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gLAWcal
Comment #174

WHAT ABOUT US SOCIAL MEDIA IN CHINA?

Based on

Danny Friedmann “Rise and Demise of US Social Media in China. A Touchstone of WTO and BIT” Regulations



A gLAWcal comment on Danny Friedmann "Rise and Demise of US Social Media in China. A Touchstone of WTO and BIT Regulations" in Paolo Davide Farah and Elena Cima (Eds.) **China's Influence on Non-Trade Concerns in International Economic Law**

After the Arab Spring and the Wenzhou train collision, the Chinese government realized that social media, acting as an outlet for public opinion, could allow it to monitor its citizens. The government started to develop a program to monitor Chinese netizens behaviour. WTO and BIT regulations could be a possible way to further the opening of Chinese Social Media. Although China has obligations to the global community via international treaties, the freedom of expression provisions in both the Universal Declaration of Human Rights and the International Covenant on Civil and Political Rights are not equipped to help foreign companies gain access to the Chinese market. However, these companies could lobby their home country's government to bring the case to the World Trade Organization (WTO), which includes a binding dispute resolution system. It is questionable whether a foreign social media company would agree to spearhead a WTO case against China. Making a case against China might force the country to fulfill its le-

gal obligations. On the other hand, China might resort to non-legal tactics, such as slowing down traffic to its site(s) or making online access erratic, to prevent the western social media from competing on equal footing. The case of Facebook is a very interesting example to explore this contradiction. It is widely known that, whilst a Chinese language version of the social media was launched on the site in 2008, China impedes the access to the US social network site a year later. CEO Mark Zuckerberg visited China twice to see whether he could establish a joint venture with a Chinese firm. Zuckerberg has stated clearly that Facebook is willing to abide by China's national policy. "We have long said that we are interested in China, and are spending time understanding and learning more about the country in different ways. Our focus right now is on helping Chinese businesses and developers expand to new markets outside China by using our ad platform," Facebook said in a statement last August. What is worth to be highlighted here is that even if a company wins a WTO or BIT case, the government may still make market access de facto impossible from a practical perspective. In addition to overcoming slow and erratic access to their websites, social media companies must obtain 11 licenses, each available at different departments.



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To influence policymakers, to raise awareness over Non Trade Concerns, to encourage stakeholder participation, and to disseminate gLAWcal's publication results.



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