

## **U.S.-China Relations: Improving U.S. Competitiveness Through Trade**

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Senate Finance Committee  
April 22, 2021

Chairman Wyden, and distinguished members of the U.S. Senate Finance Committee, it is an honor to be here. Funding from Title VI, the Fulbright US student program, the East-West Center, the Woodrow Wilson Center, the National Endowment for the Humanities, and the Kluge Center at the Library of Congress, has been central to my ability to research and teach about China at the University of Virginia and as a student in public universities in California and Michigan. To maintain American competitiveness, there is a crucial national security need to fully fund the study of China by American students and scholars.

**My remarks today will focus on five key findings:**

- 1. US corporate profit in key media sectors depends on access to the Chinese market and adherence to Chinese regulations. This shapes the US digital landscape.**
- 2. Chinese laws imperil US tech investment in China.**
- 3. Chinese firms with close Chinese government ties are rapidly acquiring a wide range of US-based digital media and tech sector entities.**
- 4. Chinese financial interest in US media firms is already leading to censorship and disinformation.**
- 5. The US market's economic dependence on China is changing how companies talk about censorship.**

### **A Note About Self-Censorship**

For the past year when receiving calls from journalists to discuss this topic when I have been speaking with journalists about US-China media relations, some assumed that I would not want to go on the record about my thinking due to the sensitive nature of this topic. The PRC government has increased reprisals against scholars, including sanctions of Newcastle University professor Jo Finley Smith and German academic Adrian Zenz. The environment for research about China has deteriorated rapidly, as have extraterritorial threats to speech. I am here speaking frankly and want to acknowledge the intensifying pressures against doing so.

## **US corporate profit in key sectors depends on access to the Chinese market and adherence to Chinese regulations. This shapes the US digital landscape.**

The global tech sector is estimated to reach USD 5 trillion in 2021 (Business of Technology 2021) The US is poised to make up 33% or USD 1.6 trillion of that (Business of Technology 2021). The Chinese market makes up 14% percent of the global tech economy but it also offers a tantalizing market growth opportunity for US firms (Business of Technology 2021). With the growth of the Chinese market, US national interest and US commercial interests have diverged.

For example, the U.S. entertainment market size in key industries is roughly the same size or smaller than China's market size. The evolution of the commercial media industries makes this crystal clear. The size of the Chinese gaming market is USD 41 billion versus a USD 60.4 billion in the United States (Thomala 2021). In China there are 704.8 million social media users. The US market, by contrast, is slightly more than a third the size at 223.02 million (Tanovska 2021). China overtook the US theatrical distribution market in 2020 for the first time ever (Davis 2021). This shapes the content production landscape for media conglomerates creating multi-platform IP such as the Marvel Cinematic Universe range of films, games, theme park rides, merchandise, etc. (Kokas 2017). It is in the clear financial interest of US firms to serve the Chinese market.

Further complicating regulation, disaggregating the "tech" economy from other sectors like retail, entertainment, transportation, health care, and others, becomes increasingly difficult because of the role that digital management platforms and data integration play in cross-sectoral innovation (Nambisan et al. 2017). However, data security regulation in the United States has historically followed sector-by-sector oversight, with the Health Insurance Portability and Accountability Act (HIPAA) as a prime example. Unlike the United States, China has increasingly centralized its tech oversight to include all sectors, and to provide a range of tools for the Chinese government to access corporate data.

## **Chinese Laws Imperil US Tech Sector Investment in China**

US tech firms are in an increasingly challenging political landscape vis a vis China. In June 2017, China implemented the **Cybersecurity Law of the People's Republic of China** (*zhonghua renmin gongheguo wangluo anquan fa*) which now acts as the baseline for present day guidelines (Standing Committee of the National People's Congress 全国人民代表大会常务委员会 2016, Creemers, Triolo, and Webster 2018). The law requires that data is stored within China and that organizations and network operators submit to government-conducted security checks. What this means in practice is that any firm that stores data in the PRC makes that data accessible to the Chinese government regulators, including Apple, which moved the iCloud data

for Chinese iCloud accounts to Chinese government run servers in 2017. Such policies are contagious. For example, in 2018, Vietnam’s National Assembly passed a law requiring both foreign and domestic firms to store data generated in Vietnam to be stored there (Jacob 2020).

The December 2019 “**Provisions on the Governance of the Online Information Content Ecosystem**” (*wangluo xinxi neirong shengtai zhili guiding*) asserts potential criminal or civil liability for consuming, producing or sharing “negative” information (国家互联网信息办公室 令 guojia hulianwang xinxi 2019, China Law Translate 2019). With US universities now conducting classes online in China, what this means in practice is that students, teachers and universities can be surveilled, or held criminally or civilly liable in China for information they access or share. It also holds platforms civilly or criminally liable.

