

Internet Privacy and Tax Havens in Our Sophisticated Globalized Information Society: from the View Point of CSR (Corporate Social Responsibility) or Business Ethics

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I. Globalization and the Sophisticated Information Society:
a Short History of the Development of IT Companies

Our present society is globalized and highly integrated through information technology. In order to understand how we got into this situation, I will introduce a history of business before the present modern information oriented society. I will consider Information and Internet Privacy, its related troubles, problems, difficulties and the responsibility and ethics of IT companies, as well as the avoidance of tax by those companies. Those companies are almost all multinational companies. They avoid tax by using information technologies and tax

havens. Some consumers file suit against such IT companies because of the problems of infringement of Internet privacy. As such, many IT companies have lost social trust, even though consumers enjoy their services.

The invasion of Internet Privacy and the avoidance of tax by IT companies have not been discussed in terms of CSR or corporate social responsibility. I am going to consider several cases where these problems have come up. Though it is admittedly difficult to address these problems, I will look at the reputation and the stock prices of companies as factors for controlling these problems, as well as the expectations and problems of corporate social responsibility in terms of “Corporate Citizenship.”

I will also consider the meaning of the formation of shareholder culture and the social responsibility of shareholders for solving these problems in conjunction with socially responsible investment. In the last chapter I will argue that it is necessary for companies to disclose information about these problems, that is, of new international tax planning and problems concerning the invasion of internet privacy, both domestic and foreign, so that shareholders can choose a culture that accepts CSR and demands long-term profit instead of short-term profit.

A Short History of the Development of IT Companies

After early Multi-National Corporations such as Shell, Standard Oil, and Unilever had emerged in the nineteenth and twentieth centuries, IT companies such as IBM emerged in the middle of the twentieth century. Shell, Standard Oil and Unilever are representative companies of early globalization, and IBM is the pioneer company of a computerized, information-oriented society.

In the nineteenth century, various tools were developed for factory

work, but from the latter half of the 20th century, various kinds of computers were developed and used as tools for business. Large and powerful computers or small personalized computers have been developed for production, office-work, sales-marketing, banking, transportation systems and so on. Nowadays, small personal computers such as laptop PCs and cell phones are diffused among consumers and are connected to each other by the Internet; information about users and consumers is used by businesses.

IBM is a pioneer enterprise that globalized its management resources by constructing and using its internal system in the context of world enterprise. Apple Inc. developed a personal computer (PC), and an advanced international division of labor for many production processes. Almost all Apple products, such as the iPod, iPhone or iPad, as well as Dell's PC are products made by an international division of labor, where all business processes, from R&D, the production process, and distribution, are interconnected by the supply chain using the Internet.

Microsoft and Cisco made it easy for average people to use PCs and connect to the Internet. It is important to note that the change of commerce, especially its style of purchase-consumption and distribution at the turn of the twenty-first century is related to the diffusion of the PC. The rapid diffusion of the PC and the Internet made the birth of e-commerce (originated by Amazon) possible.

The emergence of Amazon and Google at the end of the twentieth century is important because both are among the first internet-based businesses: Amazon established a new type of business called "e-commerce" and Google started a new type of service: the "search engine." The diffusion of the PC not only among businesses but also among average consumers resulted in new developments in the

Information Revolution; this was followed by the diffusion of many kinds of mobile devices, such as the iPad or iPhone, which resulted in more integrated and fused utilization of information by business and consumers, such as SNS.

Though the main SNS enterprises, such as Facebook, Twitter and LINE are all very young, they soon succeeded in bringing about new types of business which connected consumers to each other or to business, which used SNS for marketing. SNS services have already grown global along with diffusion of mobile devices all over the world.

The emergence and development of companies such as Facebook, Twitter and LINE could be described as the product of a new stage of globalization and “an information society,” or the computerization of society. Consumers promote it more and more with their demand for convenience. Many consumers using iPhones access the Internet through SNS applications, such as Facebook, search for products using Google and order the products from Amazon.

As a result, modern global society accelerates ever more quickly toward globalization and the globally integrated utilization of information. Technology is progressively improved by companies that take seriously the demands of users using various types of communications or information for themselves. Their demands are feed-backed for development of its technology by business for more improved utilization fused with their personal uses.

II. Invasion of Privacy of Information or Communications

1. The Invasion of privacy by companies and government

This sophisticated utilization of information results in IT companies now being capable of accessing and looking into personal

computers or mobile devices without the users noticing. Such an invasion of privacy often occurs and increases along with the diffusion of PCs or mobile devices, and especially with the use of the Internet. Ten years ago, such use of the users information would have been called an invasion of privacy. But many users have already grown accustomed to IT companies using their information.

Another serious problem is that the utilization of information technology by the government has also developed in the same way as the development of technologies for commercial utilization of users' information.

Former NSA employee Edward Snowden leaked that there was surveillance not only of executives of foreign governments or states but also of average American citizens by the CIA and NSA. It is an open secret that public authorities monitor the communication of many citizens, and yet the United States government has demanded that IT companies such as Google, Apple, Microsoft and Facebook cooperate with them in surveillance and monitoring of ordinary citizens.

