

Terry Semel
Chairman and Chief Executive Officer
Yahoo, Inc.
701 First Ave.
Sunnyvale, CA 94089

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Dear Mr Semel,

I am writing to you to express Amnesty International's deep dismay over recent reports of your company allegedly cooperating with authorities in the People's Republic of China (PRC) in events which led to the detention of Shi Tao, a Chinese journalist. On 27 April this year, Mr Shi received a ten-year prison term for sending information about a Communist Party decision through his Yahoo! Email account to a website based in the United States. Mr. Shi's appeal was denied on 2 June. Amnesty International considers Mr. Shi a prisoner of conscience, as he was imprisoned for peacefully exercising his right to freedom of expression and opinion. Amnesty International finds your company's conduct profoundly disturbing on several counts.

- Mr. Shi was imprisoned solely for the legitimate exercise of his right to seek, receive and impart information, as guaranteed under Article 19 of the International Covenant on Civil and Political Rights, which the PRC has signed, indicating it intends to respect the spirit of the Covenant, and in due course, to become a state party to the treaty through ratification. Moreover, Article 35 of the Constitution of the PRC establishes that citizens enjoy freedom of speech, of the press, of assembly, of association, of procession and of demonstration.
- According to the court transcript of the *Changsha Intermediate People's Court of Hunan Province Criminal Verdict*, evidence presented by the prosecutor that led to the sentencing of Mr. Shi included account-holder information provided by Yahoo! Holdings (Hong Kong) Ltd. More specifically, information provided by Yahoo! confirmed that for IP address 218.76.8.201 at a specified time on April 20, 2004, Mr. Shi was the corresponding user, based on the phone number and address information held by Yahoo!
- Companies have a responsibility to respect human rights wherever they operate. In China, Yahoo! is registered in the Hong Kong Special Administrative Region (SAR). The decision of your Hong Kong SAR based subsidiary to acquiesce directly with a government request from another part of the PRC is particularly questionable as, under the one-country two systems model, the Basic Law (the PRC statute that serves as Hong Kong's constitution) establishes independent judicial power (article 2) and a separate legal system where "national laws shall not be applied... except those listed in Annex III of this law."(Article 18(1)). Annex III includes a select list of laws none of which are applicable to Shi Tao's case.
- Yahoo's action in this context is inconsistent with its past conduct. Indeed, in the past, Yahoo! has respected the rights of its members and users, and refused to abide by requests and demands made by other states, local laws, and of next-of-kin in such situations. Citing protection to free speech in the US, your company called a French judgment to ban Nazi auctions "unenforceable," although your French affiliate complied with the French order to remove such items from a French website. In 2003, when the Indian Government asked your

company to ban a news group run by a separatist group, the Hynniewtrep National Liberation Council, your company refused to comply with the Indian Government's request. And late last year your company denied the request of the family of Marine Justin Ellsworth, who died in Iraq, to access his email account, citing privacy laws. By treating Mr. Shi's case as distinct and separate, not only has Yahoo acted against international human rights standards, but also shown its inconsistency by applying different standards to requests from different entities.

- Yahoo! has stated that it believes in the core values of "excellence, innovation, customer fixation, team work, community and fun." And yet along with hundreds of other companies your company has signed the Public Pledge on Self-Discipline for the Internet Industry, which, in effect, agrees to implement China's draconian system of censorship and control. This system has restricted freedom of expression and information in the country far beyond what is reasonable in international human rights standards.

Amnesty International is concerned that in the pursuit of new and lucrative markets, your company contributes to human rights violations. Yahoo! should urgently give adequate consideration to the human rights implications of its investments. The Universal Declaration of Human Rights calls upon every organ of society, which includes companies, to respect human rights. The UN *Norms on Responsibilities for Transnational Corporations and Other Business Enterprises with regard to Human Rights* categorically state: "Within their respective spheres of activity and influence, transnational corporations and other business enterprises have the obligation to promote, secure the fulfilment of, respect, ensure respect of and protect human rights recognized in international as well as national law, including the rights and interests of indigenous peoples and other vulnerable groups."

The UN Norms on Business are clear about the human rights responsibilities of companies. The Norms state that companies shall refrain from activities which might contribute to human rights violations, by calling on them to refrain from any activity which supports, solicits, or encourages States or any other entities to abuse human rights. And in the specific context of freedom of expression, Art. 12 of the Norms calls on companies to refrain from obstructing or impeding the realisation of the right to freedom of opinion and expression.

Amnesty International urges you to clarify the circumstances in which Yahoo! Hong Kong decided to act the way it did. Specifically, what has been the nature of the request the Chinese authorities made? What was the rationale for your decision to accede to the request? Did your company try to challenge it legally and what was the precise information you provided, which led to Mr. Shi's arrest?

Yahoo's conduct in this case has exposed your corporation to the risk of being complicit in the violation of Mr. Shi's rights. Amnesty International therefore calls upon Yahoo! to:

- Use its influence to secure Mr. Shi's release.
- Stop any actions that could undermine human rights in any country in which you operate
- Take immediate steps to ensure that all your units – the parent corporation and subsidiaries – uphold human rights responsibilities for companies as outlined by the UN Norms for Business.
- Develop an explicit human rights policy, ensuring that it complies with the UN Norms for Business.

I look forward to hearing from you.

Sincerely,

Irene Khan
Secretary General