

# Censorship, Governments, and Flagellating Google

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**Executive Summary:** Governments around the world have become frustrated by their inability to control their populations' access to information on the Internet as easily as was traditionally possible in the pre-Internet era. Their new hopes for regaining control are the micromanagement and censorship of search engines such as Google, through the criminalization of Web page linking, laws limiting the ability of Internet users to upload content, and related attacks on free speech and the open dissemination of knowledge.

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For those of us who have been involved with the Internet since the early days of its ancestor ARPANET several decades ago, the blossoming of the Net that we see today is especially poignant.

Children now grow up in a world where the answer to most factual questions, no matter how serious or trivial, is often only a few keyboard clicks, touchscreen gestures, or even a spoken query away. While much of the 21st century still resembles the 20th in significant ways (we're still waiting for those flying cars), the ability to ask a random question to a small device stored in your pocket or purse, and to usually get an accurate answer back within a few seconds, is a concept that even most celebrated

futurists of the past didn't foresee.

While there are innumerable technological and other details that make this all possible, there are two aspects in particular that play key roles, and that increasingly are under the scrutiny of governments around the world.

One of these is information itself -- the data that users, both individuals and organizations, themselves provide to the Web, usually for public consumption and typically without monetary charge. This is the "stuff of knowledge" that turns otherwise empty Web servers into repositories for our education, entertainment, dreams, and most other points on the compass of human experience.

But having the data present on the Web, be it text, audio, video, or other forms, is only part of the equation. Unless Internet users have a way to find information of interest, it effectively could be viewed as not existing at all to a large extent, like misshelved books in a gigantic library, only to be found if stumbled upon by accident.

So the other key aspect is the means that users have available to locate information in an organized fashion, and that of course is where search engines come into play.

While various enterprises exist that provide Internet search services, for most of the world (outside of China) Google has become, purely by virtue of its services' quality, the search engine of choice for most Internet users.

But when you're number one, you can also be a very big target.

And for governments around the world, increasingly thrashing about for a way to control access to data that they'd prefer their citizens be unable to see, hear, or otherwise use, search engines in general, and Google in particular, have ended up directly in the politicians' (plus their many and varied minions') crosshairs.

It wasn't always this way. For many years, the Internet was pretty much ignored not only by governments but by much of private industry as well, viewed essentially as the silly toy of academics and computer geeks.

It wasn't really until the Net began to threaten entrenched business models, and governments' abilities to "manage messages" in the manners that they had long enjoyed, that the big guns began aiming at the enabling Internet entities.

An obvious example is Google's YouTube, still embroiled in a massive lawsuit brought by Viacom, the ultimate outcome of which could potentially threaten the ability of Internet users to post and share even completely legal videos.

Google has fully complied with DMCA (Digital Millennium Copyright Act) requirements for rapid "takedown" of videos that conflict with intellectual property owners' legitimate claims. Google has also gone much further than the DMCA requires, by implementing a comprehensive "Content ID" system to proactively flag uploaded content matching the "signatures" provided by content owners (resulting in various actions, some of which are punitive in nature). Some observers would argue that this latter feature can sometimes be too aggressive, by flagging content that actually meets "fair use" requirements.

Additionally, takedown tools (or legal threats and actions) are sometimes used by governments not to enforce copyright restrictions per se, but in reality for raw censorship of political or religious material that is considered to be undesirable or offensive to particular groups -- in the process sometimes cutting off access to those videos to everyone around the planet.

Another related example is battles over Google's "Street View" mapping system, with some associated government actions creating utterly inane situations [such as satirized here](#).

The international Internet in theory should make it difficult for any single domestic government to impose its censorship will on the entire world. But in practice, it is often the case that takedown or other censorship efforts related to one region end up having much broader effects.

Efforts to "harmonize" international laws in such spheres -- copyright, privacy, and so on -- have been and continue to be in progress. They are generally to be applauded in concept at least -- but the very real risk exists that the process may be used to entrench the lowest common denominator, most restrictive control regimes on a universal basis, rather than the minimally necessary ones.

It is crucial to understand that many of the proposals now being made by some in government (both in the U.S. and elsewhere) -- and in many cases in league with private sector interests -- would create Internet information control regimes that would represent drastic sea changes from existing models, including that of the DMCA, and would basically be without meaningful precedent in the modern world.

A primary battleground for attacks in this respect is the new war against Web linking and specifically search engine linking -- with Google, by virtue of its scope and large user base, the central target.

In Europe, one example of this is the so-called Spanish "right to be forgotten" -- currently taking the form of officials in Spain demanding that Google remove specific search results from their global listings that "offend" (one way or another) particular plaintiffs.

In reality, it's not the Google results themselves that upset these persons, it's the content that the results link to. But implicit in these demands is the realization that trying to stamp out all copies of any data on the Internet, Whac-A-Mole fashion, is usually impossible. In fact, in some of these cases, the deletion demands are only being made of Google, not of the newspapers or other services that are actually hosting the content of concern!

In other words, if you don't like the message, attempt to throttle and censor the messenger ... the search engine ... Google.

The U.S. government's own rapidly escalating efforts to micromanage and censor Google, and other search engines, seem to be focusing initially on a somewhat different tack, by attempting to associate Web page links and search results links with direct complicity in, for example, film and music piracy.