These problems have not been considered in terms of CSR or Business ethics. IT companies haven't broken their silence about this. But business must be transparent about their relations to government in terms of processing information. Likewise, businesses must be transparent about these issues, not only for the sake of their shareholders but also for society.

2. Technology and methods of collecting information and Invasion of Privacy in terms of information

The invasion of privacy can be divided into two types: the traditional invasion of privacy, and a new type, which uses the Internet. Collection or utilization of personal information on databases without

permission is the older type of invasion, known as database privacy.

Yahoo! offered to aid surveillance of democratic activists in compliance with the demand by the Chinese government. This is also a traditional type of invasion of privacy, as well as the limitation of access to the Internet by “the Great Wall” of the Chinese government.

The invasion of Internet Privacy occurs in the case of commercial utilization of information by Web-site operators or communication carrier companies when information is gathered or reused through internet communication.

Generally speaking, there are two methods of collecting information on web-visitors. One is the utilization of Web forms, and the other is the utilization of log-files of Internet servers, which are used for collecting personal information, such as Internet addresses. A new type of invasion of privacy by Internet specific technology is that of data mining technology. This mines out patterns or relations among various types of information from enormous databases of information. It is used not only by governments, but also by businesses to predict and to plan, based on customers' behavior.

Using Internet cookies is another important problem that can result in the invasion of Information Privacy. Internet cookies are small pieces of information in text format that are downloaded to web-users' computers when users visit certain web sites. The exchange of data occurs inside visitors' PCs not by web-visitors but by web site operators. This is often done without the knowledge of the web-user. Many web-visitors give their information to web site operators in return for convenience, but their information is sometimes 'sold' to other web site operators.

III. Emerging New Technology: Concentration in a Few Internet Platform Holders, Unsolved Problems and Ethics

1. The Emergence of New Technology and the Concentration in a Few Internet Platform Holders and Their Responsibilities

Internet technology, such as cookies and data-mining, has been criticized from the point of view of privacy. Therefore, a few methods for protecting privacy are being developed. New technology such as “Ad Truth” from 41st Parameter Inc. and “IDFA” from Apple Inc. have emerged and are taking the place of cookies. Nevertheless, this is not a solution to the risk of violation of privacy. Rather, this new technology has given the advantage to such platform holders as Apple, Microsoft, Google, Amazon and newcomers such as Facebook. If web site users could limit or reject the cookies of web site operators, their market power would be stronger.

Therefore, it has become important for these major companies to be responsible and ethical. It is necessary for IT companies to be transparent when using users’ information, as well as in their cooperation with government, and to develop new technology that is neither illegal nor unethical. It might also be an opportunity for new enterprises to provide more advanced, convenient and privacy-safe technology to consumers.

On the contrary, we can find that there are many cases in which businesses illegally or immorally use consumer information through the Internet because users do not realize that IT companies use their information commercially or “sell” it.

The responsibility of major IT companies’ has become heavier and heavier, and more and more complicated. One reason is that IT companies have discovered that concepts of Information Privacy as a

human right differ among several countries, even though the IT companies have globalized their businesses and have succeeded in connecting all the countries they serve with their IT business. Moreover, governments that have censorship and monitor citizens often use advanced technologies developed by these companies

Snowden, the former employee of the CIA and NSA, has also informed the world that IT technologies have been used as weapons for the “Cyber War” or national security and are also utilized by governments for gathering intelligence from citizens both domestic and overseas.

2. The Dilemma of Internet Privacy as a Human Right and the National Interest

There is a conundrum between the protection of the Internet or Information Privacy and National Security. Behind this dilemma is the US-CHINA Cyber Warfare on the one hand and the War against terrorism on the other hand. The privacy of American citizens has come to be limited especially since the government of George W. Bush, the forty third president.

It is difficult for a company to fail to cooperate with government in its business environment, either domestically or overseas. IT companies have been globalizing from the beginning and confronting different administrative regulations or cultures all over the world. Acceptable behavior in some countries or districts may be unacceptable elsewhere.

Though human rights are universal, they are not necessarily respected in undeveloped countries. The governments of some countries sometimes demand that IT companies act against human rights and inform the governments of the activities of democratic activists. Some countries, such as China, place priority on “State Security” over human

rights. In democratic countries that have independent judiciaries, government executives cannot execute their powers with regard to fundamental human rights without the permission of the courts.

Business Ethics Challenged in the Case of Google

For private companies, profitability must go hand in hand with obedience to the law. Of course, multinational companies must obey the laws of their host countries, but they must give priority to the laws of their home countries.

What is best for business overseas is not necessary good in a company's home country. And what is legal or ethical overseas is sometimes illegal or unethical in its own country. But considering these complicated problems, business has to decide how to act in the context of different business environments. Technology is no guide, so business must act based on democracy and ethics, as well as on business principles. In this sense, it might be good to consider the Google case.

The Importance of the Google Affair

It was in 2010 when Google closed the site Google.cn and moved it to Hong Kong in order to avoid Chinese government censorship. Though many people admired Google, this action was not so simple and not necessarily ethical. Actually, it might not have been ethical to open Google.cn to begin with. Also, Google was an important company supported by the US government.

