

United States Senate

WASHINGTON, DC 20510

October 17, 2017

Mr. Tim Cook
Chief Executive Officer
Apple Inc.
1 Infinite Loop
Cupertino, CA 95014

Dear Mr. Cook:

We write to express our concern regarding a July 29, 2017, article in *The New York Times* reporting that Apple has removed Virtual Private Network (VPN) applications (“apps”) from the version of Apple’s App Store available to users in the People’s Republic of China. VPNs allow users to access the uncensored Internet in China and other countries that restrict Internet freedom. If these reports are true, we are concerned that Apple may be enabling the Chinese government’s censorship and surveillance of the Internet.

As you know, China has an abysmal human rights record, including with respect to the rights to free expression and free access to information, both online and offline. Reporters Without Borders has referred to China as the “enemy of the Internet.”¹ Freedom House, an independent watchdog organization dedicated to the expansion of freedom and democracy around the world, has consistently ranked China as the worst abuser of Internet freedom.

According to the Congressional-Executive Commission on China, in 2016, China has “further entrenched institutional oversight and regulatory mechanisms to control Internet governance in China” and continued to “prosecute citizens for exercising their right to freedom of speech”² In a 2016 report, Freedom House states that the Chinese government’s “crackdown on free expression under President Xi Jinping’s ‘information security’ policy is taking its toll on the digital activists who have traditionally fought back against censorship and surveillance.” Radio Free Asia further reports that some users belonging to minority religious groups have been imprisoned or beaten simply for watching or having religious videos on their mobile phones.³ And within just the past

¹ Reporters Without Borders, *RSF Calls for boycott of China’s World Internet Conference*, 11 Dec. 2015, <<http://en.rsf.org/china-rsf-calls-for-boycott-of-china-s-11-12-2015,48632.html>>.

² Congressional-Executive Commission on China, 2016 Annual Report, <http://www.cecc.gov/sites/chinacommission.house.gov/files/documents/AR16%20Expression_final.pdf>.

³ E.g., *Radio Free Asia*, “Tibetan Monk Detained Over Banned Cell-Phone Content,” March 6, 2014, <<http://www.rfa.org/english/news/tibet/banned-03062014152359.html>>; and *Radio Free Asia*, “Uyghur Teenager Serving Life Sentence Is Victim of China’s Strike Hard Campaign: Father,” Nov. 16, 2015, <<http://www.rfa.org/english/news/uyghur/uyghur-teenager-serving-life-sentence-is-victim-of-chinas-strike-hard-campaign-11162015141753.html>>.

two months, the Cyberspace Administration of China has issued four regulations which would allow the Ministry of Public Security to essentially eliminate online anonymity in China.⁴

Earlier this year you received the Newseum's 2017 Free Expression Award, which recognizes those who exhibit passion for and dedication to free expression. In your acceptance speech, you stated:

“First we defend, we work to defend these freedoms by enabling people around the world to speak up. And second, we do it by speaking up ourselves. Because companies can, and should have values... At Apple we are not just enabling others to speak up, we are doing so ourselves.”⁵

While Apple's many contributions to the global exchange of information are admirable, removing VPN apps that allow individuals in China to evade the Great Firewall and access the Internet privately does not enable people in China to “speak up.” To the contrary, if Apple complies with such demands from the Chinese government it inhibits free expression for users across China, particularly in light of the Cyberspace Administration of China's new regulations targeting online anonymity.

Unfortunately, the removal of VPN apps is not the only time that Apple has reportedly acceded to a request from the Chinese government involving censorship, at the expense of Internet freedom. On December 23, 2016, Apple reportedly removed *The New York Times* app from its China App Store at the request of Chinese authorities.⁶ In addition, prior to the removal of *The New York Times* app, Apple also reportedly shut down its own iBooks Store and iTunes Movies in China at the request of Chinese authorities.⁷

The threat that the Great Firewall poses to the freedom of the people of China is similar to the threat that the Berlin Wall imposed on the people of East Berlin for twenty-eight years. As long as the Great Firewall operates and is enabled by American technology companies, Internet freedom in China will remain at risk.

In order to gain a better understanding of this situation, we request that you provide a response to the following questions as soon as possible:

1. On June 24, 2015, at its 15th meeting, the Standing Committee of the 12th National People's Congress had its first reading of the draft “People's Republic of China Cybersecurity Law.” The National People's Congress opened a period of public comments until August 5, 2015. Did Apple provide any formal comments raising concerns with the People's Republic of China Cybersecurity Law?

⁴ Sacks, Samm and Paul Triolo, “Shrinking Anonymity in Chinese Cyberspace,” *Lawfare*, 25 Sept. 2017, <<https://www.lawfareblog.com/shrinking-anonymity-chinese-cyberspace>>.

⁵ Miller, Chance, “Tim Cook Accepts Free Expression Award, Talks Value of Free Speech & Resisting ‘Alternative Facts,’” *9TO5Mac*, 18 Apr. 2017, <9to5mac.com/2017/04/18/tim-cook-free-expression-award-2/>.

⁶ Benner, Katie, and Sui-Lee Wee, “Apple Removes New York Times Apps From Its Store in China,” 4 Jan. 2017, <www.nytimes.com/2017/01/04/business/media/new-york-times-apps-apple-china.html>.

⁷ Mozur, Paul, and Jane Perlez, “Apple Services Shut Down in China in Startling About-Face,” 21 Apr. 2016, <www.nytimes.com/2016/04/22/technology/apple-no-longer-immune-to-chinas-scrutiny-of-us-tech-firms.html>.

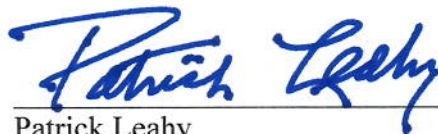
2. On November 24, 2016, China's Ministry of Industry and Information Technology published a draft *Notice on Regulating the Operation Behaviors in the Cloud Service Market* and further promulgated the *Circular on Clearing up and Regulating the Internet Access Service Market* ("Circular 32"), which went into effect on January 17, 2017. Did Apple provide any formal comments raising concerns with Circular 32?
3. Did Chinese authorities issue a request for Apple to remove VPN apps from Apple's China App Store? If yes, please describe the request and whether Apple took any action to oppose or object to the request.
4. Has Apple made any formal requests with the Chinese government to reintroduce VPN apps to its China App Store?
5. Please provide the total number of apps that Apple has removed from its China App Store at the request of Chinese authorities.
6. Please provide the total number of apps that Apple has removed from its China App Store without a request from Chinese authorities.
7. When you received the Newseum's 2017 Free Expression Award you stated, "At Apple we are not just enabling others to speak up, we are doing so ourselves." Please provide copies of any statements that Apple has issued either promoting freedom of speech in China or condemning the Chinese government's censorship and surveillance mechanisms, including with respect to human rights defenders, Tibetans, and Uyghurs.
10. Since 2014, the Chinese government has held a World Internet Conference. Charles Smith, the co-founder of the non-profit censorship monitoring website GreatFire, described foreign guests of the Conference as "complicit actors in the Chinese censorship regime and are lending legitimacy to Lu Wei, the Cyberspace Administration of China and their heavy-handed approach to Internet governance. They are, in effect, helping to put all Chinese who stand for their constitutional right to free speech behind bars." What role, if any, has Apple or its employees had with respect to the World Internet Conference in China? Does Apple support the conference?

Thank you for your assistance. We look forward to your response.

Sincerely,



Ted Cruz
United States Senator



Patrick Leahy
United States Senator