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**A Study on Self-regulatory Initiatives in China's  
Internet Industry**

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# A Study on Self-regulatory Initiatives in China's Internet Industry

Lijun Cao

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## ABSTRACT

This dissertation looks into the recent self-regulatory initiatives in China's Internet industry. The Internet is growing rapidly in China. With an ambition to harvest the benefits of the information economy, the Chinese government is being pushed to loosen its stringent control over the Internet. *What are the implications of the self-regulatory initiatives for China's Internet policy development?* This dissertation aims to address this puzzle through focused research and analysis of content regulation. The dissertation is guided by the following research questions:

- 1) What are the motives behind the self-regulation initiatives?
- 2) What is the role of self-regulatory bodies in content regulation?
- 3) What is the role of individual companies in content regulation?
- 4) What is the role of the government in content regulation?
- 5) Based on the answers to the first four questions, could self-regulation be a continuation of the 'command and control' approach to the Internet content regulation in China?

The Internet Society of China (ISC), the first self-regulatory initiative in China's Internet industry, was used as a case study. Documentary analysis and role-holder interviews were applied to conduct the research. Secondary data such as published laws, industry statistics, company financial reports and news reports were analysed in detail. The informants of ten influential Internet Content Providers (ICPs), all members of the ISC, were interviewed.

The study shows that there was a strong desire for self-regulation among the ICPs, especially the commercial websites; the role of the ISC as self-regulatory body is constrained by the oversight of Ministry of Information Industry (MII); currently, the Chinese government intends to regulate the Internet gatekeepers, the ICPs; and self-regulation could be introduced into some content categories. It is argued that although self-regulatory initiatives are currently restricted by government regulations in China there is room for self-regulation in terms of Internet content regulation.

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## 1. Introduction

*'Government regulation is indispensable while self-regulation is momentum for development. Government regulation cures the symptoms while self-regulation kills the virus.'*

General Manager, Bolianshe<sup>1</sup>

With over 6.5 billion users worldwide<sup>2</sup>, the Internet has transformed the way in which content is produced, aggregated, distributed and consumed. Just over a decade old in its current commercial form, the Internet phenomenon challenged the regulators worldwide in how, if at all, the Internet should be regulated, given its borderless and participatory nature.

Since the opening up in 1978, China has gradually come to the centre stage of the global economy and politics through sheer size of its population of 1.3 billion and rapid economic growth of 9.6%<sup>3</sup> on average over the last 10 years. China is now the world's fourth largest economy after United States, Japan, and Germany.

The Internet revolution in China brought the above two themes together. There are currently more than 160 million Internet users in China, growing at a rate of 137.5% per annum (CNNIC, 2007: 15). Internet content regulation is a challenge for policymakers in any country and the issue becomes more interesting in China where the government intends to impose stringent control over the media.

With its global reach and penetrative technologies, the Internet is breaking down the geographic boundaries. This makes the traditional regulatory regimes, which are defined by a state sovereignty, impotent. Over the last decade, China has tried to regulate the Internet content within its border with a strong hand. Yet, its ambition to harvest the benefits of information economy, which is mainly based on the Internet, and the

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<sup>1</sup> A respondent interviewed in this research, for profile of respondent, see appendix 2.

<sup>2</sup> Internet World Stats <http://www.internetworldstats.com/stats.htm> (accessed on 20, Aug. 2007)

<sup>3</sup> Bureau of Statistics, China <http://www.stats.gov.cn/> (accessed on 5, Aug, 2007)

staggering increase of Internet penetration into the society are pushing the government to apply a more flexible policy for Internet regulation.

Over the last few years, China's Internet industry has seen a great number of self-regulatory initiatives. As the quote at the beginning of this chapter indicates, self-regulation is seen as a momentum for development by the industry. In his latest speech on Internet content regulation, Hu Jintao, President of China, encourages self-regulation of the Internet industry.<sup>4</sup>

Among a considerable volume of literature on Internet regulation in China, however, very few works mention the self-regulatory initiatives and quickly dismiss the potential effects (Tai, 2006; Wacker, 2003; Endeshaw, 2004). Given the unusual policy challenges posed by the Internet, self-regulation is considered by many countries as a viable route to content regulation, such as in the UK, Germany and the US (Kiskis & Petraskas, 2006). In China, however, the idea of self-regulation is thought to be premature by traditional theory (Price, 2002). The Internet revolution, though, might have provided a condition for this to change. By exploring the possibility of self-regulation of the Internet content in China, this dissertation aims to fill the gap in the literature.

Self-regulation is presented by some (Johnson, *et. al.* 2004) as an effective alternative to government regulation due to the disintegration of the traditional 'national sovereignty' paradigm (Reidenberg, 1996). Yet, as a method to regulate behaviour of actors in society, it has advantages and disadvantages (Baldwin & Cave, 1999). In a complex environment such as the content layer of the Internet (Lessig, 2001), not all the problems can be solved by self-regulation. As Sinclair (1997) points out *self-regulation should be viewed as a continuum of regulation not as an alternative to the state command and control regulation*. This research is based on this assumption. Against the special background of China, this is a more practical approach.

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<sup>4</sup> Hu, Jintao, 'Actively and Creatively Nurture a Healthy Online Culture' speech on a study session of the Political Bureau of the Central Committee of Communist Party of China (CPC) on 24, Jan. 2007. Available at : [http://news.xinhuanet.com/politics/2007-01/24/content\\_5648188.htm](http://news.xinhuanet.com/politics/2007-01/24/content_5648188.htm) (accessed on 7, Aug. 2007)

The research report is divided into three parts (Chapters 2, 3 and 4). Chapter 2 reviews relevant literature to establish the context of Internet content regulation in China. The first section provides an overview of the policy challenges posed by the Internet. The second section introduces the concept of self-regulation and explains its implications for the Internet regulation. The next section reviews the literature on Internet content control in China and demonstrates the triggers for policy change in China. The chapter ends with the conceptual framework for the research and the objectives of the research. Five research questions are raised and potential contribution of this research is outlined.

Chapter 3 outlines the research strategy, the sampling and methodology, all geared towards a clear understanding of the dynamics of Internet content regulation in China.

Chapter 4 addresses the research questions through the findings and analysis. Based on this, some insights are provided to discuss the possibility of self-regulation of the Internet content in China.

## **2. Theoretical Framework**

### **2.1 Policy Challenges Online**

The Internet has posed policy challenges for every country because of the very nature of the digital space and the fast evolution of technologies.

#### *2.1.1 Speed of development*

The Internet has evolved rapidly with its end-to-end architecture, which favours creativity (Lessig, 2001). Many observers have asked whether the law can keep pace (Price & Verhulst, 2000; Reidenberg, 1996) with the rise of the Internet. The faster evolution progresses, the less its direction can be predicted. The process to push a new law through the whole legislative system is much longer than the birth of a new technology on the Internet. The legal system is lagging behind. Even if the legislators anticipate the potential issue and take statutory restrictions in advance, the risk of misjudgement is rather high. Furthermore, the risk is aggravated by the relatively early stage of network evolution (Engel, 2006).

#### *2.1.2 'Decontextualization' – the issue of borders and boundaries*

Technologies applied on the Internet create a whole new space that ignores the link between one's activities and geographical location. This challenges the traditional regulatory systems which are defined by geographical boundaries – a jurisdiction of a state or extended transnational space if the regulatory regime is dictated by agreed rules between different countries. In contrast, the cyberspace is an aggregation of 'many places' (Lessig, 1999) whose boundaries are not decided by states or governments but by the code – an encompassing term referring to the 'architectural configuration of networks and the location of access points, the design of hardware, the operating systems, languages, data formats, and application software' (David, 2001: 182). Accordingly, people who undertake activities in one place are not necessarily from the same state or share the same nationality. They can move freely and seamlessly between different places

(Johnson & Post, 1996) as long as they can be connected to the code of the place. Their activities are not geographically constrained but take place transnationally.

### *2.1.3 Regulatory arbitrage*

The decontextualization effects foster problems challenging the statutory regulations. The most evident one is a regulatory arbitrage. That is to say, users, who want to be regulated by a different regulatory regime, can relocate either themselves or their activities (Froomkin, 1997) to that regime online easily and quickly. For instance, the denial of Holocaust is illegal under the German law. However, a German citizen and resident can enter the discussion on Holocaust online in another country, which has no specific restrictions on denial of Holocaust, and post a denial message. The user being still physically in Germany has, strictly speaking, committed an offence. Yet, as online activities usually take place anonymously, it is very difficult to trace him (Murray & Scott, 2002). So, by relocating himself, the user has removed his activities from the control of the state and has chosen a regulatory regime which he prefers.

In summary, the fast evolution of the technologies and the decontextualization effects of the Internet are hard for the traditional regulatory regimes to cope with. How to regulate the Internet has been a subject of a fierce debate over last decade.

## **2.2 Self-regulation in context of the Internet**

Initially, self-regulation is presented as an adequate solution due to the disintegration of the traditional 'national sovereignty' paradigm (Reidenberg, 1996). However, as a method to regulate behaviour of actors in society, self-regulation has advantages and disadvantages, which is also the case for the Internet regulation.

### *2.2.1 The concept of self-regulation*

Self-regulation is not new as a method to regulate behavior of actors in the society. It has been encountered in a number of professional sectors such as financial services, sports, advertising, insurance and the press (Baldwin, 1987; Page, 1987; Graham, 1994).

Self-regulation is a very malleable term (Sinclair, 1997: 4). European definitions are very elastic and include 'regulated self-regulation' vs. 'unregulated self-regulation' (Nilolinakos, 2000) and 'responsive self-regulation' vs. 'enforced self-regulation' (Ayres & Braithwaite, 1992). The US scholars define self-regulation in a strict way. For instance, Froomkin (2000) excludes any participation of public body in self-regulation. *This dissertation takes self-regulation as 'taking place when a group of firms or individuals exerts control over its own membership and their behavior'* (Baldwin & Cave, 1999: 125).

### *2.2.2 The argument for and against self-regulation*

The classic arguments favouring self-regulation are: 1) self-regulatory bodies can command higher levels of relevant expertise and technical knowledge than independent regulator; 2) self-regulation can reduce cost to acquire the information that is necessary to formulate and set standards; 3) it can overcome the problems of implementation and legitimization associated with state intervention (Baldwin & Cave, 1999; Streek & Schmitter, 1985; Ayres & Braithwaite, 1992). Governments may support self-regulation on the Internet in the belief that state intervention can deter investment and invention. For instance, Australian information technology policy recognizes that hierarchical regulatory regime prevents adaptation and undermines competition (Caral, 2004).

The opponents of self-regulation argue that: 1) public interest may not be well served because self-regulatory objectives may be drawn up by bodies with no democratic legitimacy; 2) self-regulation may be inefficient due to the lack of accountability; 3) self-regulatory bodies only formulate rules for its own members, but not for those outside; 4) self-regulation may be failing when creators of the self-regulation lack the incentives to enforce the rules (Baldwin & Cave, 1999; Caral, 2004). A good example of a failure of self-

regulation is administration of copyrighted content on the Internet by the service providers (Kiskis & Petraskas, 2006).

Therefore, self-regulation cannot be an alternative to 'command and control' regulation. Instead, it should be a continuum of government regulation (Sinclair, 1997).

*This study takes a stance that there is no dichotomy of government regulation on one hand and self-regulation on the other hand. The Internet can only be regulated by a hybrid method (Gummingham & Rees, 1997; Engel, 2006; Eijlander, 2005). The question is, where is the line between government regulation and self-regulation?*

### *2.2.3 Self-regulation on the Internet*

To understand the implications of self-regulation on the Internet, it is vital to examine its fundamental structure. For the purpose of this analysis, Lessig's (2001) paradigm of three layers – the physical layer, the code layer and the content layer – is applied here.