“While removing search results is inconsistent with Google’s mission, providing no information (or a heavily degraded user experience that amounts to no information) is more inconsistent with our mission” is what they said in Jan. 2006⁽¹⁾

When Google began their operations in China, Google signed an

agreement called “The Pledge” with the Chinese government that stated that Google would abide by all the regulations set forth by the Chinese government, even if China opposed democratic values.

So, was it inconsistent with their motto “Don’t be evil” that Google decided to begin service in China? And was it in itself immoral to begin their business in that country? Though their stance was not clear, they should have known what the Chinese Communist Party was. I wonder if it is so difficult to consider the situation of Google to be the same as that of the press. Google is a growing giant and its function, mission and responsibility overlap with those of the press. Though Google has said that they could not accept censorship, they must have known from the beginning that the Chinese government certainly used censorship and would not change easily. Clearly, the excuse for their last decision was not consistent with that of their earlier stance, and this change might have depended upon other some reasons such as described below.

This was an important affair that drew attention all over the world about the dilemma of Internet companies and Internet Privacy as a human right.

Background of the Conflict between Google and China

The following is a history of the problem between Google and China:

2006. Google launches Google.cn

2010.01.13. Reuters, Google and the US government issued a plan to protect democratic activists in China from Cyberattack through Gmail-service as well as Chinese government censorship

2010.03. Google.cn was converted to Google.hk.

2012.06.01 New York Times, Google to alert users to Chinese censorship.

2013.03 E. Schmidt, published *The New Digital Age: Reshaping the Future of People*, and noted that China is the most dangerous country in the world.

There might be serious Cyber Warfare between USA and China in the background. From the view point of the Chinese government, they defend attacks from US government and Google. What is important, is not whether the Chinese government or Google is right or not, but that Google has ability to cooperate with US government to attack Internet both domestic and oversea, even though this is grey zone.

Actually now that U.S. government depends upon IT companies such as Google for intelligence, Google could have expanded its business by functioning as the main supplier for government. The real problem is whether or not the violation of human rights can be permitted both at home and abroad; however, we should also consider how and why the cooperation of business and government for the national Interest is good and ethical or not.

3. The Difference in the Interpretation of Privacy as a Human Right, Monopoly and Superpower

We have already considered Internet privacy. Google stands in the forefront not only for its search engine but also for its attitude toward cooperation with government. This is because of the differences of interpretation of human rights. This difference exists between the USA and EU or other advanced countries, and also between western countries and eastern countries, especially dictatorial countries such as China, as described above.

One of the concepts of privacy is that of “the right to be forgotten” that the EU and Japan have insisted on. The EU stipulated in January

2012 that the companies that manage personal data must delete it if there is a request from the individual at the origin of data, and thus the right was born.⁽²⁾

At the trial in which a Spanish man had sued Google in May 2014, a European court decided that “an individual had a right to call for the company which ran a search engine to ensure that the specific search results in conjunction with the individual were not to be displayed.” “A right to be forgotten” was approved at that moment.⁽³⁾ In addition, the Tokyo District Court in Japan gave a deletion order for inappropriate Google search results for the first time in October, 2014.

The concept “Google vs. the rest of the world” is too simplistic. It is better to say “Google and the United States vs. the rest of the world.” From the viewpoint of the rest of the world that opposes IT companies such as Google, there is always the American idea (presented by President Obama), who stated “the Internet should be free and open.” This is why the U.S. Government can be interpreted negatively as trying to protect the IT industry in order to protect the United States economy.

Another problem between the US and the EU is the different interpretation of monopoly. In the United States, the U.S. Federal Trade Commission (FTC) investigated Google on the suspicion of violation of the antitrust law from the 2000s. Google was suspected of having abused the marketplace with monopolistic actions in its publication of search results. But the FTC decided in 2013 “that Google did not violate the law”⁽⁴⁾.

However, the EU assembly adopted a “resolution calling on Google to separate its search engine from other services.”⁽⁵⁾ Shares of Google in the search engine market exceed 90% in the EU. Google has a virtual monopoly in this market. Both in the USA and in the EU the situation

is the same, but the EU has neither Google nor Silicon Valley.

Finally, I would like to conclude with pessimistic statements, alluding to the possibility that Google itself can become “the Super power.”

As Google’s chairperson Eric Schmidt stated in the book *The New Digital Age: Reshaping the Future of People, Nations and Business*, it is “*the power of connectivity that led 8 billion people to the Internet*” and he called it “*the fifth power.*” to continue⁽⁶⁾.

But is Internet, “*the fifth power*” next to administration, legislation, the judiciary, and the media? A few platforms, including Google, have already strengthened the power to rule. But democracy doesn’t have enough power to control this giant. It is our demands that give this giant its momentum of power. The energy of the giant comes from the engine called capitalism. If it drives recklessly, it may be a remarkable vehicle, but it may be very difficult to control.

