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Via Electronic and U.S. First-Class Mail

The Honorable Richard J. Durbin
Chairman, Subcommittee on Human Rights
and the Law
Senate Committee on the Judiciary
United States Senate
224 Dirksen Senate Office Building
Washington, DC 20510

Dear Chairman Durbin:

I am writing on behalf of my client, McAfee, Inc. (“McAfee”), in response to your letter dated January 29, 2010. Below please find McAfee’s responses to the questions posed in your letter concerning its business in China, future plans for protecting human rights in China, and the Global Network Initiative (“GNI”). As demonstrated below, McAfee is strongly committed to human rights, including privacy and freedom of expression, and appreciates your interest in these issues.

1. Please provide a detailed description of your company’s business in China.

McAfee’s business in China is fundamentally in the nature of a start-up enterprise. Sales to consumers constitute a major percentage of McAfee’s revenue in China. Indeed, 40 percent of McAfee’s business in China derives from selling to consumers a basic anti-virus product to protect personal PC’s; the company also sells this product to foreign multi-nationals, as well as small and medium-size businesses. Additionally, McAfee markets its standard, commercial-grade filtering technology to private-sector customers in China. This filtering technology enables customers to screen the web for material that they might find inappropriate for their homes or businesses, such as pornography or gambling websites. This is the same technology McAfee sells to consumers around the world, although it accounts for a very small percentage of McAfee’s total revenues. Collectively, these technologies enable millions of Chinese consumers and companies to obtain information and conduct business safely and productively.

According to such industry analysts as Gartner, the Chinese IT market will soon become the largest in the world. American IT companies must have a presence in this market to remain competitive in a global market that rewards companies that achieve economies of size and scope, and punishes companies that fail to achieve these bench marks. McAfee is focused on building a competitive business in China, in large part to keep pace with many of its larger competitors, including Symantec and Cisco, that have already achieved business presence and success in China. To that end, McAfee is in the process of setting up a joint venture which will enable it to manufacture products in China.

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McAfee currently does very little business with the Chinese government. While McAfee does limited work for several state-owned entities, including a Hong Kong-based subsidiary of Bank of China, as well as partnerships with China Unicom and China Telecom, McAfee has not obtained the certifications required to secure the licenses needed to do business with government agencies. Moreover, it is unlikely that McAfee will be willing or able to obtain such certifications, since that would require McAfee to, among other things, reveal all source codes. It is worth noting that few U.S. security companies are able to win government business in China due to the preference officials have given to Chinese security companies. Consequently, the Chinese government market is not a particularly attractive opportunity for many American security companies.

2. What are your company's future plans for protecting human rights, including freedom of expression and privacy, in China? Please describe any specific measures you will take to ensure that your products and/or services do not facilitate human rights abuses by the Chinese government, including censoring the internet and monitoring political and religious dissidents.

McAfee is committed, at all levels of the company, to protecting freedom of expression and privacy as we attempt to expand our businesses in China. In no event will McAfee knowingly assist the Chinese government in blocking any specific content or any specific web sites.

McAfee's commitment to human rights and freedom of expression in China is perhaps best evidenced by its recent efforts to assist Google and approximately 20 other companies, as well as the United States government, through a forensic investigation into the "Operation Aurora" cyber attack, which Google has said publically was aimed at hacking the Gmail accounts of Chinese human rights activists. As part of its investigation, McAfee analyzed several pieces of malicious code and confirmed that they were used in attempts to penetrate several of the targeted organizations. McAfee's briefings proved to be invaluable to the United States government, and McAfee's Global Threat Intelligence service — a unique offering that allows the company to constantly monitor and plot solutions to cyber threats, regardless of where they might originate — enabled it to share important new information with key government agencies. McAfee is continuing to work with multiple organizations that were impacted by this attack, as well as government and law enforcement agencies, to address this major attack.

McAfee also has specific policies and procedures in place to protect human rights and freedom of expression. McAfee's most significant relevant product is its SmartFilter® web filtering software, which consists of the actual off-the-shelf software, as well as regular access to the SmartFilter® database. SmartFilter® classifies Internet content into nearly 100 different categories so that customers can choose, by category, what types of web content they want made available to their organization. For example, SmartFilter® is widely used by schools to ensure pornographic websites are not being viewed by children. Corporations use SmartFilter® as a productivity tool, blocking content such as celebrity gossip websites. McAfee deliberately does not provide any categories that are intended to assist a user in discriminating on the basis of race, religion, political persuasion, gender, sexual orientation, or any other personal characteristics.

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McAfee is in the process of developing a comprehensive set of human rights impact assessment guidelines to inform its strategic business decision-making process, and intends to begin implementing these guidelines later this year. The impact assessment focuses on privacy and freedom of expression issues, and includes in-depth analysis of high risk areas, potential risk mitigation strategies, and ongoing monitoring.

In response to the Committee's initial letter, McAfee recently added a specific provision concerning privacy and freedom of expression in its Code of Business Conduct: "McAfee and its employees are deeply committed to the principles of privacy and freedom of expression. We will strive to advance these principles as we develop and market new and existing products and services in diverse business environments around the world."

Furthermore, McAfee's Employee Handbook and Code of Business Conduct emphasize the importance of privacy and confidentiality. The relevant portion of the Employee Handbook, for example, states in part: "Use of personal information may be subject to legal restrictions, and also may be subject to specific preferences and/or requirements requested by the customer, partner, and/or supplier. Respecting expressed privacy preferences and requirements is important to our competitive position in the industry, and in certain geographies it is required by law." The Code of Business Conduct provides: "Directors, officers and employees must maintain the confidentiality of confidential information entrusted to them by the Company, its customers, partners, distributors and suppliers, except when disclosures are specifically authorized by the Legal Department or required by law."

3. Did representatives of your company attend the GNI open house? If no, why not?

McAfee representatives attended the GNI open house on September 10, 2009, and were active participants in the discussion. Additionally, to the best of our knowledge, McAfee has participated in every conference call that GNI has organized since that time — November 18, 2009, and December 16, 2009.

McAfee has been actively engaged with the GNI because GNI has been instrumental in raising awareness of, and expanding the dialogue on, the impact of technology on human rights issues. McAfee supports GNI's stated purpose of encouraging companies to examine, as part of the regular strategic decision-making process, whether and to what extent their products and services may be used to limit freedom of expression and access to information.

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4. Does your company plan to participate in the GNI work stream? If no, why not?

McAfee has been actively participating in the GNI work stream, and will continue to do so. To that end, McAfee held its first one-on-one discussion with a GNI representative on January 27, 2010. This conversation was a constructive opportunity for McAfee to ask questions regarding GNI's policies and procedures, to describe the functionality of McAfee's products, and to address basic concerns. McAfee looks forward to participating in the GNI Implementation Dialogue to be held in March 2010.

Please do not hesitate to contact me at (202) 420-3447 if you have any questions.

Sincerely,



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