



ONE HUNDRED EIGHTEENTH CONGRESS
REPRESENTATIVE CHRISTOPHER H. SMITH, CHAIR
SENATOR JEFF MERKLEY, COCHAIR

June 4, 2024

Sundar Pichai
Chief Executive Officer
Google LLC
1600 Amphitheatre Parkway
Mountain View, CA 94043

Neal Mohan
Chief Executive Officer
YouTube LLC
901 Cherry Ave.
San Bruno, CA 94066

Re: “Glory to Hong Kong” Anthem Ban

Dear Mr. Pichai and Mr. Mohan:

We write with concern over your company’s decision to remove the song known as “Glory to Hong Kong” from the YouTube platform for users in Hong Kong. According to your company’s statement, this was done in compliance with an injunction issued by the Hong Kong Court of Appeal on May 8, 2024.^[1] It is our opinion that the steps taken by your company thus far exceed what is required by the Court’s injunction and will have far-reaching implications for the free flow of news and information and the freedom of expression in Hong Kong.

The injunction prohibits an unknown number of unidentified defendants from distributing the song known as “Glory to Hong Kong” under certain conditions. These conditions include distribution with seditious intent or with intent to commit or incite others to commit secession and intent to insult the national anthem in a way that either misrepresents “Glory to Hong Kong” as the national anthem or suggests that Hong Kong is an independent state. The injunction additionally prohibits willful assistance in, and knowing authorization of, such distribution.

The injunction does not, however, impose a blanket ban on “Glory to Hong Kong.” It does not “prohibit any lawful acts in connection with the Song . . . conducted for purposes such as academic activity and news activity”

^[1] Tom Grundy, “‘Glory to Hong Kong’: Google Blocks 32 YouTube Videos of Protest Song after Court Ruling,” *Hong Kong Free Press*, May 15, 2024, <https://perma.cc/5NF2-GP49>

Given these express limitations, the action taken by your company appears to exceed what is required by the order. On May 15, your company replaced the 32 videos listed in the injunction with a message saying, “This content is not available on this country domain due to a court order.” Categorically making the song inaccessible from Hong Kong means that scholars, journalists, and others intending to conduct lawful (per the order) activities are deprived of the opportunity of using the song.

Furthermore, we believe that the injunction violates international human rights principles and therefore ought not be complied with. Google’s stated policy is that it is “committed to respecting the rights enshrined in the Universal Declaration of Human Rights and its implementing treaties, as well as upholding the standards established in the United Nations Guiding Principles on Business and Human Rights (UNGPs) and in the Global Network Initiative Principles (GNI Principles).”^[2] In particular, the UNGPs provide that business enterprises “should avoid infringing on the human rights of others and should address adverse human rights impacts with which they are involved.”^[3] The GNI Principles state that, “[i]f national laws, regulations and policies do not conform to international standards, ICT companies should avoid, minimize, or otherwise address the adverse impact of government demands, laws, or regulations, and seek ways to honor the principles of internationally recognized human rights to the greatest extent possible.”^[4]

Since your company announced that it is considering options for an appeal, we ask when such an appeal will be filed. In the event that your company decides not to pursue an appeal, we ask that you provide us with a rationale for not doing so.

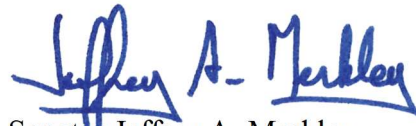
We hope you will agree that it is imperative to limit the negative impact on free speech and on the free flow of information. We urge you to restore the songs already removed and consider alternative ways of complying, such as providing a warning message. We further ask that your company’s transparency reports document and publish all demands made by the PRC or Hong Kong governments to take down online content in Hong Kong, as well as any content taken down on your company’s own initiative based on its interpretation of legal requirements. Said disclosure should include a description of the content and nature of the request.

At stake in this case are internet freedom, freedom of opinion and expression, and the freedom to seek, receive, and impart information, all of which are core values that your business relies on to thrive. These are the same values that Hong Kong authorities have been dismantling systematically under the pretext of protecting national security, to the detriment of the rights of your customers in Hong Kong. We would not want your company’s actions to embolden the Hong Kong government in its increasingly growing authoritarian tendencies. We look forward to your response.

Sincerely,



Representative Chris Smith
Chair



Senator Jeffrey A. Merkley
Cochair

^[2] “About Google: Human Rights,” accessed May 16, 2024, <https://perma.cc/5AS3-6MB3>.

^[3] Office of the UN High Commissioner for Human Rights, Guiding Principles on Business and Human Rights: Implementing the United Nations “Protect, Respect and Remedy” Framework, HR/PUB/11/04, June 16, 2011, principle 11.

^[4] Global Network Initiative, “GNI Principles on Freedom of Expression and Privacy,” May 2017, <https://perma.cc/M724-SUC8>.