

November 21, 2017

The Honorable Ted Cruz
404 Russell Senate Building
Washington, DC 20510



The Honorable Patrick Leahy
437 Russell Senate Building
Washington, DC 20510

Dear Senator Cruz and Senator Leahy,

I write in response to your letter asking about virtual private network applications and the operation of our App Store in China. Now celebrating its eighth year in China, the App Store serves as a powerful platform for human expression, education, artistic freedom, and economic empowerment. Today, there are over 1.8 million apps across 24 categories ranging from travel and business to music and health and fitness. Cumulatively, these apps have been downloaded over 71 billion times by our Chinese customers.

We believe that our presence in China helps promote greater openness and facilitates the free flow of ideas and information. Our products and services offer our customers opportunities to communicate in many forms — including through personal communications services, podcasts, photos, and millions of apps. We sell the same iPhone in China that we do here in the United States. We also work to promote fundamental rights in China, for example through enforcing a strict supplier code of conduct with standards for safe working conditions, fair treatment of workers, and environmentally responsible practices. We also directly educate the supplier workforce about their rights as employees, including safety and health regulations and local laws. And Apple leads industry through renewable energy and zero waste efforts that support communities across China to promote the right of individuals to live in a healthy and clean environment.

We are convinced that Apple can best promote fundamental rights, including the right of free expression, by being engaged even where we may disagree with a particular country's law. Chinese law requires that operators of virtual private network (VPN) apps comply with relevant regulations, including obtaining government licenses to do business, and earlier this year the Chinese government required Apple to remove a number of illegal VPN apps from the App Store. It may be helpful to share what our CEO, Tim Cook, said about the matter in August of this year:

"We were required by the [Chinese] government to remove some of the VPN apps from the app store that don't meet these new regulations. ... We would obviously rather not remove the apps, but like we do in other countries we follow the law wherever we do business. We strongly believe participating in markets and bringing benefits to customers is in the best interest of the folks there and in

other countries as well. We believe in engaging with governments even when we disagree. This particular case, we're hopeful that over time the restrictions we're seeing are lessened, because innovation really requires freedom to collaborate and communicate."

Tim also noted that we express our opinions about the impacts of laws and regulations forthrightly to policymakers. We believe in the critical importance of an open society in which information flows freely. We will continue to express that view. Attached are answers to your specific questions.

Sincerely,



Cynthia C. Hogan
Vice President for Public Policy, Americas
Apple

Questions & Answers

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?

Apple joined with other U.S. and global companies through trade associations to submit a number of rounds of formal comments detailing concerns with the Cybersecurity Law, including the law's impact on the services provided by U.S. companies in China, the impact it could have on the development of China's digital economy, and the impact it could have on the rights of Chinese citizens. These comments were presented to the Chinese government at many levels while the law was being drafted and throughout the law's adoption and implementation.

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?

Circular 32 is an implementation mechanism for the earlier Notice on Regulating Business Behavior in the Cloud Services Market. Apple joined with other U.S. and global companies through trade associations to submit comments through trade associations, specifically including concerns about the provisions covering VPN services and the adverse impact that they would have on the free flow of data.

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?

Yes. China ordered Apple to remove specific VPN apps from the App Store. Apple questioned the legal basis of the request and was informed by Chinese authorities that the operators of the VPN apps were in violation of Chinese law, including Article 27 of the Cybersecurity Law and the Regulation on Business Behavior in the Cloud Services Market that mandate a permit from the Ministry of Industry and Information Technology for any VPN service.

4) Has Apple made any formal requests with the Chinese government to reintroduce VPN apps to its China App Store?

Apple has made its views on VPN apps clear to the Chinese government.

5) Please provide the total number of apps that Apple has removed from its China App Store at the request of Chinese authorities.

Apple has removed 674 VPN apps from the App Store in China this year at the request of the Chinese government.

6) Please provide the total number of apps that Apple has removed from its China App Stores without a request from Chinese authorities.

In 2016-17, Apple removed 334 VPN apps from the App Store because they were not in compliance with various App Store guidelines, which in general seek to protect consumers by ensuring that apps actually do what they promise, are not fraudulent, meet technical requirements, and comply with legal requirements. The vast majority of these apps were removed from the Store globally, not only in China. Developers have the option of resubmitting their apps to be restored to the App Store if they come into compliance with our guidelines.

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.

Apple supports the rights of privacy and freedom of expression everywhere, and we believe our presence throughout the world is the most effective way we can make a difference. In offering our products and services and being engaged in countries throughout the world, Apple demonstrates our belief that successful innovation depends on openness and free expression. We believe our actions are our most powerful statement. In addition, we communicate our values to governments in ways we believe will have the most resonance. We do speak directly to the Chinese government about the importance of these values. For example, Apple CEO Tim Cook spoke on stage at the China Development Forum in Beijing in March, and stated that Apple focuses on fundamental rights "for all people, because we believe that everyone should be treated with dignity and respect. Those are some of our very key values."

We also work to promote other fundamental rights in China, for example through enforcing a strict supplier code of conduct with standards for safe working conditions, fair treatment of workers, and environmentally responsible practices. We also directly educate the supplier workforce about their rights as employees, including safety and health regulations and local laws. And Apple leads industry through renewable energy and zero waste efforts that support communities across China to promote the right of individuals to live in a healthy and clean environment.

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?

Apple is not a financial sponsor of the conference. Apple has participated in the World Internet Conference in the past, and Apple employees, including our CEO, will participate in the future. We are convinced that continued engagement is the surest way to effect change. We believe in the free flow of information everywhere, and we remain committed to this ongoing effort in all countries in which we operate, across a complicated world.