#### 2.2.3.1 The physical layer

Telecommunications and cable TV networks are the physical backbones of the Internet. Telecommunications and broadcasting are highly regulated sectors and the government should be considered to be the principal actor in regulation of the physical layer. However, in the global context, government regulation is over physical layer is fragmented over many jurisdictions (Caral, 2004).

#### 2.2.3.2 The code layer

The code layer is intangible and there is no law governing the code. It is regulated by international organizations such as the Internet Engineering Task Force (IETF), World Wide Web Consortium (W3C) and the Internet Corporation for Assigned Names and Numbers (ICANN). IETF develops communication standards to ensure the right connection between software and hardware; W3C develops document standards for the World Wide

Web to help format the video, audio, graphics and documents so that these can be displayed on the World Wide Web. ICANN develops standards for the Internet's domain name and addressing system (Caral, 2004). At this layer, the industry is highly self-regulated so it leaves little room for the discussion of the split of regulation between the government and the industry.

### 2.2.3.3 The content layer

This level is complex and makes it possible to combine government regulation and self-regulation. As Price (2002) points out, the main concern around content regulation is the issue of 'illegal and harmful content'. Not every society has the desire or the capacity to define specifically what constitutes the illegal and to distinguish it from the harmful. When it comes to the Internet where user behaviour is to some degree out of the control of the law, there is a need to divide the job between the government and the industry. Price (2002) argues that the distinction between the illegal and harmful may be enlisted to describe the line between government and industry. In this sense, self-regulation may mean the state prosecuting certain types of content which it prohibits by law, and the self-regulating entity self-policing and removing other types of content that is sensitive.

Self-regulatory bodies have been set up in some countries to work on the line between government and industry. For instance, in Germany one of the industry associations, the Electronic Commerce Forum (ECF) established the Internet Content Task Force (ICTF) in 1996 to promulgate self-regulation controls. Its analysis divided content into three different types: content criminal in most countries; content criminal under German law, and separately, content that is harmful (Price, 2002: 118-123).

The issue of the 'line' between the government and the industry is particularly interesting in China, where the government tries to impose strong control over the Internet. For further discussion, it is useful to review the literature on the topic of Internet content regulation in China.

## **2.3 Internet content regulation in China**

### *2.3.1 Literature Review*

Internet content regulation in China has been under intense discussion in the fields of media (Tai, 2006; Lee, 2000), political economy (Harwit & Clark: 2006; Lynch, 1999a; Lynch 1999b; Lynch, 2000; Zhao, 2000), sociology (Wacker, 2003), international relations (Hughes, 2004; Mengin; 2004) and law and regulation (Zittrain & Ederlamn, 2005; Zittrain & Palfrey, 2005; Li, 2002-2003). The literature mainly focuses on the stringent censorship or 'the great firewall' imposed by the Chinese government and the implications to the media system, telecommunications market, civil society, and foreign policy of the country.

The media research on this issue focuses on online censorship and is the new development of the on-going discussion of 'freedom of press' or 'freedom of expression' in China. Most of the works (Kalathil, 2002; Kalathil & Boas: 2001; Lynch, 2000; Tai, 2006) conclude that there is hardly 'freedom of expression' online because China is filtering the Internet, blocking websites demonstrating 'subversive content' such as Falun Gong, independence of Tibet or '6 • 4' student movement. The view is unconvincing because the research is short of evidence of average Internet users' behaviours and their attitudes towards subversive content. In fact, the Internet demographics quoted by Harwit and Clark (2006) indicate that Chinese user profiles work toward social stability and younger users may avoid controversy, and use the network more for education and entertainment purposes. As Mengin (2004) points out, politics is shifting towards social movements such as feminism, ethnic nationalism and environmentalism in China. Therefore, for the majority of the users, expression of views on social issues is more relevant.

Political economic studies concentrate on the government control in physical and political ways. The study by Mueller and Tan (1997) concentrates on the development of physical telecommunications network. They chronicle telecommunications ministerial control up to mid-1996, but do not anticipate the later moves by the Ministry of Information Industry (MII) to assert dominant control over international data traffic. They are writing before the proliferation of content-providing companies in China and wrongly predict that 'foreign

sources of information will be heavily restricted'. Lynch (1999a) provides an overview of Internet control, focusing on ways users can bypass government restrictions on access foreign content. However, he also pays little attention to viewer characteristics or actual information seen by the users.

Based on Boyle (1997)'s application of Foucault (1991) in cyberspace, Wacker (2003) concentrates on the technical and legal restrictions of online activities imposed by the government. He outlines the national regulation framework and argues that the Internet has become a Panopticon in China. His argument is flawed because of the application of a concept which is developed in a liberal environment and ignorance of the hierarchical 'statism' (Castells, 1998) in China society. His work and other study of sociology (Yang, 2003a; Yang 2003b) are biased by focusing on sporadic cases<sup>5</sup> related to content control in China and the failure to recognize the contribution of the Internet in building civil society. For instance, the message of the death of Sun Zhigang<sup>5</sup> was first published online in 2003 which triggered intensive debates on the constitutionality of the then 21-year-old *Measures for Internment and Deportation of Urban Vagrants and Beggars*. Discussion on the Internet is probably the biggest force to push the State Council review, eventually abolish the former ordinance and promulgate a new regulatory regime which centred on the protection of human rights.

Both works of Hughes (2004) and Mengin (2004) examine the effects of China's entrance to World Trade Organization (WTO). Hughes (2004: 72) shrewdly observes that 'the WTO regime is in fact carefully restricted by acknowledgements that states can legitimately impose regulations for reasons ranging from the protection of consumers to maintaining the overriding public interest or national security.' Mengnin (2004) also points out that market logics cannot but compel foreign companies to abide by the Chinese regulations. That Google has started self-censor its Chinese website early 2006 is a case in point.

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<sup>5</sup> 5 Most frequently mentioned cases are Lin Hai who was sentenced for two years for selling more than 200 email addresses to a newspaper in the US. Sun Zhigang, a software developer, was beaten to death by eight patients at a penitentiary hospital just hours after being arrested as a vagrant for not carrying ID in 2003. Sun traveled from Wuhan to Shenzhen without carrying ID, which would entitle the police to arrest him and put him into a penitentiary hospital under the former regulations. China' Daily website, available at [http://www.chinadaily.com.cn/en/doc/2003-06/10/content\\_168514.htm](http://www.chinadaily.com.cn/en/doc/2003-06/10/content_168514.htm) (accessed on 4, May, 2007).

However, both writers underestimate the potential of the local ICPs and their influence to Internet regulation in China.

Using Lessig's theory of four modalities of Internet regulation, Li (2002/2003) provides an overview of how Internet content is strictly controlled by Chinese government through laws, norms, the market and the architecture. Zittrain and Palfrey (2005) and Zittrain and Edelman (2005) both provide the empirical evidence of the Internet filtering in China. They determine that filtering happens mainly at the initial network level, although some ICPs also use their own systems. These works seem to isolate China and ignore the fact that Internet censorship is an international and increasing phenomenon across the world (OpenNet Initiative, 2005), especially after the 'September 11' terrorist attacks. As Qiu points out, from a global perspective, the kinds of measures imposed by the Chinese government to achieve 'virtual censorship' are not so special, reflecting as they do 'the emerging attempts of legislatures, governments and various administrative organs worldwide to incorporate the cyberspace into their sphere of jurisdiction' (2000: 22).

*Overall, the literature on Internet content regulation in China the literature assumes that the government is the sole regulator on the Internet and is able to control the content completely.*

The development of technologies, the industry and the market put the ability of any state fully to control the images that permeate its territory into question (Price, 2002; Elkins, 1995; Kahin & Nesson, 1997) and China is not an exception. In fact, several forces are at work to push the Chinese government to apply more flexible regulatory regime for Internet content control.

## 2.3.2 Forces behind policy change – the room for self-regulation?

### 2.3.2.1 Rapid increase of the market

The rapid increase of the Internet market and the staggering climbing of the number of users have made it impossible for the Chinese government to impose whole control.

**Figure 1:** The number and increase rate of the Internet users in China



(Source: CNNIC, 2007: 9)

According to the latest statistics from China Internet Network Information Centre (CNNIC, 2007), China's Internet users number had reached 162 million (see figure 1), which means that there were 100 new users per minute in average in the first half of 2007, and the increased number of the first half year is approaching to the amount of increase of all last year, and the Internet penetration came to 12.3 % (see figure 2). Besides, China's website amount had reached 1.31 million (see figure 3).

**Figure 2: Internet penetration rate in China**



(Source: CNNIC, 2007: 11)

**Figure 3: The amount of websites in China**



(Source: CNNIC, 2007: 13)

According to the statistics, the Internet's functions as obtaining of information (such as news and search engine), entertainment (music, game) and communication (such as instant messenger (IM) and e-mail) were in common use yet its role as a life helper (e-commerce, education) was not given a full play (See table 1). This means Internet content regulation will affect most of the Internet users and thus it is a more interesting issue here. It is not hard to realize that the rapid increase of the Internet users and websites registered has made it impossible and irrational for the government to regulate all the users and behaviours online.

**Table 1:** Most frequently used Internet applications in China

	%		%
<b>Information</b>		<b>Life-helper</b>	
News	77.3%	Job-hunt	15.2%
Search Engine	74.8%	Education2	24.0%
Blogging	19.1%	Shopping	25.5%
<b>Communications</b>		E-commerce	4.3%
IM	69.8%	Hotel Booking	3.9%
Email	55.4%	Banking	20.9%
<b>Entertainment</b>		Personal Financial Trading	14.1%
Music	68.5%		
Video/audio	61.1%		
Game	47.0%		

(Source: CNNIC, 2007: 14)

### 2.3.2.2 Changed scenario

The requirements that China has agreed to for opening up the telecoms sector to foreign investment and services on accession to the WTO will have a sweeping effect on the provision of information-related services in the country (Hughes, 2004). According to US-China Agreement, foreign companies can work with indigenous partners, holding a maximum stake of 49 %, rising to 50 % after 2 years. Over last decade, co-operations between foreign companies and local media have increased rapidly. Further, the Chinese government has set up the economic development strategy to marry the opportunities and dynamics of the global communications revolution with the country's unfinished

process of industrialization since 1990s (Dai, 2003). It aims to build the information industry to account 10 % of the GDP by 2010<sup>6</sup>. To harvest the telecommunications industry, the government will improve the potential of the Internet.

### 2.3.2.3 Self-regulatory initiatives

At the time of writing, there are more than thirty Internet professional associations and industrial groups in China. These associations aggregate Internet companies of various natures and almost every one of them has issued code of conduct, notably the *Public Pledge of Self-Regulation and Professional Ethics for China Internet Industry* (PPSR) in 2002. Content regulation is the very focus of the codes. Some literature (Tai, 2006; Wacker, 2003; Endeshaw, 2004) touches on these self-regulatory initiatives but fails to provide an insight to the motives, the enforcement and possible policy effects. This study intends to fill the gap.

## 2.4 Conceptual Framework and Research Questions

### 2.4.1 Conceptual framework

The premise of this study is the idea that Internet content cannot be only controlled by either the government or the industry. There should be a division between the government and the industry. There have been a number of studies on Internet content control in China but most of them assume the government as the sole regulator and ignore or downplay the increasing self-regulatory initiatives in China's Internet industry. This research tries to fill in the gap.

From this standpoint this research explores the motives and enforcement of the self-regulatory initiatives and their effects. In the discussion of self-regulation, it is guided by four variables provided by Baldwin and Cave (1999: 126):

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<sup>6</sup> Jiang Yaoping (2006), deputy minister of MII, speech on International Telecommunications Union, 4, Dec. 2006. Available at <http://it.sohu.com/20061205/n246816532.shtml> (accessed on 2, July 2007).