On July 3, 2020, the Standing Committee of China’s National People’s Congress released a draft **Data Security Law** (*shuju anquan fa*) (Rafaelof et al. 2020). The law makes industry, telecommunications, natural resources, public health, education, defense, and finance regulators accountable for monitoring data created in their respective domains. The law also provides a basis for the establishment of a data security review system that can review any activities that influence or might influence national security data.

The July 2020 “Law of the People’s Republic of China on Safeguarding the National Security in the Hong Kong Special Administrative Region, colloquially known as the **Hong Kong National Security Law**, permits the Chinese government to hold people and platforms liable for crimes committed extraterritorially, which puts particular pressure on firms with large Chinese operations (The National People's Congress 中国人民代表大会 2020). What this means in practice is that any individual or firm that is perceived by the Chinese government to violate China’s national security could be held liable for those crimes. This means that the Chinese government has provided itself legal cover to penalize US firms for perceived transgressions (ranging from listing Taiwan as a country to speaking out about Xinjiang human rights abuses and beyond) not just in China, but outside of China (BBC News 2018, Paton 2021). This same principle applies to firms that offer education online to students in the United States, but also maintain operations in China.

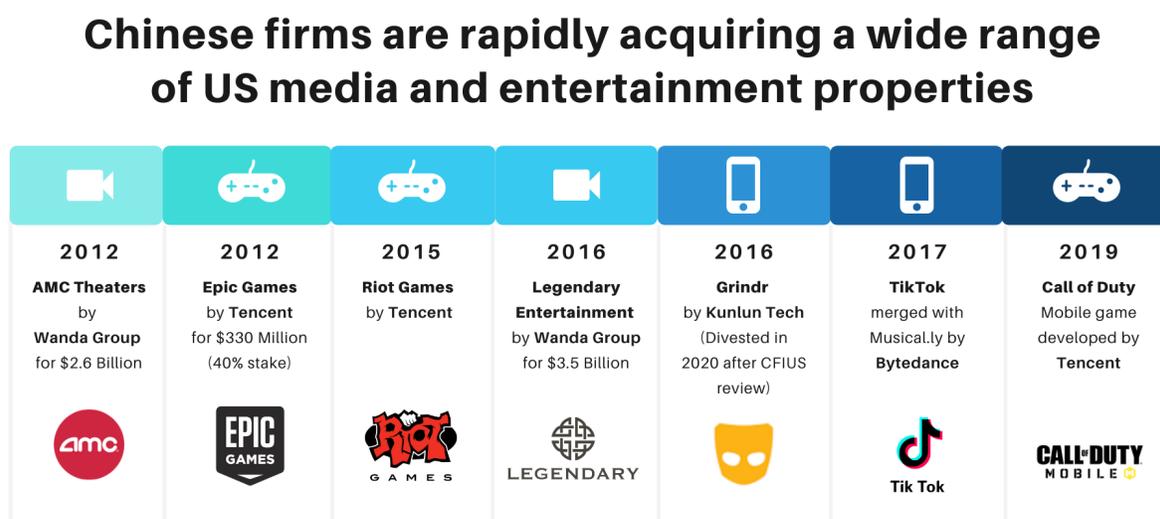
### **Chinese Firms Have Acquired a Wide Range of US Tech and Media Firms.**

Chinese firms are rapidly acquiring US media distribution platforms in film, gaming, and social media. Entertainment platforms operating in the United States such as social media entertainment platform TikTok, and connected gaming platforms Fortnite, Call of Duty, and League of Legends, among others are wholly or partially owned by Chinese firms [See Figure 1 below]. In these cases, beyond censorship of content at the production stage, we are also seeing either actual or potential censorship of public debate.

Chinese-owned social media platform TikTok was the most downloaded app worldwide in Q1 2021 (Perez 2021). The platform has over 100 million US-based users (TikTok 2020). It is now a backbone of the US tech economy, despite being owned by a Beijing-based firm.

Major gaming companies including Epic Games, Riot Games, and Blizzard are partially- or wholly- owned by Chinese tech firm Tencent. Blockbuster titles like Fortnite, League of Legends, and World of Warcraft are now made by firms with at least partial Chinese ownership. Together, these games account for nearly USD 4 billion in the US economy (Spangler 2020).

