledging the continuous uncertainty of doing business in the Mainland. China is unable or unwilling to fully enforce laws that should protect foreign firms and their intellectual property, which can be attributed to weak rule of law and domestic socio-political realities.

While China has rapidly become a global power, it is still a developing state with weak institutional mechanisms. Nonetheless, companies that want to stay competitive do not have the luxury of waiting for mechanisms to evolve, and must make business decisions about whether to enter markets such as China. This brings us to our three points above.

First, Google does not base its business decisions entirely on defending human rights issues. Claiming that human rights violations are a catalyst for its Mainland exodus is nothing other than sophisticated public relations. When Google entered the Chinese market in 2006, the firm was well aware they would be subject to local laws that force firms to provide sensitive information on-demand to authorities. All large foreign firms doing business in China have a complete understanding of this.

When China's internal security laws are activated, firms must comply and hand over sensitive information. Google knew this in 2006; however, the company still made a deliberate and calculated business decision to enter the market. Moreover, Google also has offices in countries with endemic human rights violations including India, Mexico and Russia. They also offer local domains in many other jurisdictions where citizens are subject to major human rights violations, including Cambodia, Pakistan, Sri Lanka and Vietnam. If Google was really basing business decisions around human rights, why have they not pulled-out of these countries as well?

Second, claims by any firm that human rights are the main reason for withdrawing from China should be treated with scepticism. As mentioned above, all companies know full well the human rights situation and related risks before entering the market. Most likely, therefore, companies withdraw on business related grounds. In recent days we have seen two other IT firms cite – like Google – human rights as a reason for leaving China. Those companies are domain registry firms Go Daddy and Network Solutions.

Last week, Go Daddy's executive vice-president Christina Jones testified before a United States Congressional-Executive Commission on China entitled "Google and Internet Control in China: A Nexus Between Human Rights and Trade?" She went on record and announced that Go Daddy was "concerned for the security of individuals" in China and that the country's regulations have a "chilling effect" on firms such as hers. She subsequently announced Go Daddy's withdrawal. However, it is common knowledge that the firm is underperforming. In fact, an article by Michael Arrington at *Tech Crunch* (26 March) estimates Go Daddy's market share in China was about 0.08 percent. Arrington suggests it was a creative publicity stunt by the company to enable US authorities to market a private company as an ethical business.

It was also reported last week that another IT firm named Network Solutions stopped offering domain name service China in December 2009. The firm is quoted as saying it pulled out of China since it believed Chinese policy was 'intrusive' and would have troubled its clients. However, Network Solutions is wholly-owned by private equity giant General Atlantic. In 2006, General Atlantic invested in Oak Pacific Interactive, a leading Chinese company providing Web 2.0 services, including online entertainment, communication and gaming. Oak Pacific Interactive acquired Xiaonei.com (China's leading Facebook clone) in 2008, and owns MOP.com (China's first interactive entertainment community), along with other popular sites. In both cases, General Atlantic would face the same kinds of issues and concerns over Chinese security mechanisms as it did with Network Solutions. If the company was so concerned about China's policy of collecting information on domain name registrants, why would it continue to hold a stake in Oak Pacific Interactive? Are we seeing the development here of a public rhetoric that might one day be known as the "Google Defence"?

Finally, human rights groups and activist politicians have been offering misleading analysis of what we refer to as the 'Google Theatre'. For example, Human Rights Watch (HRW) was quoted as saying, "Google's decision to stop censoring its Chinese search engine is a strong step in favour of freedom of expression and information, and an indictment of the Chinese government's insistence on censorship of the internet". HRW went on to argue, "By acknowledging that their corporate policies were incompatible with the self-censorship required to operate inside China, Google has challenged the Chinese authorities to respect the principle of freedom of expression provided for in the Chinese Constitution". Moreover, Amnesty International (AI) has also gone on record supporting Google and argued, "Chinese users who hoped Google would not leave China and are expressing dismay at this decision should in turn ask their own government how and why the internet is censored in China." Reactions such as this are not helpful for three reasons.