- 1) the governmental nature of self-regulation: an association may self-regulate in a purely private sense – in pursuit of the private ends of its membership – or it may act governmentally in so far as public policy tasks (in a democratic society) are delegated to private actors or institutions;
- 2) the role played by self-regulators. A full role may involve the promulgation of rules, the enforcement of these on the ground, and the monitoring of the whole regulatory process;
- 3) the degree of binding legal force that is attached to self-regulatory rules;
- 4) the coverage of the self-regulatory regime in the industry.

This research tries to explore the division of regulation between the government and the industry, if there is any, in terms of the Internet content regulation in China. So it will explore the issue of illegal and harmful content against the background of China. The issue of 'interpretation' mentioned by Price (2002: 118) will be considered. The research will investigate what content are regulated by the government and what content are regulated by the self-regulatory bodies or the individual companies.

More importantly, the role of government in Internet content regulation is scrutinized in detail against the background that the Chinese government intends to impose stringent control on the Internet. The research will examine the relationship between the government and the self-regulatory body; the relationship between the government and the individual companies.

Besides, the particular Internet market structure in China is also taken into consideration. In terms of ICPs, there are commercial websites, public or private; websites of state-authorized media and various joint ventures.

### 2.4.2 Research questions

Overall, this study tries to answer the following questions:

- 1) *What are the motives behind the self-regulation initiatives?*
- 2) *What is the role of self-regulatory bodies in content regulation?*
- 3) *What is the role of individual companies in content regulation?*
- 4) *What is the role of the government in content regulation?*
- 5) *Based on the answers to the first four questions, Could self-regulation be a continuum to 'command and control' for Internet content regulation in China?*

The study can contribute to the overall discussion on Internet content regulation. It can provide empirical substantiation to the theories on self-regulation. By investigating the self-regulatory initiatives, the study will fill in the gap in the academic discussion on the Internet content control in China. It can show the dynamics of Internet content regulation in China and provide first-hand evidence of how the Internet content is regulated in practice in China. The study can serve as a reference point for the broader discussion on the future development of China's Internet policy.

## **3 Research Design and Methodology**

### **3.1 Research strategy**

This study aims to investigate the motives, enforcement and effects of the self-regulatory initiatives of the Internet industry in China and the possible implications for policy development. As an exploratory research, it uses case study to provide an empirical view on this new development. Documentary analysis and role-holder interviews are combined in the study. The research design was carried out in three steps

#### *3.1.1 Strategic decision I: Case study*

In the first step of the research design, case study was chosen as the best method for the following reasons:

- 1) To address a topic, where little research exists, case study is considered to be an appropriate method (Hakim, 1987). As mentioned earlier, the issue of self-regulation of China's Internet industry has been slightly addressed so case study was preferred.
- 2) Yin defines a case study as 'an empirical inquiry that investigates a contemporary phenomenon within its real-life context, especially when the boundaries between phenomenon and context are not clearly evident' (1994: 13). The phenomenon of self-regulation is new to the Chinese Internet industry, as it is to any other industry in the country. It is very early days for self-regulation in China and so there is no clear line between the phenomenon and the context in which it has emerged. For this reason, case study is selected.
- 3) Yin also observes that 'case studies are the preferred strategy when "how" and "why" questions are being posed, when the investigator has little control over events' (1994: 1). So, using case study can answer the research questions of the motives of self-regulation.
- 4) Another characteristic of case studies is that they deal with 'any reality behind appearances, with contradictions and the dialectical nature of social life' (Feagin *et*

*al.*, 1991: 39). This makes case study an approach particularly relevant in a policy-oriented study.

- 5) Case study is appropriate for developing detailed, intensive knowledge about a single 'case' or a small number of related 'cases' (Hansen, 1988). To understand the roles of the government, the self-regulatory bodies and the individual companies in Internet content regulation, intensive knowledge is vital. For the reasons listed above, *case study was chosen as the strategic method.*

### *3.1.2 Strategic Decision II: A single case study of the Internet Society of China (ISC)*

The value of case study 'depends crucially on how well the study is focused' (Hakim, 1987: 61). As mentioned in Chapter 2 (see § 2.3.2.3), there are dozens of Internet industry associations in China. Which one to choose for the case study? Yin (1994) says a single example often forms the basis for research on typical, deviant or critical cases. For this reason, it was decided to choose the ISC as a single case. ISC is the first and the only national association of China's Internet industry and academia, and its members tend to be the big players in the industry (such as Sohu and Baidu which are studied here<sup>7</sup>). So, the case of ISC is typical and critical. *Therefore, it was decided to use ISC as a case study.*

### *3.1.3 Strategic decision III: Documentary analysis and role-holder interviews with ICP members of ISC*

Documentary analysis and role-holder interviews were used to carry out the actual research. It is considered to be ideal to conduct participant or non-participant observation to study an organization (Hakim, 1987), in this case, ISC. However, it was considered not feasible given the time constraint of the study. It would be a lengthy process to follow the formulation and enforcement of the rules. Instead, the ISC has a well-built website which provides full introduction of the organization, government policies, and news. It is therefore more practical to conduct documentary analysis to gain knowledge of the organization. In addition, industry statistics, China's Internet laws on Internet content regulation were also analysed. The strengths of documentary analysis are that it is stable,

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<sup>7</sup> See the profile of the companies in section 3.2.2.

unobtrusive (it is not created as a result of the case study) and exact (Yin, 1994: 80). More important is that its possible weaknesses, as retrievability, access and bias in selection (Yin, 1994: 38), are in this case fairly controllable (see next section).

According to Haufler, 'self-regulation occurs when those regulated design and enforce the rules themselves' (2001, 8). In order to understand self-regulation in China's Internet industry, it is necessary to include the 'regulated'. To explore the motives, attitudes, perspectives of the 'regulated' it was decided to study the members of ISC who are involved in the formulation and enforcement of the rules. Since this study focuses on content regulation, *it was then decided to study the ICP<sup>8</sup> members of the ISC.*

Most part of the research is to gain information from the ICPs. Role-holder interviews are particularly likely to address people as informants who can supply information about social units, events and processes (Hakim, 1987). The individual respondents were reporting on organizational policies, attitudes and perspectives. Therefore, the respondents from ICPs could provide detailed description of the companies' practice, experience, motives, attitude and perspective on self-regulation. Role-holder interview also seeks information from the individual acting in role (Dexter, 1970; Moyser & Wagstaffe, 1987). To get first-hand information of the Internet content regulation in this case, *it was decided to conduct role-holder interviews with the individual respondents from ICPs who are in charge of content management.*

In the course of the interviews, it was taken into account that views offered by organizational and other role-holders may not be coterminous with their private opinion (Namenwirth, *et. al.*, 1981). Surprisingly, the respondents in this study tended to express their own opinions and perspective on the Internet policy development in China. As the respondents are experts in this area, their personal views hold great value. In this sense, the role-holder interview has become at a certain point a qualitative interview, which let the respondents express themselves using their own words rather than 'being restricted to

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<sup>8</sup> There is no specific definition of ICP. It is taken here as websites providing any kind of contents, including news, BBS, blogging, IM.

predetermined categories: thus participants may feel more relaxed and candid' (Sewell, 2004: 86).

The great strength of a qualitative interview is the validity of the data obtained: individuals are interviewed in sufficient detail for the results to be taken as true, correct, complete and believable reports of their views and experiences (Hakim, 1987: 27). The method of an interview suffers the weakness of generalization (ibid). Nevertheless, this weakness can be mitigated if the study context is provided (Lincoln & Guba, 2000). It was assumed that the documentary analysis of the laws, industry statistics and news reports would establish the context.

### **3.2 Sampling and selection of data**

#### *3.2.1 Documents selection*

In the process of collecting data for documentary analysis, some difficulties were encountered, which were addressed using the four criteria proposed by Scott (1990: 6) to analyse the validity of the evidence collected: authenticity, credibility, meaning and representativeness. *Firstly*, most of the data collected was from the websites of the ISC, the Chinese government, China Internet Network Information Center (CNNIC) and Xinhua News Agency (XHNA), the official news agency. Hence *authenticity* is guaranteed. *Secondly*, regarding *credibility*, two important aspects are sincerity and accuracy (Scott, 1990: 22). As the data was gathered from official websites, it was the best possible data available. *Thirdly*, in the creation of the *meaning*, 'a complex social process intervenes between the author and the audience' (Scott, 1990: 34). These nuances are not always perceptible, and can be misleading. Companies' documents are particularly susceptible to this phenomenon, and it is not possible to claim that all the writer's intentions were detected. Finally, *representativeness* was the criterion most susceptible to flaws (Ugland et. al., 2003: 399). In this case, it was a disadvantage that cannot be overcome.

### 3.2.2 The interviews

For the role-holder interviews, the respondents were contacted largely through personal network of the researcher. Difficulties emerged from the very beginning. Among more than 20 candidates, five refused to be involved due to the 'sensitivity' of the topic.<sup>9</sup> Most individual respondents who agreed to be interviewed requested anonymity. Furthermore, to improve research quality, the researcher set a standard that the individual respondents should have had over 5 years of experience in media and/or the Internet. In addition, to reflect the diverse nature of ICP members, the researcher intended to include public companies; joint ventures of state-authorized media<sup>10</sup> and private companies; private companies and websites of state-authorized media. These efforts created further obstacles and made the research more difficult.

Eventually, among the 15 potential interviewees, ten were selected from the following organizations:

- **Sohu** (portal): the third biggest portal<sup>11</sup> in China; [www.sohu.com](http://www.sohu.com)
- **Baidu** (search engine): the biggest search engine in China, market share 86.6 %<sup>12</sup>; [www.baidu.com](http://www.baidu.com)
- **MSN China** (portal): the second biggest instant messenger (IM) provider in China, market share 13.9 %<sup>13</sup>; [www.cn.msn.com](http://www.cn.msn.com)
- **Yahoo! China** (portal): the third biggest search engine in China, market share 38.5 %; [www.yahoo.com.cn](http://www.yahoo.com.cn)
- **Tencent** (portal): the biggest IM provider in China, market share 84.4 %<sup>14</sup>; [www.qq.com](http://www.qq.com)
- **Voice of China** (portal): the website of the first joint venture of private company and state-authorized news agency who is allowed to participate in online news production<sup>15</sup>; [www.voc.com.cn](http://www.voc.com.cn)
- **Eastday** (portal): the biggest local portal in Shanghai<sup>16</sup>; [www.eastday.com](http://www.eastday.com)

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<sup>9</sup> The results of the study will support this. See next chapter.

<sup>10</sup> State-authorized media are normally state-owned and only a few are non-state-owned in China. The Chinese government has not officially recognized the Internet as media although it tries to regulate the ICPs as an organization in a way very close to the conventional media. This will be discussed in detail in next chapter.

<sup>11</sup> CNNIC website, see <http://www.cnnic.net.cn/html/Dir/2005/08/29/3084.htm> (accessed on 8, Aug. 2007)

<sup>12</sup> CNNIC website, see <http://www.cnnic.net.cn/download/2006/sreport.pdf> (accessed on 8, Aug. 2007)

<sup>13</sup> CNNIC website, see <http://www.cnnic.net.cn/html/Dir/2006/12/14/4348.htm> (accessed on 8, Aug. 2007)

<sup>14</sup> *ibid*

<sup>15</sup> VoC, <http://www.voc.com.cn>. Online news production license is crucial and only a very few state-authorized media and two commercial websites were granted with it. This will be further explained in next chapter, see § 4.3, on page 37.

<sup>16</sup> CNNIC website, see <http://www.cnnic.net.cn/html/Dir/2004/02/10/2135.htm> (accessed on 4, July 2007)

- **Bolianshe** (portal): the biggest real-name blogging website<sup>17</sup> in China; [www.blshe.com](http://www.blshe.com)
- **People's Net** (the website of People's Daily, CPC's party daily): its BBS (bulletin board system) Strong Country Forum is one of the most influential BBSs in China, (Mengin, 2004); [www.people.com.cn](http://www.people.com.cn)
- **Confidential**<sup>18</sup> (A state-owned media's website in Shanghai and will be referred as Website 10 and the informant will be referred as informant 10).