The Conflict between the EU, Other Countries and Google concerning the Differences in Interpretation of Internet Privacy

As I explained above and elaborated concerning taxation on MNCs, Google, which has the support of the US, is hard to defeat, as long as it is an enterprise supported by the state, that is the USA. Then, is it right that Google and other American IT Companies insist on only their own concept of privacy or the right to know? If some other countries were as wary of Google as the Chinese government is, would it be possible for Google to get accepted? Perhaps it is because the CIA and NSA are behind Google and other American IT Companies, and that their technologies are also being used for intelligence activity of the American government.

Anyway, Google is not a state, and while most people are users of

Google, they are not shareholders. And Google must be a “Corporate Citizen,” or corporation responsible to society. Therefore, how can we discuss the ethics of Internet privacy? Or what can we discuss about Google and other IT companies? It is difficult to answer these questions but easy to find inconvenient realities from some cases. From these cases we can find a few problems that are worth considering; this is just one step for solving these problems.

IV. CSR in the Context of Information Privacy and Tax Havens

Can we control the energy of this Giant? It is unnecessary to even make the statement that there are a number of people, such as Milton Friedman, who deny the social responsibility of enterprises. If we could enlarge the concept of CSR to the point of view of the stakeholder, to the globalized world, we can imagine that MNCs or IT companies and our society must be responsible for the problems of the violation of Internet Privacy and Tax avoidance. However, many MNCs or IT companies avoid taking responsibility and have left their home countries to avoid paying taxes. How can it be possible to expect them to be responsible abroad?

Another important problem is that other countries no longer trust the US government and enterprises. An example is that the CIA tapped the cell phone of Chancellor Merkel for a long time. This is related to the increasing tendency of EU countries to resort to litigation concerning problems of communication and information.

Actually going to court to solve conflicts among stakeholders is not unusual. However, business rarely gets stronger because of excess litigation. This might be contrary to the thought of CSR in advanced capitalist countries, such as the U.S.A.. CSR simply fills in the blanks

where capitalism has defects as well as addressing morals or ethics as opposed to laws or regulations.

CSR assumes that there is a balance between laws or regulations and freedom from them that is necessary to assure social development in a free society. From this point of view, some IT companies' behaviors cited below should be reconsidered.

1. Cases for Business Ethics of Internet Privacy and Tax Avoidance

Case 1. EFL/ACLU lawsuits against IT Companies

These are from several lawsuits in progress. In one EFF (Electric Frontier Foundation) is suing AT&T. In the other, ACLU (American Civil Liberties Union) is suing AT&T, Verizon and BellSouth. They have insisted that civil liberties, and secrets of communication have been infringed on. As it is a civil action, telecommunications carriers are the defendants. AT&T (as a telecommunication carrier) is insisting that they follow national policy. Journalists and citizens groups are suing the State Secrets Privilege.⁽⁷⁾

Case 2. The ACLU of Northern California has filed a shareholder suit against AT&T and Verizon concerning NSA Data Sharing.

IT Companies have continued to cooperate with the government, and Snowden's statements have again revealed a violation of privacy. Here is the statement of the shareholders:

"We filed a shareholder proposal — one with AT&T and one with Verizon. As customers, shareholders, and citizens, we all deserve to know what is done with our personal information. That is why the ACLU of Northern California, along with several other investors, have called on both companies to break their silence and publish

transparency reports that detail how often they share information with U.S. or foreign governments and what type of customer information is shared.⁽⁸⁾

It is worth knowing, as consumers, shareholders and citizens, what is done with our personal information. Therefore, the North California ACLU, with other investors, has visited both companies, and demanded a transparency report. The companies have the responsibility to answer. The trust of the customer is a critical thing that is important to any business from the start. It is especially so for Internet and telecommunication companies which collect personal information that affects the lives of hundreds of millions of people in the world.”

So far, a number of Internet companies, including Google, Microsoft, Twitter, LinkedIn, Facebook and Yahoo!, have issued transparency reports to restore the trust of consumers, but ATT and Verizon have not yet done so.

Privacy is fundamental to democracy and freedom of expression, and transparency is not only essential for general knowledge but and also to make business decisions. So, IT companies must issue transparency reports.

Case 3. “AT&T is putting a price on privacy. That is outrageous”

According to this article, “AT&T is performing deep packet inspection, a controversial practice through which Internet service providers, by virtue of their privileged position, monitor all the Internet traffic of their subscribers and collect data on the content of those communications. // What if customers do not want their Internet service providers to spy on them? AT&T allows gigabit service subscribers to opt out — for a \$29 fee per month. But charging extra for privacy is significant for social justice: broadband access is hard to

come by for many communities, and subscribers on the lower rungs of the income ladder may not be able to afford an additional fee to protect their privacy. Privacy should not be reserved for the rich, and the poor should not be forced to choose between broadband, an essential tool in modern life, and their privacy.⁽⁹⁾”

Privacy is fundamental to democracy. But, it costs \$29 to buy the human right of privacy as a premium service. This is because AT&T sits in an incredibly privileged position in the network and uses its power. Should AT&T be ashamed of itself for putting profit over privacy? Customers should not be forced to take this sort of action to protect their privacy.

Case 4. Tax avoidance by Starbucks.uk : another problem of CSR

Opposition of Public Opinion, Reputation and the Share Price of a Company

Even if tax avoidance is not an evasion of the law, it runs up against objections of public opinion. It is certain that shareholder value is damaged if avoiding the payment of taxes hurts the reputation of a company. When social reputation is once damaged, and the stock price falls, it will take time to recover.