**Figure 1: Timeline of Chinese Investment in Major US-based Media and Entertainment Firms**



Sources: *Variety, Hollywood Reporter, Wall Street Journal*; Image Credit: Aileen Zhang

Such acquisitions make an impact on US economic statecraft, where the skills and talent developed in the US advance PRC goals to grow the tech sector, and in particular, data-driven AI.

Even with the forced divestment of Grindr in June 2020 to San Vicente Acquisition LLC as a result of CFIUS oversight (Wang, Alper, and Oguh 2020), the data that the firm gathered during its ownership by Beijing-based Bytedance remains vulnerable to Chinese oversight. Paired with Chinese government hacks of the Office of Personnel Management and others, the strategic risk of extensive data integration, and the use of US consumer data to advance Chinese commercial and military AI efforts, is already omnipresent.

Here I highlight key corporate acquisitions in the field of media and entertainment. However, Chinese acquisitions of firms that generate sensitive data in the US occurs in the agricultural sector, the health sector, the manufactured goods sector, and beyond as I detail in my forthcoming book from Oxford University Press. In addition to corporate acquisitions, Chinese firms can also acquire data from US firms through data broker agreements(Chen 2019).

### **Chinese financial interest in US media firms is already leading to censorship and disinformation.**

These shifts in market power are changing our digital landscape three ways.

#### *Firms Change the Content They Produce*

On the Disney+ platform, there is no content related to Hong Kong and controversial Disney property *Kundun* (1997) is not available on the platform. In film, despite having a contract with the United States Navy for logistical support, Sony censored Tom Cruise's iconic leather pilot's jacket because it had a patch from Taiwan in the 1986 version of the film. In 2019 the animated film *Abominable*, originally produced in conjunction with DreamWorks Animation, but ultimately released by China's Pearl Studios, included a contested nine-dash line naval sovereignty claim in the South China Sea.

#### **Figure 2: Map of Chinese South China Seas Maritime Claim in *Abominable* (2019)**



Source: *South China Morning Post*

We are seeing shifts in the types of narratives and productions that emerge from Hollywood as a result of interest in building a market in China. Disney's *Mulan* was filmed in part in Xinjiang, with the collaboration of government agencies there that have been involved in carrying out human rights abuses against the Uyghur people. The film's narrative of suppressing minorities from China's Western regions also reflected Chinese government narratives that undergird Uyghur human rights abuses (Kokas 2020).

Film production decisions support entire multi-platform media and tech economic ecosystems. They feed into what we see on digital platforms, as well as the types of related products that studios produce including video games, theme park rides, toys, and even educational materials. The development process is highly subjective; as such it is very difficult to know when a project is modified or passed on because of potential issues with the Chinese market. Emails released through the Sony hack revealed multiple instances, most notably in the cases of *Pixels* (2015), *Robocop* (2014), and *Captain Philips* (2013), where studio executives discussed and/or implemented content changes due to concerns about access to the Chinese market (Baldwin and Cooke 2015). Due to the Sony hack, we know that studio executives do take this into account. However, the key challenge is that it goes against the financial best interests of any studio executive to ever admit to it. Moreover, it is easy to frame censorship as a business decision to maximize market access, much like adapting any other product to local preferences.

### *Firms Defend Censorship Due to Economic Interests*

While such censorship or narrative decisions that favor the Chinese market were concerning when the US was the largest market in the world, they become even more central with China as the world's largest film market. This trend is likely to continue at least through 2021 due to the sluggish return of the in-person US entertainment sector due to COVID.

We are already seeing a dramatic shift in terms of how leaders in the US media industries discuss censorship as a result of Chinese market interests (Kokas 2018). In the Q&A session following promotional meeting at the Consumer Electronics Show on January 6, 2016, Netflix Chairman Reed Hastings referred to changes in content that the firm might need to make in order to distribute their content in China as “airplane cuts,” diminishing the significance of a US firm censoring their content as a business decision for distribution to a market of 1.3 billion people (Roettgers, 2016). In 2017, he followed up by reinforcing that the US and Chinese film industries have a “shared future,” underscoring the enmeshment of Hollywood's growth imperative with the government-supported rise of the mainstream Chinese film industry (*MPAA's Charles Rivkin's Opening Address at the 2017 U.S. - China Film Summit, 2017*).

Disney refrained from commenting on boycotts due to statements by star Liu Yifei regarding Hong Kong or specifically addressing criticisms that the film was shot in Xinjiang. Only a week after the film's digital release, after Chinese authorities banned coverage of the film in China, did Disney comment. The firm's Chief Financial Officer, Christine McCarthy state, at a Bank of America conference, the film caused “a lot of issues,” a statement which could also be interpreted to mean financial issues for the company, particularly given the context (Toh 2020).