The informants are directors of news, BBS , blogging services, or general content managers or general managers<sup>19</sup>.

All the interviews were conducted during the early August, 2007, as telephone interviews, ranging from 40 minutes to 1 hour and 20 minutes. Two pilot interviews were conducted based on the original topic guide. Then, the topic guide was revised into six sections<sup>20</sup> and carried through the course of the study.

### 3.3 Final note

This study is an exploratory research whose strategy of analysis is similar to explanation building. Its goal is not to conclude a study but to develop ideas to further study' (Yin, 1994: 110). Thus, it is not possible to provide final explanation at the beginning of the study (ibid, 111). Instead, a discussion will be given at the end of the study.

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<sup>17</sup> Bolianshe website, see <http://www.blsh.com> (accessed on 3, Aug. 2007)

<sup>18</sup> On informant's request.

<sup>19</sup> For profile of the respondents, see appendix 2.

<sup>20</sup> See appendix 3.

## 4 Findings and Analysis

With the guideline of the conceptual framework, documentary analysis and ten role-holder interviews were conducted. Some of the research questions are satisfactorily answered and others need further discussion. The first four questions are addressed in detail through the following findings and analysis. The last question will be discussed based on the findings.

### 4.1 Motives for self-regulation (research question 1)

***Finding 1: ISC - A combination of the interests of the industry and the government***

It is necessary to set the background for the exploration of the self-regulatory initiatives like the ISC. It was found that 1) the ISC is an organization voluntarily established and sponsored by more than 200 network access carriers, Internet Service Providers (ISPs), ICPs, facility manufacturers and research institutes; 2) at the same time it operates under the supervision of MII.<sup>21</sup> Its membership is complex; 3) the ICPs studied in this research reflect diverse membership: there are public companies - Sohu, Baidu, Yahoo! (China), MSN (China), Tencent; private companies - Baolianshe; joint-ventures of state-authorized media and private companies - VoC and Eastday and state-authorized media - People's Net. Based on this finding, it is fair to say the ISC represents the interests of the industry as well as the government. It is not difficult to imagine, that the motives of the members for self-regulation will hence be diverse.

Over the last few years, ISC has initiated several codes of norms and codes of conduct for the industry. In terms of content regulation, the *Public Pledge of Self-regulation and Professional Ethics for China Internet Industry (PPSR)* is the most relevant. The code sets the norms for the industry as being patriotic, trustworthy, observing the laws and government regulation and promoting fairness. The signatories pledge to ban the content which can endanger national security, destroy the unity of the country, contradict the laws

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<sup>21</sup> ISC website, see [http://www.isc.org.cn/Society\\_js.php](http://www.isc.org.cn/Society_js.php) (accessed on 5, Aug. 2007)

and government regulations, pornography and other unhealthy information.<sup>22</sup> All the ICPs studied in this research are signatories and their motives vary.

***Finding 2: The 'push' of the private interest lay behind self-regulation***

Almost all the commercial websites, public or private, such as Yahoo! (China), MSN (China) and Boliangshe, believe that the self-regulatory initiative was pushed by the market (Gunningham & Rees, 1997: 11). Sohu was one of the initiators of PPSR and the informant recalled:

*Before PPSR, the Net [in China] was infested with pornography, gambling and other tasteless content. That was a mess. Under the competition pressure, ICPs had to provide these services and tried to sensationalize the content. If you don't, others will do. And the users will go to another website. However, Overtime, we were losing users. They didn't trust the content on the Net anymore. So we had to change.*

***Finding 3: The moral aspiration supported self-regulation***

'Push' of the market was a view shared more by the commercial websites. Besides, the 'pull' of moral aspiration (*ibid*) was shared by all the informants as a motive for self-regulation. The informant from Eastday said,

*Self-regulation sets a moral bottom-line. Without self-regulation, there was no standard. The Internet is a mass media and influential to different people including young children and we should be responsible for the content on our website.*

***Finding 4: Legislation's lag behind technology made self-regulation more important***

Thirdly, all the respondents agreed that the rapid evolution of the Internet technologies was a 'push' in the self-regulatory initiative. The informant from Baidu pointed out, it would take more than one year for People's Congress to promulgate an ordinance while there could be more new issues that need to be addressed on the Internet.

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<sup>22</sup> ISC website, see <http://www.isc.org.cn/20020417/ca278881.htm> (accessed on 4, Aug. 2007)

**Finding 5:** *Self-regulation allows the transfer of responsibilities and risks to the users*

Fourthly, the companies tend to transfer liability to the users by self-regulating. At the time of the research, ISC is promulgating a code of norms for blogging services<sup>23</sup>, the most active Internet-related market in China.<sup>24</sup> This was initiated by Boliangshe and VoC and encourages the users to blog under their own, real names. The informant of Boliangshe pointed out, 'real-name' blogging would reduce the ICPs' workload related to content regulation. He said,

*There are more than 160 million Internet users in China which makes content regulation very difficult. The bloggers will regulate themselves by using the real names. The risk of illegal and harmful content [as an exposure of an ICP] will be reduced.*

Such a solution has to be considered from different perspectives. It undoubtedly would transfer the responsibilities of regulation from ICPs to Internet users. Yet, from perspective of the government, it might provide a remedy where more formal systems might not.<sup>25</sup>

**Finding 6:** *Low motive or less need for self-regulation among the state-authorized media*

It was found that the commercial websites were evidently more motivated for self-regulation. The story is different for the state-authorized media. Self-regulation seems to make little difference to their conduct. The informant from People's Net said,

*Whether there is self-regulation or not, the state-authorized media like us always keep good behavior.*

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<sup>23</sup> It has published on 21, Aug. 2007. See Xinhuanet: [http://news3.xinhuanet.com/newmedia/2007-08/21/content\\_6576717.htm](http://news3.xinhuanet.com/newmedia/2007-08/21/content_6576717.htm) (accessed on 25, Aug. 2007).

<sup>24</sup> BBC, *The number of bloggers in China hits 100 million* (5, June 2006), available at [http://news.bbc.co.uk/chinese/simp/hi/newsid\\_4970000/newsid\\_4979900/4979940.stm](http://news.bbc.co.uk/chinese/simp/hi/newsid_4970000/newsid_4979900/4979940.stm) (accessed On 20, Aug. 2007)

<sup>25</sup> Regulation online and 'freedom of speech' are the classic contradiction. As the respondent from Boliangshe pointed out, real-name blogging might be a way out. Whether the solution is feasible is not a question to be considered here.

Though, all the state-authorized media are signatories of PPSR. This can only be explained with the governmental nature (Baldwin & Cave, 1999) of the ISC. On one hand, there are needs to maintain the market, desires to take responsibility for the public and needs to fill the policy vacuum. On the other hand, the ISC is well connected with the MII and operates under its oversight. Hence the self-regulation combines the self-interest of the industry and delegates some government policy. The state-authorized media are already in the governmental regulatory system so self-regulation makes no big difference to them. As informant 10 summarized, 'self-regulation only influences the ICPs outside the "system".' The constraints of the governmental regulatory regime are evident when the role played by the ISC is considered.

#### **4.2 The role of ISC in content regulation (research question 2)**

The role of ISC is mainly considered here as a self-regulatory body. It was found that the extent of the role of ISC is mainly constrained within promulgation of rules. Although it is also involved in the enforcement of the rules and monitoring of the regulatory process, it only operates as an element within the state regulatory regime.

***Finding 1:*** *The ISC promulgates rules by combining expertise and governmental regulations*

As indicated earlier, the ISC is active in setting norms and standards for the industry. It was found that the ISC's duty was to combine the expertise of the industry and the governmental policy. The informant from Baidu, who personally was involved in PPSR's drafting, recalled,

*The ISC organized meetings of professionals, officials of MII and experts in Internet regulation to discuss, draft and revise the Pledge.*

Most of the articles of the PPSR related to Internet content parallel the *Regulation of Internet Information Services (2000)* (RIIS), the law related to Internet content when PPSR was formulated in 2002. So in a great sense, the PPSR is a delegation of the government regulations.

***Finding 2: ISC enforces self-regulatory rules through 'blame and fame'***

Over the last a few years, the ISC has set up local branches in all the 31 provinces<sup>26</sup> and is enforcing self-regulatory rules through 'blame and fame'. The ISC has created on- and off-line hot lines to enable the users and members to condemn activities contrary to the code. ICP's websites are all linked to the hotlines. From June 2004 when the hot-lines were set up, the centre has got more than 500,000 calls, among which 51% related to online pornography and 25% related to online frauds.<sup>27</sup> This method is well recognized by the members. The informant from Yahoo! (China) pointed out,

*The hot line works as a monitor. All the users can condemn illegal or harmful content, which is more effective.*

Once it gets a call, the ISC will contact the website in question and request removal of the content. From 2004, the ISC started revealing the ten worst websites with illegal and harmful content.<sup>28</sup> On the other hand, it set up an annual award for companies who have performed well in content regulation since 2005.<sup>29</sup> Several companies interviewed here such as Sohu or Tencent have received such an award. The informant from Sohu said the award was an incentive and also a good branding for the company.

***Finding 3: The ISC operates as an element within the state regulatory regime***

The ISC operates as an element within the state regulatory regime for two main reasons. Firstly, it is a professional association without legitimacy. Its role is overshadowed by the state regulatory regime with legitimacy. The Chinese government set up cyber police in 2002, and its role is to monitor online behavior (Tai, 2006). The police also created hotlines to encourage the users to participate in the regulation.<sup>30</sup> All the informants agreed that

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<sup>26</sup> ISC website. See [http://www.isc.org.cn/Society\\_js.php](http://www.isc.org.cn/Society_js.php) (accessed on 5, July 2007)

<sup>27</sup> ISC website. See <http://www.isc.org.cn/ShowArticle.php?id=7969> (accessed on 5, July 2007)

<sup>28</sup> China.com (2004) 'ISC announced top ten vicious websites'. See [http://tech.china.com/zh\\_cn/zhuanti/lm/11047698/20070328/14013271.html](http://tech.china.com/zh_cn/zhuanti/lm/11047698/20070328/14013271.html) (accessed on 5, July 2007)

<sup>29</sup> ISC website. See <http://www.isc.org.cn/> (accessed 6, July 2007)

<sup>30</sup> See the website of Beijing cyber police: <http://www.bj.cyberpolice.cn/index.htm> (accessed on 6, July 2007)

police monitoring was more effective than ISC's. VoC's respondent said,

*Once the police found illegal content on the server of the website they will give you a notice. If it is something that would endanger national security, the police would shut down the website for one hour or two hours. This method is much more powerful.*

The ISC often transfers the information to the police to crack down on illegal content.<sup>31</sup> In this sense, it does operate as an element of the state regulatory regime. Furthermore, we have to go back to its connection to the governmental department MII. As long as it operates under the supervision of the department, it functions as an element of the governmental regulatory regime.

The role of the ISC is constrained for the reasons mentioned. This only can be partly attributed to the political context in China which is often mentioned by scholars (Endeshaw, 1995; Abbott, 2001). As a self-regulatory body, the ISC is restricted by the common disadvantages of self-regulation (Graham, 1994; Page, 1987). It is important to reflect back to the standpoint of the research that (See p. 9) self-regulation is not an adequate alternative to government regulation, especially in an environment such as the Internet. As Baldwin and Cave argue '[n]early all self-regulatory mechanisms of governmental significance are subject to some degree of external influence' (1999: 137).

#### **4.3 What is regulated? by whom? (Research questions 3 & 4)**

With a raft of laws and regulations, the Chinese government has set up thresholds for the ICPs and shifted part of the responsibilities to them in terms of content regulation. Under this system, individual companies are struggling to find their way through. The roles of the government and the individual companies as well as specific subjects of regulation will be discussed in this section hand in hand.