I would like to discuss the change of the value of share prices before and after the news of tax avoidance by Starbucks.uk. The avoidance of Tax payment was revealed on October 16, 2012, and soon after there was a boycott by consumers. The result was a drop in share prices. The company immediately announced a voluntary tax payment. After this, the share price increased, and soon afterwards, the price trended upwards. After the tax payment, there was a remarkable rise

of share price in 2015.

Year	month	day	stock price					
2011.01.03	32	£	2012.12.28	53	£	2014.07.01	78	£
2012.01.03	47		2013.01.02	55		2015.07.01	54	* 2
2012.10.01	51		2013.07.01	66		2015.12.31	61	* 2
2012.10.31	46		2014.01.02	78		2016.07.01	57	* 2
2012.12.18	55							

note: round off numbers to the nearest 1.. Stocks split in 2015.

* 2 means: value doubles

The Panama Papers recently became a hot topic of discussion, but the tax avoidance of MNCs is not a new problem. Previously, the G20 and OECD have taken up tax avoidance, and an action plan for preventing the tax avoidance of MNCs was adapted in 2015.

The tax avoidance of American companies such as Apple, Facebook, Google, Amazon and Coca-Cola came to light in the U.K. The British Government introduced “a Google tax” in 2015. This is not only targeted at Google. The British government imposed a tax rate of 25% on dishonest companies, such as Amazon, Apple and Coca Cola. This rate is higher than a normal corporate tax rate: hence the necessity of CSR.

This is because it is difficult to gain the coordination of many countries to enforce international regulations against tax avoidance despite the necessity for social and international justice.

2. Democracy and Responsibility as “Corporate Citizen”

Democratic societies ruin themselves if their members do not fight for independence, rights and dignity. On the other hand, the fundamental rule of capitalist society is profit seeking, sometimes sacrificing all else for this. Is the logic of capitalism not compatible

with the logic of democracy? Profit seeking is an economic principle, and the mechanism of self-increase is built-in. There is an automatic mechanism that is independent of human intention; that is, there exists a necessity to compete for profits; if somebody does not look for profits, others will do so. On the other hand, it is a principle of democratic society that the public is in control of its own affairs.

What responsibility should a company have in a democracy? Citizen's movements for privacy and against Tax Havens act according to democratic principles, so companies at least should answer the questions of such groups. This is the meaning of accountability as "corporate citizens" in democratic society. But few companies have voluntarily answered legitimate questions of such groups.

What should the responsibility of shareholders be? The owners of a corporation are the shareholders, and they should have the right (and responsibility) to know what their business amounts to, even if their possession of such knowledge is inconvenient for the management. For example, even the investors in Apple Inc. of which stock value is the highest in the world, might lose millions of dollars in the near future if investors and customers do not trust it because of a serious mistake. Such a mistake might include the leaking of private information or data. Transparency in business is necessary for investors to decide whether to buy or sell.

The social responsibility of a business or the stance of a corporate citizen is not necessarily the same as the stance of a shareholder, whose stake is his own profits by buying and selling shares. Though the shareholders' stance cannot to be totally the same as the social responsibility of a business, it might be possible to hope that that the profits of shareholders could be compatible with the long-term growth of the company, which is also responsible to society. This is an

important reason that we ought to be able to expect good corporate culture led by good citizens in a democratic society.

What is Necessary? Recovery of Trust and Beyond CSR: to Make CSR Align with Public Policy

CSR is one of the ways of developing and protecting capitalism and a free society, and it is complementary with regulations or laws by which development of business is sometimes suppressed. The CSR plan presented by a company itself is sometimes rejected by shareholders who are not pleased with the loss of profits. Shareholders normally demand short-term profits from a company. As many programs presented by social responsible investing for CSR are often rejected at stockholders meetings, there are many reasons for putting off CSR.

CSR cannot give clear answers to such problems as Tax Havens and Internet Privacy that are of growing importance in the context of globalization and advanced information societies. This means that our society needs both CSR and public policies that complement each other. This is because business cannot depend on shareholders to resolve social conflicts because of their own interests; yet society needs CSR because laws or regulations cannot resolve all problems or conflicts that occur in society.

The American government has lost credibility both at home and abroad because globalization and information technology have evolved without interference from the government. The Snowden scandal as well as the tax evasion of MNCs is significant, because almost all of the MNCs originated in the USA. One reason is that the American legislature does not work for democracy because of lobbies that obstruct legislation to eliminate tax havens and the invasion of privacy on the Internet and in communication. Many countries are suspicious of

the CIA, FBI and their relations with enterprises, especially IT companies.

So, it is necessary for IT companies to be transparent about their cooperation with governments both domestic and foreign. IT companies need to develop new technology which will prevent the violation of Internet Privacy. Apple and Google, whose services are used almost all over the world, are not exceptions. If they want to grow larger and for more people to use them, they must be trusted. Nevertheless, they are arrogant and refuse to change their behavior; Google has used cookies even after users demanded that Google stop using them. Google accepted the decision of the Court of Justice of the EU that accepted the right to be forgotten; but Google is still fighting against “the right to be forgotten” in the courts of many countries. There is also the need to acknowledge the existence and complaints of damage caused by “the right to know.”