Current legislative thrusts in this regard are often tied to [COICA](#) (Combating Online Infringement and Counterfeits) legislative efforts, that began with a focus on safety-critical issues such

as counterfeit medications, but have been largely co-opted by major entertainment industry interests who are pushing politicians to use government-mandated search engine results censorship, even based on private actions, as a formula for trying to prevent Internet users from learning the locations of sites containing “forbidden” materials.

This harkens back to the “misshelved library books” analogy above. The entertainment industry, increasingly convinced that it can never stamp out every individual site hosting materials of concern, now wants to censor Google in the hope that users will assume that if something isn’t listed on Google, it can’t be accessed at all.

The sheer “Orwellian” audacity of this approach, of trying to strike material from search indices as if the search engines were at fault, is breathtaking in the extreme, and would likely be dismissed out of hand in contexts other than the Internet.

Many years ago, it was widely argued that a single page and a single table from the November 1960 edition of *The Bell System Technical Journal* -- [in fact, this page and this table](#), triggered the rise of telephone network hopping “phone phreaks” (what we’d call “hackers” today), who became something of a bane to AT&T (back then often known colloquially as “Ma Bell”) for many years.

Yet there were no demands to recall that edition of *BSTJ* from circulation, no politicians calling for legislation to remove the offending volume from library card catalogs, no rhetoric that libraries should be held responsible for the toll fraud that AT&T claimed resulted from phone phreaking activities.

Now, one might suggest that it would have been strange for AT&T to call for the suppression of material that they themselves had originally published. But note that the motion picture industry today is actually in an ironically similar situation, since the source for most pirated films on the Web is not crooks with camcorders in theaters, but film prints that are brought initially to the Internet by employees of firms involved directly in the studio production process.

There's another interesting parallel here also. The film and music industries quote gigantic numbers that they assert represent lost revenue from Internet piracy, just as AT&T used to quote enormous revenue losses due to phone phreaks making free phone calls.

But in all of these cases, the quoted losses are based on the ridiculous assumption that each pirated copy (or free phone call) would otherwise have been a paid copy or paid call.

Utterly bogus. A vast proportion of Internet film and music piracy is opportunistic. The persons involved would simply never have obtained most of those films or music tracks, if they hadn't had a way to do so for free. And I guarantee you, none of the phone phreaks I knew would have paid the comparatively enormous long distance rates back then simply to listen to the time announcement in Sydney, or Dial-A-Disc in Cardiff, South Wales.

The lesson here seems obvious. Especially when attempting to justify censorship, the "big lie" is a favored technique, not only in economic contexts, but all too often in law enforcement and security aspects as well in many parts of the world.

It's all too easy to try stamp "inconvenient" data with the "Forbidden" label, and if you can then cause all mention of that information to vanish from search engines, it's been a good day at the Ministry of Truth.

Attempts by governments, commercial interests, and private parties to impose censorship on search engine results (sometimes under seemingly laudable guises), and to clamp down on the availability of user-uploaded materials on the Web in general, are but two facets of a global trend to mutate the Internet from a powerful tool for freedom, into a corrupted tool for government enabled or directed information suppression and control.

I would not argue that Google or other search engines are by any means perfect. I continue to call for [better methods to deal with user complaints and dispute resolutions](#), but always through the provision of *more* information, never less.

Attempts to censor or otherwise externally dictate the contents of search engine results, either through explicit regimes, or via more insidiously camouflaged, unworkable, and fundamentally flawed concepts such as "search neutrality" and the like, are in many ways essentially the 21st century analogs to governments smashing printing presses centuries ago.

Now, as then, we can be sure that the proponents of censorship -- today the government censoring and micromanaging of search engines, criminalizing the mere display of links, and other attempts to leverage the Internet for mandated information control -- will wax poetic about the societal benefits supposedly to



be achieved through such means.

History teaches us otherwise. Such suppression of information -- particularly with the mindsets now being advocated by those who would assimilate control over Internet content for their own purposes -- virtually always plays into the hands of evil, even if the stated rationales at the time appeared to be benign.

This then is the hidden danger. The motives of those who would censor the Internet may sometimes appear positive and pure, their arguments may seem intriguing, their promises of Internet order may be enticing. In some cases, the parties making these arguments will truly believe that censorship and related controls over search engines and the Internet generally will truly bring a better world.

Whatever their motives, their proposed paradigms are both incorrect and dangerous.

Any ability for government to dictate or otherwise enable the mandated censorship of search engine results is a recipe for expanding explosions of information suppression and associated abuses.

With the Internet already significantly integral to most aspects of communications around the planet -- a situation that will only be ever more true over time -- governments' efforts to censor and control Internet content arguably represent the most critical free speech issue, and in the long run, civil liberties issue for perhaps decades or more to come.

We are at the crossroads. Now is the time when we must decide

if the Internet will continue its role as the most effective tool for freedom of information in human history, or if it will be adulterated into a mechanism for the suppression of knowledge, a means to subjugate populations with a degree of effectiveness that dictators and tyrants past could not even have imagined in their wildest dreams of domination.

The choice is ours to make. Choose wisely. There likely won't be a second chance to get this right.