***Finding 1:*** *The government regulates ICPs through a system of restrictions and licence requirements – Gatekeeping*

After years of observing and monitoring the market and testing of various regulation

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<sup>31</sup> ISC website <http://www.isc.org.cn/ShowArticle.php?id=7969> (accessed on 6, July 2007)

methods, the Chinese government set up a strict regulatory regime which sets thresholds for the ICPs, especially for the commercial websites and foreign companies. The restrictions mainly exist in two areas:

**1) Restriction on the production and distribution of news:** The latest update of regulation of online news services, the *Decree on the Management of Internet News/Information Services (DMINIS) (2005)*<sup>32</sup>, promulgated by the State Council (SC) and MII, categorizes ICPs who provide news services into three categories:

- a) the ones who are allowed to produce and distribute news and distribute news from other media;
- b) the ones who are only allowed to distribute news from state-authorized media;
- c) the websites of state-authorized news agencies who are only allowed to distribute self-produced news.<sup>33</sup>

This categorization seems simplistic. It does, however, reflect an extensive deliberation by the government. The restriction on news is related to the second type of restrictions – **news licence requirements**. To qualify into any of the three categories listed above, the ICPs are required to apply for specific licences in relevant category. In principle, all the ICPs can apply for any kind of news licence. In reality, only very few ICPs were granted the licence for the 'a)' category - including Xinhuanet, the website of the official news agency XHNA, and People's Net which is studied here. For the state-authorized media it is quite easy to get a licence for the 'c)' category (Informant 10). Therefore, almost all the commercial websites fell into the 'b)' category. They only can distribute news which has been published by the state-authorized news agencies either online or in another form.

These regulations try to 'kill two birds with one stone'. On one hand, they have a political or ideological purpose of containing and directing the proliferation of news material into a relatively small number of manageable channels. On the other hand, they intend to protect the economic interests of the state-authorized news agencies (Wacker, 2003). In order to distribute first-hand news, the ICPs of the 'b)' category are forced to buy news

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<sup>32</sup> CNNIC archive, available at <http://www.cnnic.net.cn/html/Dir/2005/09/27/3184.htm> (accessed on 10, Aug. 2007)

<sup>33</sup> Article 5, DMINIS (2005): *ibid.*

from state-authorized news agencies. Almost all the news providing commercial websites studied here cooperate with the state-authorized news agencies in this way. For example, MSN (China) working with *Beijing Youth Daily* who was granted a 'c)' type licence; Tencent cooperates with more than 10 state-authorized news agencies.

**2) Other licence requirements:** Besides the news licences mentioned above, various specific licences are required to take part in certain areas of content services. Basically, the ICP licence is required to provide any type of service.<sup>34</sup> The BBS licence is required for an ICP who carries BBS services.<sup>35</sup> Licences have become the thresholds for the commercial websites. The respondent from MSN (China) illustrated this with his own experience. He said,

*The dating website of MSN<sup>36</sup> cannot enter the Chinese market because it needs a licence for a BBS service.*

As he said, all these licences are the thresholds for foreign companies entering China. This view is shared by all the commercial websites. Baidu is the only Internet company which was granted the licence for the 'a)' category for news production and distribution. Although Baidu had no news business at that point in time, the respondent said, the licence was a valuable resource for future development. Almost all companies are now applying for the 'a)' category and waiting for government decision (Informant from Tencent). One needs to note, some commercial websites are seeking alternatives to news licence applications. For instance, VoC is the first joint venture of a private company (Daqi) and a state-authorized media (Newspaper Group of Hunan) who already has the 'a)' category licence. VoC's informant pointed out that this joint venture qualified VoC for news production and distribution automatically thanks to the licence held by their joint-venture partner.

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<sup>34</sup> Article 5, RIIS (2000): CNNIC archive, see <http://www.cnnic.net.cn/html/Dir/2000/09/25/0652.htm> (accessed on 15, Aug. 2007)

<sup>35</sup> Article 5, RIBI (2000): CNNIC archive, see <http://www.cnnic.net.cn/html/Dir/2000/10/08/0653.htm> (accessed on 15, Aug. 2007)

<sup>36</sup> [www.match.com](http://www.match.com).

The restrictions, especially the licences, allow the government to regulate the behaviours of the **gatekeepers** - in this case, the ICPs - with ease and clear oversight. It is a more practical and feasible to regulate the behaviour at the ICP level, rather than interfering at the user or consumer level. Additionally, the laws have shifted part of the responsibility of content regulation to the ICPs.

***Finding 2: Responsibility shifts from the government to the ICPs***

Through the laws the government has shifted part of responsibility of content regulation to the ICPs. There are two key developments which need to be mentioned:

- 1) *DMINIS (2005)* extends the categories of content forbidden by the government to 11 categories<sup>37</sup> from 9 stipulated by *Regulation of Internet BBS Information (RIBI) (2000)*,<sup>38</sup>
- 2) the establishment of 'Management Office for Internet Information' (MOII) under the State Council Information Office (SCIO) and corresponding offices under the publicity department of every provincial government in 2000<sup>39</sup>.

With the laws and the set up of the new departments, the government has divided the work of content regulation between MOII and the ICPs.

Firstly, part of the responsibility has shifted to the ICPs. The RIBI (2000) and DMINIS (2005) stipulate that the ICPs who provide BBS services need to perform screening for forbidden content with automated and manual methods. The companies studied here who

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<sup>37</sup> The categories are: content which 1) Contradicts the principles defined in the constitution [of the PRC]; 2) Endangers national security, discloses state secrets, subverts the government, destroys the unity of the country; 3) Damages the honour and the interests of the State; 4) Instigates ethnic hatred or ethnic discrimination, destroys the unity of [China's] nationalities; 5) Has negative effects on the State's policy on religion, propagates evil cults or feudal superstition; 6) Dissemination rumours, disturbs social order, undermines social stability; 7) Spreads lewdness, pornography, gambling, violence, murder, terror or instigates crime; 8) Offends or defames other people, infringes upon the rights and interests of other people; 9) Instigates illegal congregation, grouping, demonstration, parading, destroys social order; 10) Organizes events in the name of illegal organizations; 11) Other contents that are forbidden by law or administrative regulations. Article 19, DMINIS (2005): CNNIC archive, available at <http://www.cnnic.net.cn/html/Dir/2005/08/29/3084.htm> (accessed on 08 Aug. 2007).

<sup>38</sup> CNNIC archive, available at <http://www.cnnic.net.cn/html/Dir/2000/10/08/0653.htm>. (Accessed on 07 July 2007)

<sup>39</sup> MOII website, see <http://www.scio.gov.cn/glfw/zcfg/index.htm>. (accessed on 8, Aug. 2007)

provide BBS services are all using keyword filtering and 24-hour manual screening. These methods are used for all the content uploaded by the users, including postings and blogs. This has added a great amount of work to the ICPs. Companies such as Baidu, Sohu or Tencent have all set up special departments for content filtering and screening. Baidu even applies user self-regulation to regulate its BBS. The informant described their three-stage regulatory method:

*First, self-regulation by the users – the webmasters (users) of every section of the BBS regulating the content; second, the 24-hour monitoring by the regulators from Baidu; Third, the 'special team' who filters the content with technical [automatic] methods.*

**Finding 3:** *The regulation of content by ICPs is subject to their interpretation of the laws.*

All the methods used by the companies are designed to prevent or filter out the content forbidden by law. An important issue arises here - the ambiguity of the definitions of some of the forbidden content categories. For example, DMINIS (2005) bans the content which can 'endanger social stability'. Threats to 'social stability' is a catch-all category (Hughes, 2004) and can be interpreted through different meanings. There is no specific interpretation given by the government. It was found that the ICPs studied in the research have all set up their own standards or guidelines to regulate the content. The informant from VoC described the 'three-line' policy which they had applied for content regulation:

*We categorize the forbidden content into content defaming the government, attacking high-ranking officials or the Communist Party, into the 'Red line'; the content which spreads lewdness, pornography, into the 'Yellow line'<sup>40</sup>; and the content defaming other people into the 'Black line'.*

Other companies are using similar guidelines. Once the ICPs have identified forbidden content, they will use different methods to deal with different content categories. For the content cross the 'Red line', or 'noise online' as called by the informant from Yahoo! (China), they will delete it. For the content cross the 'Yellow' or 'Black line', the webmasters of the BBS or directors of the blogging channel will send an email to the writer to amend or delete the content.

If the writer refuses, the webmaster or director will delete the content (Baidu, Boliangshe, VoC). Therefore, the ICPs are regulating online content based on their own understanding and interpretation of the laws. The government will intervene only on special occasions.

***Finding 4:*** *The government intervenes on special occasions and topics.*

As discussed in chapter 2, the line between the government and the industry in terms of content regulation is normally drawn between illegal and harmful content (see § 2.2.3.3). It is not the case in China. Instead, the government will intervene on special occasions and topics. For instance, the MOII issued a notice to advise on the content regulation when the big scale anti-Japanese demonstrations took place in big Chinese cities in 2005 (Informant 10). Also, during some 'sensitive' periods, such as the time around the anniversaries of '6 • 4' student movement, the MOII will issue a notice (Yahoo! (China)). It was found that the special occasions and topics mainly relate to foreign affairs and politics (Tencent informant). It is not hard to imagine that all the ICPs take the MOII's advice seriously on such occasions or topics in order to regulate content. The line between the government and the ICPs seems clear – the government regulates by law and intervenes on special topics and occasions. Yet, one cannot really conclude at this stage whether the government intervention stops here.

***Finding 5:*** *The MOII regulates the ICPs as organizations in a conventional way.*

By setting up effective communication channels, the MOII is trying to regulate the ICPs in the way the conventional media are regulated. The informants indicated that the MOII requested the websites' editors to attend news briefings from time to time and to set up guidelines for news coverage. Although the briefing only concerns news, the respondents all take it as a general guideline for content regulation (Tencent, Baidu). Through news briefing, the MOII has established close relationships with the ICPs and the communication between them is considered to be very effective. As MSN (China) respondent vividly put, 'A call from the MOII works it all'.

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<sup>40</sup> 'Yellow' in Chinese slang means 'pornography'.

The way in which the MOII guides the ICPs is very close to how the government directs conventional media. This can be related to general policy of the government to regulate the gatekeepers of the Internet. The respondent at Tencent used to work for the official XHNA (Xinhua News Agency) and said,

*Although the Department of Publicity<sup>41</sup> does not clarify whether the Internet is a medium, the way in which the government regulates the Internet is very familiar.*

Yet, all the respondents, most with conventional media experience<sup>42</sup>, admitted that the regulation of the ICPs is not based on strict rules (VoC, MSN (China), Baidu) given the rapid development of the technologies and other policy challenges discussed in theoretical framework (see § 2.1).

To summarize, through a series of laws and regulations the Chinese government has established a regulatory regime which mainly regulates the Internet gatekeepers, the ICPs, especially the commercial websites. All the individual ICPs themselves regulate the content based on their understanding of the laws and this is where ambiguity arises. The government intervenes into ICPs' content regulation on special occasions and topics. By setting up effective communication channels, the government regulates the ICPs as organizations in a way close to conventional media. The policy challenges of the Internet make the regulation more flexible. How flexible can it be? This question echoes research question 5 which will be addressed in the next section.

#### **4.4 The room for self-regulation (research questions 5)**

Based on the analysis and findings from the research questions 1 to 4, this section intends to discuss the last research question. **Could self-regulation be a continuum to the 'command and control' approach to Internet content regulation in China?** The short answer is, in some areas, yes.

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<sup>41</sup> The directing governmental department of conventional media system.

<sup>42</sup> For the profile of the informants, see appendix 2.