For a few years, most suits in the EU and Japan have been against Google, though Google does not accept many decisions. Google has issued a new private policy for adjusting to new services and technologies, but the number of conflicts between Google and the EU are increasing. Google is not going to change its attitude of technological superiority; rather it insists on the correctness of its thought. Such arrogance is only possible because Google is supported by the US government.

As the EU comes closer to imposing taxes by new laws or regulations on MNCs, it must not be forgotten that most MNCs are originally American companies, The EU is also going to regulate the exchange of information between the USA and the EU as an excuse to protect Internet Privacy. It is probably for this reason that the EU decided that the Safe Harbor Decision was invalid. This might also be

the EU's international strategy against the USA, because the EU has no advanced IT technologies.⁽¹¹⁾

Regardless, from the social point of view, the behavior and logic of Google is improper not only in the U.S.A. but also in international society, and constantly has to be argued by its shareholders.

3. Expectations and Problems of CSR

We insist that CSR must try to find a way both to gain profits for its shareholders and to defend Internet Privacy as well as to get shareholders to stop avoiding the paying of taxes. These problems, Internet Privacy and tax avoidance, are the most important CSR problems.

Problems of CSR

1) *Dilemma of Ideals and Reality*

At some point, it is necessary to discuss the ethical behavior of a company, for it is not meaningless to discuss and practice it so long as the company had better embody it as CSR related to public policies as laws, though it is difficult to discuss ethics in economic world.

There is a dilemma between CSR theory and the realities of business. CSR theory is sometimes moralistic and is (at times) incompatible with capitalist logic. In addition, companies are often challenged by the different values among different cultures; sometimes companies are faced with different management cultures in the globalized economy. This situation happens more and more frequently, as companies are forced to deal with cultures that contradict their management philosophy. Western companies often face a situation where the very idea of a Western company is not accepted and it is necessary to accommodate differences between ideals and reality in the

context of CSR.

It is one thing to think in terms of the values of CSR in spite of differences with reality. It is quite another thing to feel that CSR is an impossible ideal from the outset. Thus, often it seems best to simply obey the rules or laws. With this in mind, it often seems unreasonable to aim beyond simply obeying the rules. Thus, to avoid hypocrisy, there seems to be no room for CSR.

However, sometimes serious problems occur even if enterprises are in compliance with rules and laws. Environmental issues are a typical such problem. Simply obeying rules and laws cannot solve all the problems that occur in reality. Even if the rules and laws are observed at the minimum, the environment may be irrevocably destroyed. Environmental theory demands more than obedience to rules and laws.

Such problems are not limited to environmental issues: food medicine and so on, also require the best possible care for safety and health. A company must sometimes go beyond what the rules and laws prescribe. Therefore, CSR theory must be taken seriously.

Sometimes, there is a range of possible ways to meet goals (or obey laws and rules.) Sometimes, for example, obedience to the rules costs a lot of money. Some companies can obey the rules, but others cannot afford to. Large enterprises can obey the rules, but marginal ones cannot. It is also true that some rules and laws are made in consideration of such circumstances. As long as there are rules or laws, it is necessary to obey them, but there are many examples of secret fraud contrary to the rules. Some companies do the minimum to obey the rules, but others do more beyond what rules or laws require. There are many cases in which CSR theory has a hard time meeting its ideals.

2) *The Unethical Side of CSR*

CSR sometimes becomes PR, and is used for advertisement. Of course, the communication between a company and consumers is important. The primary meaning of an advertisement is to show the value of products to consumers; however, the concept of advertising is wider and is incorporated with CSR. Indeed, CSR is part of an advertisement, both for investors as well as consumers.

In other words, the public information of company efforts as CSR which is transmitted to consumers is very important for the promotion of the corporate image beyond its products. The effect of CSR overlaps with the so-called reputation effect. This may be reflected in corporate value, i.e. the share prices. At all events, such sides of CSR are not ethical but utilitarian.

Another unethical element is that CSR is used by companies and industries, that hope to avoid enforcement of rules or laws by using the reputation effect. As Robert Reich writes, this effect helps companies to conceal the fact that is inconvenient for them and to prevent the legislation of rules and laws. It is useful to convey a good corporate image through publicity work over and over again as CSR for the citizens who are consumers and part of the electorate. Companies can, thus, spend a lot of money for lobbying to prevent legislation which is inconvenient for them. Not all of the purposes of CSR are as underhanded as these, but CSR may help companies avoid criticism from citizens, consumers and even shareholders who are “interested parties.”

3) *Asymmetry of Information*

There is an asymmetry of information between companies and consumers or investors. Companies are more capable of acquiring and

using information about consumers and investors through the evolution of IT technology, while consumers and investors do not realize how the companies use that information. On the other hand, consumers and investors cannot know inconvenient information about the companies. This is because few companies divulge such information. Companies not only sell products and services, but they also often hide inconvenient information; however, they also use CSR for marketing or investor relations to produce a good corporate image among consumers or investors.⁽¹²⁾

4) *Tax Havens and Possibility of CSR*

One can sometimes find environmental disruption in polluting companies, food poisoning in food companies, or nuclear plant accidents in electric power companies. Shareholders do not normally suppose that a company that avoids paying taxes by using Tax Havens might be prosecuted by the government or that this might burden that company's finances, or that the company's share price will fall or that the company will face shareholders' suits or that the management will resign.