First, the HRW and AI statements offer a delusional hope that corporations such as Google can be driven by moral arguments. HRW assumes Google has taken the ethical high-ground and challenged a government over a human rights issue. This could not be farther from the truth. If Google is ethical, why are they still operating in other authoritarian countries responsible for human rights violations? And why did they enter the Chinese market in the first place? Moreover, AI's statement is bordering on recklessness suggesting that Chinese citizens question their government publicly, knowing full well that this would jeopardize the safety of the complainant and their family.

Second, HRW and AI wrongly lead activists to believe foreign companies have power over domestic political regimes. They assume that Google has the ability to 'challenge' a foreign government. This is false. Google had been significantly outperformed by local competitor Baidu and was retreating after an attack beyond its control. If anything, the Chinese government is

continued on page 4

CSR Asia Strategic Partners (CASPs)



Google Theatre

continued from page 3

probably relieved Google has left since in the long run it will lead to less controversy abroad and opens the domestic market for local firms to move in. In this sense, Google leaving China is a testament to the weakness of transnational firms to engage foreign governments on sensitive policy issues such as censorship.

HRW and AI have missed the opportunity to demonstrate (by critically assessing how business engages a foreign market) the business case for human rights. HRW and AI could have commented on the business risk associated with operating in weak legal systems such as China. They could have focussed on the business issue, especially intellectual property rights and law enforcement. These are barriers to free trade; an argument business understands. The business case for human rights in China must show the weakness of state institutions as hindering profit-making and thereby increasing risk. Cheering a company for withdrawing because of a so-called symbolic gesture to uphold human rights provides little pressure on other companies to strategically assess business risk related to complicity over human rights violations.

Third, the issue is being highly politicised for all the wrong reasons. Republican Congressman Chris Smith was quoted as saying, "Google fired a shot heard around the world and now a second American company [Go Daddy] has answered the call to defend the rights of the Chinese people". Congressman Smith was later quoted as saying, "They [Microsoft] need to get on the right side of human rights rather than enabling tyranny, which they're doing right now". Statements such as this are not helpful since they digress from the real issue at hand, which is the business case for supporting human rights must begin with 'bottom-line' arguments. When it comes to China, activists must familiarise themselves with realities on the ground. That means more than simply understanding the human rights situation in China; it also means understanding how decisions are made in the boardroom.

Key stakeholders must think more critically about the nature of foreign firms in the Mainland and the business case for human rights if the private sector is to ever start taking the issue seriously. Moreover, activists must stop solely targeting China and must conceptualize the global picture of business and human rights. Multinational firms doing business in the Mainland are probably doing business in jurisdictions with far worse human rights records than China. The overwhelming focus on China detracts from a broader analysis that could shift attention onto more strategically useful areas (such as presenting business with a case for taking human rights seriously).

The Google Theatre is rapidly descending into farce. The uptake of the "Google Defence" by other businesses is one aspect of that, but the human rights community (along with other activists and politicians) is doing little to steer it into more productive areas. The simple fact missing in most talk about Google (and business in general), China and human rights is that the vast majority of businesses fail to understand the risk that complicity in human rights violations poses to their business. Managers simply don't have the

tools to make decisions based on potential risk arising from human rights. Business schools don't teach it, it is not raised in the board room, and there is little understanding to what rights the term 'human rights' refer. Telling business to behave ethically is all well and good (and not to be minimised). However, until the human rights community can provide business case studies that show conclusively that rights needs to be on the business agenda. Conflating Google's PR strategy on its withdrawal from China with a defence of human rights is not helping build that case.

Building the case will require stakeholders to work together much more closely, including those in China (where at least some users feel Google has abandoned them). As David Drummond wrote at the outset:

We want to make clear that this move [to develop a new approach to China] was driven by our executives in the United States, without the knowledge or involvement of our employees in China...

(Google Blog, 14 March 2009)

The Google Theatre, it turns out, is a one-man show. It's time for a bigger cast. ■

CSR ASIA WEEKLY
Business Solutions for Global Challenges

Advertise Here

We provide:

- Special discount for long term packages
- 20% off discount for CASP
- Advertise in PDF, HTML version and eNewsletter
- Reasonable price

Get our Media Kit at
www.csr-asia.com/advertise.php for details.

CSR Asia Strategic Partners (CASPs)