The analysis showed, there is a strong motivation behind self-regulation from the ICPs, especially from the commercial websites. Additionally, although the ISC, as a self-regulatory body, is constrained by its connection with the government, it has provided a basic framework for self-regulation with its national network of actors in China's Internet industry and the primary regulatory scheme.

Yet, to form a self-regulatory scheme for content regulation, China's Internet industry has a long way to go. The key issue is the 'line' between the government and the industry. Referring to Price's (2002) theory, the division between government and self-regulation should be drawn between the illegal and harmful content. Eleven categories of content are forbidden<sup>43</sup> online in China. However, the ambiguity of definitions of some content categories makes it difficult to draw a line between the illegal and harmful content. To establish self-regulatory mechanism for Internet content regulation would require resolving this ambiguity first. This in turn would require government's detailed interpretation. In current situation, it is difficult to imagine that the Chinese government would do so.

It is more practical and feasible to look for other options for self-regulation under the present circumstances. Firstly, the technological difficulties would discourage government intervention. For example, online video has become very popular in China and it is time-consuming and prohibitively expensive to monitor. Therefore, self-regulation could be a good potential option. Secondly, some respondents (Boliangshe, Sohu) suggested that the policy could be more flexible on the topics like social issues, such as homosexuality, AIDS and the environment which had been stringently controlled. They believed that the government tended to be more tolerant about these topics. Referring to literature review, the majority of the Internet users are more interesting in these topics (see § 2.3.1). Hence, application self-regulation in these topics would be more important. In short, some content categories could well be dealt with through self-regulation, as a continuum to 'command and control'.

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<sup>43</sup> See note 38, on page 30.

## 5. Conclusion

In the light of the findings, it is safest to argue that although self-regulatory initiatives are currently restricted by governmental regulations in China there is room for self-regulation in terms of Internet content regulation. China may impose more flexible policy for Internet content regulation and self-regulation could be a continuum to the 'command and control' regime for some online content categories. There is a strong motivation for self-regulation in the China's Internet industry. Although the self-regulatory initiatives such as ISC are constrained by governmental oversight, the organizational structure for self-regulation has been set up.

It seems that the Chinese government has realized the policy challenges to keep a stringent control over the Internet. Over the last few years, it has modified its policy to regulate the gatekeepers of the Internet, instead the whole Internet. By setting up effective communication channels, the government, represented by MOII, regulates the ICPs as organizations in a way close to conventional media. However, the technological difficulties would discourage government intervention in some areas due to the prohibitive cost. It will leave room for self-regulation. Furthermore, the government tends to be more tolerant on topics about social issues which were previously stringently controlled. Hence, some content categories could well be dealt with through self-regulation, as a continuum to 'command and control'.

### 5.1 Plausible scenarios

As an exploratory research, this study points at a number of plausible scenarios. First, the government may encourage some form of self-regulation under the oversight of government departments for some areas where regulatory cost is too high. Hu Jintao, President of China, encouraged building of the Internet industry regulated by laws and the industry itself and subjected to public oversight. At the same time government intervention will exist on certain topics and occasions.<sup>44</sup>

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<sup>44</sup> Such as, the topics related to the independence of Tibet, Taiwan and '6 • 4' student movement.

Second, the government may keep regulating the gatekeepers and trying to incorporate the Internet into its media system for cultural protection and ideological control. In his latest speech on Internet content regulation, Hu said, '[w]e should encourage the spreading of the content which can represent Chinese culture' and 'maintain the ideological battlefield.'<sup>45</sup> The guidance mechanism provided by the MOII to the ICPs is a representation of this approach.

Third, the government may put even greater emphasis on promoting the cooperation between foreign and local companies, commercial websites and state-authorized media, and become more focused on economic benefits of the Internet. Hu encouraged the Internet industry to increase the scale of digital content production.<sup>46</sup> These scenarios might happen simultaneously or separately.

## **5.2 Possibilities for further research**

This study does not intend to predict the future but the dimensions of government decisions about regulation of the Internet discussed in the scenarios will help contextualize new developments as they unfold. Further research is needed to more satisfactorily answer the question about the future outcome. Such research would need to focus on the government's goals and philosophy, as, it can be seen it ultimately determines both direct administrative and self-regulatory measures.

Finally, while the above research focuses on 'what will or could be' (an explanatory or descriptive study), a fundamental question that policy makers ask themselves is 'what should be' (a normative question). This study can provide a foundation for such a normative discussion by using the insight into individual actors' motivations and behaviours.

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<sup>45</sup> Xinhuanet available at [http://xinhuanet.com/politics/2007-01/24/content\\_5648188.htm](http://xinhuanet.com/politics/2007-01/24/content_5648188.htm). (accessed on 6, July 2007)

<sup>46</sup> *ibid.*

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## Appendices

### 1. Abbreviations

**BBS:** Bulletin Board System

**CNNIC:** China Internet Network Information Centre

**DMINIS:** Decree on the Management of Internet News/Information Services (2005)

**ECF:** Electronic Commerce Forum (German)

**ICANN:** Internet Corporation for Assigned Names and Numbers

**ICP:** Internet Content Provider

**ICTF:** Internet Content Task Force (German)

**IETE:** Internet Engineering Task force

**IM:** Instant Messenger

**ISC:** Internet Society of China

**ISP:** Internet Service Provider

**MII:** Ministry of Information Industry (China)

**MOII:** Management Office for Internet Information

**PPSR:** Public Pledge of Self-Regulation and Professional Ethics for China Internet Industry

**RIBI:** Regulation of Internet BBS Information (2000)

**RIIS:** Regulation of Internet Information Services (2000)

**SC:** State Council (China)

**SCIO:** State Council Information Office (China)

**W3C:** World Wide Web Consortium

**XHNA:** Xinhua News Agency (China)

## 2. List and summaries of main documents

### a. *'Actively and Creatively Nurture a Healthy Online Culture'*

**Type of the document:** Speech

**Author:** Hu Jintao, President of China

**Date published:** 24-01-2007

**Source/location of the document:** this speech is available at the website of Xinhua News Agent, state news agency of China. URL: [http://news.xinhuanet.com/politics/2007-01/24/content\\_5648188.htm](http://news.xinhuanet.com/politics/2007-01/24/content_5648188.htm)

**Abstract:** This is Hu's latest speech on Internet policy. Hu spoke at a study session of the Political Bureau of the Central Committee of Communist Party of China (CPC). This speech is taken as a keynote of the future policy development by the industry and officials at every level in China. Hu summarizes the guideline of Internet policy is 'to well develop, well facilitate and well regulate it.'<sup>47</sup>

**Other comments:** Hu addresses both Internet actors and users and calls for decency on-line.

### b. *'Decree on the Management of Internet News/Information Services'*

**Type of the document:** National law

**Promulgating organs:** SCIO and MII

**Date of promulgation:** 25-09-2005

**Date of implementation:** 29-09-2005

**Applicable Scope:** Control of Internet News and Information

**Source/location of the document:** this speech is available at the website of central government. URL: [http://www.gov.cn/ziliao/flfg/2005-09/29/content\\_73270.htm](http://www.gov.cn/ziliao/flfg/2005-09/29/content_73270.htm) (retrieved 08-07-2007)

**Abstract:** These regulations stipulate that news sites that publish stories from sources other than their own must obtain approval from the State Council Information Office, and that media attached to the central or provincial governments should not provide news to other online sites without approval. News sites that only publish their own stories must register with the provincial information offices. The regulatory measures apply to news, commentaries, and short message services (SMS) specializing in news content. Those who spread fabricated information, unhealthy content, pornography, and state secrets are subject to a fine, disciplinary and administrative action, and/or imprisonment<sup>48</sup>.

### c. *'Public Pledge on Self-regulation and Professional Ethics for China Internet Industry'*

**Type of document:** Code of practice

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<sup>47</sup> Xinhua Net. URL: [http://news.xinhuanet.com/english/2007-01/24/content\\_5648674.htm](http://news.xinhuanet.com/english/2007-01/24/content_5648674.htm) (retrieved on 08-07-2007).

<sup>48</sup> See Tai (2006) p. 99.

**Author:** ISC

**Date published:** 25-01-2005

**Source/location of the document:** this treaty is available at the website of ISC. URL: <http://www.isc.org.cn/20020417/ca278881.htm>

**Purpose/abstract:** Code of practice for the Internet industry to ban signatories from producing, releasing, or spreading material 'harmful to national security and social stability' or 'in violation of the law,' and to encourage Internet surfers to 'use the web in a civilized way' and 'avoid any content that breaches others' intellectual property rights.<sup>49</sup>

d. *'Regulation of Internet Information Services'*

**Type of the document:** National law

**Promulgating organs:** SC

**Date of promulgation:** 25-09-2000

**Date of implementation:** 29-09-2000

**Applicable Scope:** Information

**Source/location of the document:** this speech is available at the website of CNNIC. URL: <http://www.cnnic.net.cn/html/Dir/2000/09/25/0652.htm>

**Abstract:** These regulations stipulate that websites need to get approval from provincial information department for commercial and non-commercial information services and news. Those who spread fabricated information, unhealthy content, pornography, and state secrets are subject to a fine, disciplinary and administrative action, and/or imprisonment<sup>50</sup>.

e. *'Regulations for the Protection of Computer Information System Safety in the People's Republic of China'*

**Type of the document:** National law

**Promulgating organs:** SC

**Date of promulgation:** 18-02-1994

**Date of implementation:** 18-02-1994

**Applicable Scope:** Control of Internet

**Source/location of the document:** this speech is available at the website of CNNIC. URL: <http://www.cnnic.net.cn/html/Dir/1994/02/18/0644.htm>

**Purpose/abstract:** The first official policy paper on Internet regulations. The focus of these regulations is on the physical entity and function of computer information systems in the country.

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<sup>49</sup> ISC archive, available at <http://www.isc.org.cn/20020417/ca278881.htm> (accessed on 10, Aug. 2007)

<sup>50</sup> See Tai (2006), p. 99.

	Working field	Working years in Internet industry/in media	Website name and address	Main business	Headquarters
<b>nant1</b>	Blogging	4/7	Sohu <a href="http://www.soho.com">www.soho.com</a>	Portal	Beijing
<b>nant 2</b>	Business Development	4/5	Baidu <a href="http://www.baidu.com">www.baidu.com</a>	Search engine	Beijing
<b>nant 3</b>	General management	4/10	MSN China <a href="http://www.cn.msn.com">www.cn.msn.com</a>	IM	Shanghai
<b>nant 4</b>	Product development	7/7	Yahoo! China <a href="http://www.yahoo.com.cn">www.yahoo.com.cn</a>	Portal	Beijing
<b>nant 5</b>	News channel	3/17	Tencent <a href="http://www.qq.com">www.qq.com</a>	IM	Shenzhen
<b>ventures of state-owned media and private company</b>					
<b>nant 6</b>	Blogging channel	2/17	Voice of China <a href="http://www.voc.com.cn">www.voc.com.cn</a>	General	Beijing
<b>nant 7</b>	News channel	6/7	Eastday <a href="http://www.eastday.com">www.eastday.com</a>	Portal	Shanghai
<b>ie companies</b>					
<b>nant 8</b>	General management	3/17	Bolainshe <a href="http://www.blshe.com">www.blshe.com</a>	Blogging	Beijing
<b>own-owned companies</b>					
<b>nant 9</b>	BBS	8/10	People's Net <a href="http://www.people.com.cn">www.people.com.cn</a>	News	Beijing
<b>nant 10</b>	News channel	7/10	Confidential	News	Shanghai

### 3: Interview Topic Guide

#### 1. Introduction

- Confirmation of confidentiality, permission for record
- Explain the background of the research
- Give the definition of self-regulation

#### 2. General questions

- Personal background: working experience with the Internet, current occupation, working years and work field
- Information about the website where the interviewee is (was) working: name, ownership of the website, a typical user's age, occupation and area (s)he is living

#### 3. ISC and self-regulation

- a) ISC
  - When did your company join the ISC?
  - To you, what is the role of the ISC?
  - Do you think it is a self-regulatory body? If yes, why? If no, why not?
  - How do you think about the ISC's monitoring scheme? Such as the annual award and the hotlines?
    - How does its monitoring affect your company?
    - What are the strengths and weaknesses of the ISC as a self-regulatory initiative?
    - Do you see the ISC a framework for self-regulation?
- b) Self-regulation
  - What is your understanding of self-regulation?
  - Why did your company participate in self-regulatory initiatives?
  - What do you think about PPSR?
  - What differences do you see in self-regulation and government regulation?
  - Do you think the Internet can be self-regulated or government regulated?
  - How do you think the Internet should be regulated in China?