In reality, the loss of taxes results in the reduction of public services for citizens and an increase of the tax burden, but the causal relation between loss of taxes and lack of public services is indirect and incomprehensible to companies and citizens. It seems unrelated to the company as far as shareholders are concerned

On the other hand, the shareholders of a company which uses tax havens can enjoy high profitability in the form of high share prices. The earning capacity of the company and the accumulated profit from the tax haven are reflected in the share price. So, the interests of the shareholder contradict those of the citizen in this sense. This is one of the reasons why it is hard for citizen movements against tax havens in

the USA to gain consensus from shareholders⁽¹³⁾.

5) *Possibilities and Difficulties of CSR Concerning Tax Havens*

In Europe, demonstrations against tax avoidance by multi-national companies have taken place against Starbucks, for example. If Starbucks withdraws from the host country, it is supposed that employees might lose jobs and tax revenue would decrease as a result. There might even be demonstrations against Starbucks's withdrawal.

The relation between big companies and society is deep and close, because the big company and society share the same fate. Nevertheless, if that opposition movement was right and the reputation of the company decreased, it would lose customers and corporate value, and its share price would fall.

From the beginning, it is necessary for a manager to pursue profit as much as possible and to avoid paying taxes, but in the future a manager may have to consider whether the policy of tax avoidance might be harmful to the reputation of the company. Actually, it is possible that negative news might encourage opposition to tax avoidance. A boycott might reduce sales. That would be harmful to the reputation of the MNC and might bring losses for shareholders in turn.

In this situation, CSR could help the company avoid trouble with such an opposition movement. The company, considering CSR, might pay more tax. Paying tax might be practical and thus might be approved by shareholders.

However, shareholders might not easily accept this. Avoiding the use of tax havens and making the company more sympathetic to CSR was rejected at the Google general meeting. Three executives who own 58% of the voting rights objected to this proposal.

Industries which deal directly with customers, such as Starbucks

and Walgreens, are often exposed to consumer attention and criticism, but manufacturing industries are rarely so exposed. Nevertheless, many companies retain their profits at tax havens oversea and make use of deferrals to avoid tax.

4. Change of Shareholder Culture of Tax Avoidance

Even if a company obtains short-term profits by avoiding tax or betraying customers, it will lose long-term profit. Such a self-evident truth is often forgotten.

There are many companies for whom CSR can be regarded as an advertisement. Some such companies also avoid paying taxes. Such companies are hypocritical. If betrayal of the public or tax avoidance comes out in the open, such companies will be exposed to severe public criticism and will not be trusted. The pursuit of short-term profits may result in the decrease of corporate value in the long term and will bring damage to shareholders through the drop of the share value.

Can shareholders themselves prevent the tax avoidance that might make the share price fall and decrease stock dividends? The share price of excellent companies such as Apple, Google or Microsoft, which avoid paying taxes and accumulate profit, is very high. Shareholders of these companies enjoy profits from the stock market, and, indirectly, from tax avoidance.

From the viewpoint of CSR, these companies should not demand short-time profit or avoid tax. They also should avoid offering new services or releasing new products that might invade Internet privacy. It is necessary for the company shareholders to give priority to long-term profit over short-term profit and to contribute to society.

Shareholders need to change themselves to make line with CSR to pay tax. It is the responsibility of shareholders to supervise managers

so that they do not work against the values of CSR in the pursuit of short-term profits.

How CSR Deals with Internet Privacy and Tax Avoidance?

Companies will certainly be criticized about Internet Privacy in the future. Multinational enterprises are going to have to explain to their shareholders what they think about Internet Privacy and tax avoidance.

Socially responsible investment that considers both financial return and social good has appeared. The environment, social justice, and human rights are issues that have attracted investors. Generally, socially responsible investment avoids businesses which use child labor or encourage gambling, pornography, weapons, alcohol, tobacco or fast food.

Enterprises must act responsibly to protect Internet Privacy and to pay their taxes before they are sued or punished by laws or regulations. The significance of CSR is that it pursues social good above the level determined by laws or regulations.

V. A New Problem of CSR: the Social Responsibility of Shareholders and Managers in Conjunction with the Socially Responsible Investment and the Disclosure of Information

Even if the global community strengthens laws and regulations, companies will find loopholes, and will try to avoid paying taxes. Laws and regulations respecting Internet Privacy cannot keep up with the evolution of the technology of the Internet to destroy Internet Privacy. At the same time, it is undesirable to obstruct the free development of the Internet by strict laws and regulations.

Self imposed restraints and CSR should be pursued both in companies and society. Companies should pay their taxes and develop technologies that respect and do not infringe on Internet privacy. This might mean that companies might have to avoid providing certain services or releasing certain new products.