Hollywood studios were, in many respects, a canary in the coal mine with regard to the influence US media and technology corporations are facing with respect to content censorship. Other US-based entertainment corporations have shut down the speech of fans and employees in an effort to curry favor with Chinese government officials and preserve access to the Chinese market.

- Blizzard, which is partially owned by Chinese tech firm Tencent, shut down pro-Hong Kong speech by Ng Wai Chung (known as Blitzchung) in its Hearthstone Esports champion's league for voicing support of the 2019 Hong Kong protests. Blizzard then banned two broadcasters who moderated the platform when he spoke out. When pressed, the CEO responded with:

“Blizzard had the opportunity to bring the world together in a tough Hearthstone esports moment about a month ago, and we did not. We moved too quickly in our decision making, and then, to make matters worse, we were too slow to talk with all of you. When I think about what I'm most unhappy about, it's really two things: The first is we didn't live up to the high standards that we really set for ourselves, and the second is we failed in our purpose, and for that, I am sorry, and I accept accountability,” failing to mention the company's censorship in its apology (*Blizzard President Addresses Hong Kong Controversy—Blizzcon 2019*, 2019).

- When Houston Rockets general manager Daryl Morey tweeted out support for the Hong Kong protests, the Chinese government temporarily stopped broadcast of key NBA games. The NBA shut down fan protests due to the suppression of Morey's views.
- Users have expressed concerns about TikTok shutting down content related to like Uyghur detentions in China and democracy protests in Hong Kong (BBC News 2019, Kuo 2019). Independent computer security researchers at the Citizen Lab conducted research that was inconclusive as to whether TikTok censors social media posts (Lin 2021). The report does note the possibility that the app could face pressure due to parent company Bytedance's legal responsibilities as a PRC-based firm (Lin 2021).

### *Firms Face Financial Pressure to Prioritize Chinese Market Growth*

Commercial media and tech platforms in the United States shape public discourse. China is an increasingly important market for investors in endowments and pension funds that hold these firms that also keenly watch for the growth of American blue-chip stocks. Those with equities with China exposure are under pressure to maximize their quarterly and annual performance, not just to enrich investment banks or individual shareholders, but to back up overall stock market performance. There is a fundamental tension between the national security concerns of Chinese

corporate influence over the US digital landscape and the commercial pressures US companies face in an increasingly competitive marketplace.

And yet, in these circumstances where media conglomerates have increased pressure to grow, where media market growth is largely occurring in China, the United States has also reduced public funding for media. Thus, the prevailing voices in the media landscape are heavily dependent on the Chinese market, and by extension, Chinese regulators.

## **Recommendations**

My book *Hollywood Made in China* (University of California Press, 2017) and my forthcoming book on Chinese consumer data gathering in the United States from Oxford University Press formed the basis for many of the recommendations that I will share with you today. The books represent the culmination years of fieldwork in China, including one year funded by a US student Fulbright grant. Below are three recommendations to improve US tech competitiveness through trade:

- **Improve US tech sector competitiveness**
  - Increase US government investment in the tech sector both through research agencies like DARPA and the Defense Innovation Unit and through the adoption of the Endless Frontier Act.
  - Enhance funding for STEM education at the secondary and tertiary levels to increase the competitiveness of US-trained researchers.
  - Continue to support a robust framework for skills-based immigration in the STEM fields, paired with transparent pathways for immigration to support researchers who seek to remain in the United States.
  - Work actively against anti-Asian hate in the United States to create a hospitable environment for researchers and technologists who immigrate to the United States.
  
- **Enhance US and Global Data Oversight to Prevent Data Exfiltration to Non-Allies**
  - Enhance tech sector collaboration across developed democracies as outlined in the Democracy Partnership Act.
  - Build out a national data privacy framework to prevent consumer data exfiltration to non-allied countries following the data adequacy standards established by the European Union and Japan.
  - Companies treat data as an asset that they can leverage for financing or sell. As such, it is reasonable to require enhanced reporting on how and when firms share data with third-party providers. This includes support for Congressional efforts to increase the rigor and transparency of financial reporting standards for US-based

firms, through mechanisms like H.R. 1815, currently under consideration in the Senate Committee on Banking, Housing, and Urban Affairs.

- Limit the sale of US consumer data through efforts such as the Protecting Americans' Data from Foreign Surveillance Act
- **Fund Chinese area studies** so that executives can better understand the implications of their business decisions related to China. The lack of secondary and tertiary social science education opportunities to learn about China means that most people entering the US workforce do not have a working understanding of China's political system. This is in stark contrast to knowledge of college-educated Chinese nationals about the United States.

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