#### 3. Content on the Website (news, BBS, Blogs)

- a) News: (Selective)
  - How does the website gather news?
  - Do you cooperate with any state-authorized media for national news?
  - How important is news service for your website?
- b) BBS: (Selective)
  - How many people will participate in the BBS on average per day?
  - What are the most popular topics? Can you give me some examples?
  - Do you think people talk more openly on the BBS? Why?
  - What is your view on using the real name on-line? What is your view on some software for the purpose?
    - Do you think the BBS is a strongest feature of the website
- c) Blogs: (Selective)
  - Who are the bloggers? What are they blogging?
  - Do you think blogs are very important to the website?
  - What is your view on real-name blogging? Do you think it is feasible in China?

#### 4. Laws and regulations on content

- a) Forbidden contents
  - Do you know what is forbidden on the Internet by law?

- Have you ever encountered forbidden contents in the area where you are (were) working? If yes, could you give me an example?
  - What have you done with the forbidden contents? (What will do with the forbidden contents?)
  - Do you have a guideline in your organization for forbidden contents? How do you identify such contents?
  - b) Licences
    - What licences is your website using at the moment?
    - Is it easy to apply?
    - Does your company hold licence for news production?
    - What licences are you applying at the moment?
  - c) MOII
    - How often do you communicate with MOII?
    - What role do you think it is playing?
    - How often does MOII issue notices? On what topics?
    - What is the response of your company to these topics?
    - How do you think about MOII's regulatory scheme?
    - Do you think it is a suitable method to regulate Internet content?
5. Room for self-regulation
- Do you think self-regulation can be a continuum to government control?
  - If yes, to what extent? On which area in terms Internet content?
6. Perspectives on Internet policy
- What is your view on the policy development in next five years?
  - If you see any potential of change, Could you explain the reasons?

#### 4: Interview transcript

Time: 15/08/07

Method: phone interview

Length: 1 hour and 7 minutes

Informant 3

Location of the interviewee: Beijing

Q: 您好！请您先介绍一下自己在互联网从业的经历和目前的工作情况

A: 我2003年之前曾经做过（建立或运营过）一些小网站，2003年，我在新浪（www.sina.com）工作过两年，然后到MSN（中国）工作。我在新浪是在科技频道，当时是管一些产品，title是Senior editor，其实是科技频道的主编、副主编的一些工作，就是科技频道的it行业。我主要做产品，主要是手机数码。我06年到MSN。现在做的就比较杂。MSN与新浪的经营模式不一样，MSN主要是和合作伙伴合作，原则上自己不直接做内容。这个层面就比较多了，不仅是哪个频道。

Q: 您接触互联网已经很久了吗？

A: 其实中国最早的互联网最早的网站是从2000年开始，（我）其实也是这样开始的。以前互联网的流动性很大。新浪其实也就是从2002年，2003年开始盈利了。

Q: 您能大概介绍一下MSN的情况吗？比如说用户的年龄层、职业特点、分布的区域。

A: 城市里（MSN用户）最多的是广东、上海和北京，其他用户基本上都是沿海城市，内陆城市比较陕西、河南这些省份也比较多。用户的年龄层次很难区分，MSN（目标用户）在25岁至35岁之间。门户网站的用户都是比较类似的，年龄层次非常杂，CNNIC的报告中有提到。MSN的产品有messenger,主要是以这种方式驱动管理。我们的用户也比较杂。但是，我们现在在整理，希望将MSN的用户集中在白领。MSN这个品牌非常好，我们会更专注做白领这些用户。目前的效果也是比较好的。

Q: 您现在的title是什么呢？

A: 我现在是senior manager，后来他们又加上一个Homepage planer。这个title不是很重要，我主要是管理内容方面的工作。

Q: MSN有跟国内网站合作的项目吗？

A: MSN现在几乎所有的频道都是和国内网站合作的。因为这个牵扯到一个问题：在国内做互联网需要很多种licence。新浪是国内最大的互网站，但它的licence也不全，它没有新闻采编权，它只有转载权。MSN这种（外资）公司，按照国家的规定，必须要和国内网站建立合作，外资和中资分别占50%。MSN有一些licence，但是我们没有新闻采编的licence。我们实际逻辑上有一些重要新闻也是不能转载的。如果我们要绕过这个规定的话，就必须找当地的合作伙伴，因为他们有licence。

Q: 那你们现在都是在和什么网站合作呢？

A: 我们所有20多个频道都是合作的，像北青（北京青年报）做新闻，淘宝（网）做shopping。交友和BBS是专门需要licence的，video也需要licence。在中国做网站，licence是非常重要的

。它（licence）其实是很多国外公司进入中国的门槛，尤其是交游，MSN在美国的交游网站，就是因为没有licence进入不了中国。Google当时进入中国也没有(ICP)licence，但现在已经解决了，它与另外一个公司成立了合资公司，用这家公司的licence做Google。所以，licence是一个比较大的问题。Video的licence更为复杂，有允许原创的licence，也有只允许转载的licence。我们一个直播频道，这个网站是一个有相当背景的网站。我们另外一个视频频道是和上海东方宽频合作的，它其实是国家授权的一个媒体。总之，新闻转载的许可证与新闻采编的许可证是不同的。这里面的细节很多，我也不太清楚。当时，MSN的在美国的交友频道就是因为没有许可证，所以卡在外国了。因为它需要一个BBS的许可证，是要用户自己去贴的。所以，这一块是非常有意思的。我觉得，它这样管理是有道理的。

Q: 那您觉得道理在哪儿？

A: 国外公司对处理licence没有一个正确的观点，它可能觉得这是一个一经申请就能得到的东西。但是，中国在很大程度上是与信用度有关的。在国内就是这样，它（申请许可证）是需要一个过程的，很可能就会失去商机。所以，最好的办法就是找一个合作伙伴。

Q: 国外公司进入中国必须要申请licence是吗？

A: 这其实与在国内事情刊号是一致的。中国政府最开始对互联网采取比较谨慎的态度。有些事情需要一个过程，因为它在发放的时候，标准是很难把控的。是否颁发licence，政府要考虑很多因素，这就比较复杂。

Q: 那您刚才说这种许可证的方法是比较合理的，为什么呢？

A: 因为我是做这个行业的，所以当然只能这样说了。互联网行业接受这种licence的方法也是比较良性的一种做法，如果不接受这种做法，因为中国互联网的市场量很大，那就丧失了机会。因为这个社会就是这样，也许这种方式拿到国外就不适合。在中国如果你说完全不管，也不现实。这只是一种观点。还有一种观点就是说，互联网牵扯到“管”与“不管”的问题，是“管”好，还是“不管”好，这都不好说。比如说，中国打击网络色情淫秽，也是有道理的。

Q: 互联网内容问题牵扯到界限的问题，每个国家的界定不同。

A: 现在办法licence这种模式，互联网行业接受，用户也接受。假如没有这种模式，可能问题更多。因为互联网就是媒体，它使用起来就是有很多问题。网站目前与政府合作是非常紧密的。用新闻做得最好的新浪网来说，它的要闻很多都是相当主流正面的。政府和网站的交流越来越多，另外，政府也逐渐认识到这个阵地很重要。

Q: 那MSN是不是为了不丧失市场，是否也会配合政府这样做呢？

A: 首先是尊重当地的法律法规。另一方面，我们实际上非常紧密地与当地的合作伙伴合作，像北青网（《北京青年报》网站），他们有自己的规章制度，有自己的模式，所以他们选择新闻会考虑相关的因素。MSN只是一个平台，内容交给当地的合作伙伴去做，避免一些误区。

Q: 你们是否觉得这种合作的方式在现在的政策下是最适合的？

A: MSN这种运作方式主要是商业模式的原因。而且，到目前为止，没有一个外国的互联网公司在中国真正的成功了。Google是25%的市场占有率，百度是60%—70%；淘宝把eBay搞定了；QQ在IM市场的占有率是70%，MSN的市场占有率是20%多；比方说新闻，新浪要比雅虎要强。具体来看，没有说哪一个国外公司就比国内的公司强。新浪有500多名编辑，编辑队伍

很强大，你能想像微软公司雇500人专门做内容，这在MSN是做不到的。如果这样做，肯定是要亏损的，它的模式、风格，还有其他很多东西都会出问题。我觉得我们选择这种方式主要是从商业模式上考虑的。当然，另一方面，也比较妥善地处理了licence的问题。

Q: 你们BBS每天的访问量大约是多少？

A: 我们刚换了合作伙伴，在此之前每天大约能达到1千万到2千万页面浏览量。

Q: 大家关注什么话题？

A: 在任何网站上，美女图、火爆的东西，流量是比较高的，这是很正常的。就像一本书《乌合之众》中所写的，网站上的人很杂，当访问量达到4百万到5百万的时候，最直观的内容就是最受欢迎的。我们选出来的内容一般都是点击率比较高，比较爆料的，比如，美女图了，揭密了，这样的东西。

Q: 用户是否更关心娱乐新闻？

A: 在BBS上，大家一般都是比较喜欢猎奇的东西。

Q: MSN有博客吗？

A: 有Myspace，

Q: 哪一块业务对MSN最重要呢？

A: IM。MSN属于OS集团的。一个是Windows life, 一个是MSN。Messenger的黏性非常高，用户一旦使用，建立起自己的联系人群落，就会在网上停留很长时间。这样，一个互联网公司就可以将这些用户转化成新闻的读者，这都是有可能的。通过Messenger网站也可以将信息很方便地投递上去，比如，Messenger每天都有更新。MSN的品牌很有亲和力，网上也认可。IM对互联网公司是非常重要的。新浪前一阶段做过一个类似的产品，US，花了很多钱，但是没有成功。新浪也曾为打入这个市场收购了一个公司，但也没有成功。进入这个市场是非常难的。用户很少会同时使用3个IM，用两个就很不错了。所以，Messenger从任何意义上来说，都是最重要的。

Q: 你们对网站上的违规内容是如何处理的？

A: 违规内容该删除删除。用新浪来举例，其内容都是转载国内媒体的。新浪本身是没有采编权的。如果有文章违规，即便新浪不删，其原媒体也会让它删的。从发展的趋势看，互联网公司和政府的互动越来越紧密了，两者之间实际上会有一个非常好的沟通渠道，很容易，可能有人（政府部门）打个电话就可以了。据我所知，目前的情况是，隔一段时间会有一个沟通会。（会上的内容可能涉及）什么样的文章是要注意的，有一个舆论导向的问题，这与其他任何传统媒体没有什么区别。

Q: 您认为互联网行业对政府的这种做法认可吗？

A: 我觉得是认可。我认为谈不上不认可。说不认可没有价值。关键说，你怎么不认可呢？你只能认可。

Q: 不认可就要放弃这个市场，是吗？

A: 据我所知，没有哪个网站不认可。

Q:

您刚才介绍的新闻内容的产生，通过合作的方式，内容是容易控制的。那BBS和博客的内容是如何控制的？

A: 新浪专门有一个team24小时监控。这很正常，很多大的网站都是这样。监控者会看，比如说，一些侮辱性的文章，不一定是侮辱政府的，侮辱个人的也是有的。如果发生这种情况，别人是投诉的，网站就会进行核实，处理。一些频道，比如博客、新闻评论、BBS都是有控制的。比如新浪的新闻评论都是有控制的。中国这么大，说什么的都有。有些人就是不停地发垃圾新闻，正常的内容受到影响。专门有一个team，24小时值班，不停地看。

Q:

在新浪或者MSN内部有没有一个指导性的方针，比如说，什么样的内容可以登，什么内容不可以登？你们自己心里有数？

A: 有。但是，实际上有些东西不一定非常清楚。每段时间的沟通会就是一个指导方针，这是短期的。就长期来说，媒体自己会有一个判断。就像传统媒体一样，《南方周末》会有自己的判断，《北京青年报》会有自己的判断。不同的报纸会有不同的做法。网站呢也就是这样。实际上就是这么回事。比如说，猪肉（涨价）这件事，它可能就会开会，说这是假新闻，这是很正常的。

Q: 这一般都是哪个部门负责吹风？

A: 北京市新闻办吧。还有一个部门，我记不大清楚了。

Q: 是国务院新闻办公室吗？

A: 类似的一个部门。其实，网站与政府部门的沟通是非常通畅的。网站都有相关的负责人与跟他（政府部门）沟通，这是很正常的。

Q: 这种关系已经建立起来了，是吗？

A: 对。比如说，一些内容不适合报道，他（政府部门）会进行沟通，网站呢就会酌情处理。

Q: 你们对用户的数据是如何处理的？你们保存吗？保存多长时间呢？

A: MSN有微软公司的规定，有些东西可能和当地的、国内的（中国）的规章制度有冲突。如果冲突比较严重，我们就不开展这个业务了。

Q: 互联网行业2002年推出了自律公约，您怎么看？

A: 国内的类似公约啊、联盟啊，我自己不是太重视，有时候炒做的成分更多。这种东西可能也是政府前头，或者是在一定压力下产生的。但是，我觉得这东西没有坏处。我觉得说，大家追求流量，对吧？所有可能有些网站上的黄色内容就可能增多，其实这些内容没有任何价值。网站增加成本，形象也不好。但是，别人放，你也会放。所以，一定的自律是好的，也许是未来发展的方向。但是，我觉得国内互联网主要还是官方的管理。这与国外不一样。即便行业有自律声明，但是，没有人管也没有什么约束力。就像国内的电视机行业一样，（企业）谁都不听谁的，所以形成了价格战，那企业就全毁了。所以，在中国的这种文化背景下，其他的管理

方式可能就不会有效，就只能这样。我觉得，它逐渐会放开，它有一个过程，就像改革开放一样。

Q: 中国的国情不同？

A: 中国的文化不一样。这个东西（管理方式）既然能产生必然是有原因的，是有一个土壤和环境让它产生的。在国外，比如，你让《纽约时报》把一篇文章删了，它不删，你也没有办法。但是，国内呢，它就认这个。它就是有这么一个情况。

Q: 那您觉得国内对内容的管理，除了文化原因，还有什么原因呢？

A: 各种原因吧。我觉得媒体这个东西国家肯定是要管理的。有一个文化（舆论）导向问题。

Q: 那您觉得中国政府的这种管理方式是否合适呢？

A: 那要看从什么角度来看了。

Q: 对现阶段互联网的发展来说呢？

A: 我觉得不一定坏。以前几乎所有的中国媒体都是官办的，网络很难成为主流媒体。但是，新浪现在已经成为主流媒体，CCTV第二。这（新浪）是一个什么样的公司呢，这是一个在美国上市的公司，它的背后是Morgan-Stanley这样的投资银行。这是划时代的一件事，有这样一个背景的公司能做到这一点是有意义的。它与政府沟通后，会将这些良性的媒体更多地引向市场，引向更广泛的人群。中国就是这样，它是一个中央集权的国家，大家就认政府。政府接受它（新浪）实际上可以帮助它、促进它发展。所以，很多人就认这个媒体。

不单是新浪，还有搜狐，网易，都是这样的。实际上，MSN也是这样的。我刚才不是说了，政府意识到互联网是一个很重要的阵地。管理呢，是互相的，如果你将这种管理变成一种对立呢，就可能有负面的作用。在中国，如果完全放开，不管理，就可能出现负面问题。其实，我觉得难点是在怎么管的问题。

Q: 难在哪里呢？

A: 我举个例子吧，比如说，黄色图片。什么叫黄色。（电影）片子要分级，什么叫黄色，是要有标准的。再举个例子，什么样的新闻是好新闻，什么样的新闻是不好的新闻。把握度，是要有一个经验的。很难形成一个具体的东西。前一段时间，有一个可以下载的视频。如果你在百度中搜索“色情”，你可能搜到一大堆美女图。这些东西，后来（政府）就开始管理了，规定这种照片不能登。你输入关键字，相应的内容它可以给你提示。你可以试一下百度。有一段时间，输入“下载”两个字，就出现色情图片，媒体还对这件事进行了报道。“下载”两个字也变成了色情的东西。有些网站想办法吸引读者，将“下载”两个字在搜索引擎中优化，（用户）在下载引擎中一搜“下载”，出来的东西也是色情的。后来搜索引擎就把下载也封掉了。这就是一个难点。就是说，技术上是没办法去判断你用这个词的意图。这个是很难的。如果我现在说“白衬衫”，可能它也会和色情的东西相关，这是有可能的。所以，现在的关键问题是怎么做的问题。就现阶段而言，肯定还是要进行管理。问题是如何管理，比较科学的管理，这是个难题。我觉得，科学管理不是很容易操作。

Q:

西方学者其实也已经在讨论如何管理互联网，而不是，应不应该管的问题。这个问题在中国是不是更难呢？

**A:** 西方（社会）有优点，它做事是有规矩的。它建立一个规矩，按着规矩去做。然后，再修改规矩，然后再照着去做。但是，在中国可能是，如果你做错了事，它首先要先治你。而在国外呢，如果没有此类的规定，它可能就要先修改法律。如果有人再犯错，才会按照修改的法律进行惩治。它是一个递进的过程。这种递进的过程是有道理的，从中长期来考虑，是有好处的。

但是，中国千百年来就是这种传统。在这种情况下，判断是很重要的。比如说，我们讲“主旋律”，什么是主旋律？这是说不清楚的事情。这确实是一个挺复杂的事情。政府呢，可以引导，但是，要规范，是非常难的。有时候看到他们（政府）的通知，你也觉得挺可笑的。比如说，黄色淫秽照片，什么是黄色淫秽照片？（政府的规定呢），可能就是不能露身体的某个部分，衣着要占身体的百分之几，这都是有规定的。你看完之后，会觉得很难执行，你也不知道他（她）（照片上的人物）穿了百分之几。从业者很难判断，它（政府）也很难弄。因为你需要一个可以衡量的标准吗，而且这个标准是可验证的。比如说，你说什么是“黄色淫秽”，什么是“健康的”，什么是“不健康的”。这是需要一个标准的。所以，这是核心问题。

这是一个难题，我也想不清楚。你问新闻办呢，它会说（解释），但它也说不清楚。这是（主观）判断的问题。

**Q:** 学术界也在争论标准的问题，政府介入的问题。

**A:** 最典型的就是网游（网络游戏）嘛。你管不管网游？这个东西在国外，大家可能就认为对青少年玩网络游戏的限制是侵犯一个人的个人权利。但是，中国（的文化）是从父母的角度看的，父母对孩子要负责，要禁止孩子玩网络游戏。一样的道理，你说政府管不管，当然应该管，但是管起来非常得难。什么样的网游是健康的，什么样的网游是不健康的？玩多长时间是合适的？现在的建议是3个小时。比如，国外对电影分级是有阶段差别的。在中国，人们对事情的判断，不是黑，就是白。如果，以后中国社会也能实现这一点，判断一事物不好，但是能接受它，允许它存在，这样就好了。比如说，一件东西是不健康的，但是，它适合什么年龄阶段的人看。但是，中国文化中就是不能容许这样的东西存在。你说这是政府的原因吗？不是。

**Q:** 那您认为中国对互联网的管理的发展趋势是什么样的？您能预测一下5年或10年后的发展趋势吗？

**A:** 它肯定和整个社会一样，越来越开放。它已经越来越开放了。它不会不管，但是，逐渐得会与大众的倾向相关。就目前而言，如果去掉这种管理，社会的反应会非常大。因为它一直存在，所有的媒体，一直都管着。

**Q:** 您觉得以前在新浪、现在在MSN的工作有什么差别吗？比如说，它们各自市场开发的重点是什么？各自的难点又在哪里呢？

**A:** 新浪的难点，是它的经营模式。从它的财报你可以看出来。它整个这两年的业绩还是不错的。前两年不好，是因为它当时换了一个CEO，一直都在尝试。它是一个互联网公司，这类公司的利润其实有很多增长点。它尝试过搜索、IM，都在试，但是都没有取得成功。新的CEO呢，原来是做媒体的，所以，他就专注在内容上。新浪现在在国内已经是第一新闻品牌了。但是，它的问题在于新的市场。比如说，IM，没有太好的策略。互联网主要是被Branding的广告盈利的，如果这个市场在今后3到5年内增长放慢的话，它（新浪）的发展也就会放缓。它的网站设计对广告销售量造成了限制。所以，它要不停地改良。

MSN呢，它是一个国外公司。它有很多相关的资源，很多产品，它的问题是如何将这些产品引

入到中国。微软的竞争对手是Google，微软是一个软件公司，微软的关键就是如何把软件的优势转化到互联网。

就中国而言，中国的互联网公司的优势是人力资源，它可以以非常低的成本去雇人，人员的流动力很高，这和微软的文化是有违背的。新浪可能一个月就有100人辞职，这在微软是很难想像的。

**Q:** 微软现在在中国有多少人呢？

**A:** 一千多人吧！新浪大概有两千人，光内容编辑就五、六百人。国内互联网公司和国外互联网公司的差别是：国外的互联网公司在战略上是高于国内公司的。国内网站战略上是有问题的。比如说，新浪，它会根据市场的流行趋势进行产品开发，而缺乏长期的发展战略。中国公司的战术是好的。比如说，国外有eBay，中国就有淘宝。雅虎新闻是强项，但是，在中国做不过新浪。再比如说IM，QQ做了一个叫Q币的东西，1Q币等于1人民币，可以在QQ上流通，用户就可以在QQ上买这个，买那个。这些东西，国外互联网公司是不能做的，因为会引起法律问题。国外公司有自己的自律，但是，到了中国就可能“水土不服”。还有习惯的问题，比如说，我们要改首页。但是，就是因为我们的预设的形式与美国用户的习惯不同，我们的设计人员就不愿做改动。所以呢，有很多细节造成国外公司在中国发展受阻。

但是，MSN现在的模式还是高效的。因为我们才8个人，新浪有500人。我们做20多个频道，我觉得我们做得不错。关键是我们与当地的企业进行合作。国外媒体进入到中国，就是要找当地的媒体进行合作。比如说，我们和北青网的合作。我们有品牌，他们有内容，我们相结合就是一种利润倍增的结果。

**Q:** 那你们在选择合作伙伴的时候有什么标准没有？还是通过个人的关系呢？

**A:** 我们在这方面是很开放的，因为我们很多频道是要卖钱的，MSN在全球都是这样。我们看重合作伙伴的内容去吸引用户，也看重合作伙伴是否有许可证。外国公司有些问题是不清楚的，比如，新浪的首页，在我们公司很多西方设计师同事看来是不合理的，但是，这个公司在中国的市场占有率为60%。中国的互联网就是这样，西方人看的时候总是觉得这不合适，那不合适。但是，互联网是一个与用户结合很紧密、用户体验很多的媒体，所以（西方公司）要“入乡随俗”。不是一个产品拿到中国就能用。

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