Can we demand responsibility from shareholders? Can we demand socially responsible investment? Perhaps this is impossible considering the separation of ownership from management in large scaled corporations.

Needless to say, an owner of a company is a shareholder, and the responsibility of the shareholder is limited liability, and shareholders do not participate in management even if they own shares. Managers are in charge of management, and the responsibility of the shareholder is secondary.

The shareholder bears some responsibility for the reputation of the company or its future risk because of the possibility of a decrease of profit or the drop of the share price. It is not a social responsibility but an indirect result of operation of the company.

However, in modern society the reputation of a company can influence the share value, and the behavior of a socially irresponsible company becomes a factor in the loss of the value of shares. It is necessary for a manager to avoid hurting the reputation of a company in order to not reduce the value of shares.

Some socially responsible investment is intended to solve social problems through investment. Can this investment be socially responsible? It is not the investors but the management that acts to take responsibility from the beginning to the end. As such, the relations of SRI with society are not direct.

And the manager's responsibility in such a social responsible

investment is only to its investors. In advanced capitalist countries including the U.S.A. or Japan, the manager cannot ignore the investor, such as a pension fund. From the case of Google, it is not easy for socially responsible investment to influence the decision making of the company. Nevertheless, the management cannot neglect public opinion.

Here is an outline of the shareholders' meeting of Google and the reaction of shareholders and management.

Shareholder's Proposals by Socially Responsible Investment Funds at the General Meeting of Google⁽¹⁴⁾

- 2006. Proposal to require refusal of censorship by the Chinese government.
Rejection.
- 2007,8. NY city pension fund submits a resolution not to perform self-censorship, accepting the demands of the Chinese government.
Rejection.
- 2014. Proposal of an ethical fund for the revision of tax practice policy using Tax Haven.
Rejection by 93%.

It is clear that the overwhelming majority of shareholders pursues short-term profit, and is against increasing the tax burden. It is not easy to change corporate culture. Though many companies receive social criticism because of issues of Internet privacy and tax avoidance, investors do not answer this criticism. However, if managers do not address these problems with high consciousness or respect for such problems as human rights and the environment, shareholder value will be damaged. It is the responsibility of managers to disclose information about problems and to educate shareholders about the disadvantages of

short-term profit.

In conclusion, it is desirable that the short-term profit-oriented culture of shareholders be changed and companies come to actively address social problems, and that management culture changes so that managers carry out social responsibilities.

Disclosure of International Tax Payment and Responsibility of Managers and the Choice of Shareholders

Many companies do not inform shareholders that they are avoiding the payment of taxes and that they are violating Internet Privacy. They do not explain the social results of this action or the risks for shareholders. This must be changed because if such actions come to light, for example in the media, they will have a harmful influence on the value of shares.

This means that the reputation of a company affects the value of the company. Therefore, a manager should be discreet about Internet Privacy or whether an action is possibly harmful to the reputation of his company when his company violates Internet privacy or adopts a financing policy that avoids paying tax. It is also necessary to develop technologies that do not cause legal or ethical problems by infringing Internet privacy. It may sometimes be necessary to postpone the sale of a new product or service, in the same way as Google stopped the sale of Google Glass. Managers should find a way that makes the creation of shareholder's value agree with that of social value.

It is not easy to find companies that can do this. Statoil ASA, one of the world largest oil and gas development companies, with its head office in Norway, is one of a few such companies; it discloses information for good relations with investors and to help the investors make decisions about investment. In its annual report in 2014 it

disclosed information about its amount of investment, tax payments, fees and royalties paid in each country and declared that it had shown information on tax payments all over the world as well as information about human rights and protection of the environment where it operated.

It is necessary that such a disclosure of information be a principle in the world ruled by CSR. Hopefully, it will become common for the shareholders and managers. This is the way for companies to address CSR.

Notes

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- (12) See the public information of the nuclear power generation of electric power industries: Such as “the nuclear power generation is low cost, the clean energy”, “check global warming” became clear by the nuclear plant accident by the northeastern great earthquake disaster though the public information had concealed many inconvenient facts.
- (13) In addition, there is a legislation called Repatriation of which purpose is to let enterprises back cash to the own country, and to impose tax on their accumulation, retained earnings of TH. It has another purpose to promote employment and investments in home country or education for employees. It is so called Homeland Invest Act in USA, which was legislated temporarily in the Bush administration in 2005.

At this period the tax rate was reduced from 35% to 5.25% by reason above those. It was so called Tax Holiday. But it is said that most of the funds which flowed back were used for stock repurchase and dividend payment and doubted of the policy effect. At all events, it carried out effects to raise the stock prices for particularly major shareholders and managers who were also shareholders. The retained earnings in TH changed into shareholder’s gains.

Shareholders of the global company having TH are citizens, but on the contrary, actually citizens cannot be all shareholders. The shareholder’s ratio of American citizens is very high, but there are not so many shareholders of the global companies. If they were so, most of all are small shareholders.

By the way, the TH opposition movement does not become accepted easily in American society. It might not be unrelated to a success desire of American citizens. Is it because of their envy to rich persons who are business winners and also major shareholders? In addition, the problem of tax burden and its inequality is not necessarily considered enough.

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