

WHO OWNS HUAWEI?

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In a small, gray-carpeted room on one of its campuses, the company keeps a 10-volume printed registry under a glass case. It contains the names of close to 100,000 employees said to be the company's only shareholders. A Times reporter is shown the names, identification numbers, departments and the total shares owned. Here is proof, Huawei says, that its employees, not the state, are its proprietors.¹

Introduction

As Huawei has come under increasing scrutiny over the last several months, the question of who really owns and controls it has come to the fore. It is possible, for example, that the United States government has convinced the Foreign Intelligence Surveillance Court that there is at least probable cause to consider some Huawei entities as “foreign powers” or “agents of a foreign power.”² Huawei calls itself “employee-owned,”³ but this claim is questionable, and the corporate structure

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¹ [Pearlstine et al.](#) 2019. A similar scene was displayed to a *Financial Times* journalist ([Sevastopulo 2014](#)) a few years earlier:

Inside a glass case in a private room in Huawei's headquarters in Shenzhen, China, are 10 blue books that help answer a question that has vexed the US government: who really owns the huge Chinese telecoms equipment company?

The centimetre-thick volumes contain the names, ID numbers and other details on the roughly 80,000 employees that Huawei says own almost 99 per cent of the company under an “employee stock option plan”.

² [Chesney 2019](#).

³ [HHAR 2018](#), p. 131.

described on its website is misleading. A number of pertinent facts about Huawei's structure and ownership are in fact well known and have been outlined many times in the Chinese media, but the myth of Huawei's employee ownership seems to persist outside of China. This article, drawing on publicly available sources such as media reports, corporate databases, and court cases, aims to refute this myth once and for all.

In summary, we find the following:

- The Huawei operating company is 100% owned by a holding company, which is in turn approximately 1% owned by Huawei founder Ren Zhengfei and 99% owned by an entity called a "trade union committee" for the holding company.
- We know nothing about the internal governance procedures of the trade union committee. We do not know who the committee members or other trade union leaders are, or how they are selected.
- Trade union members have no right to assets held by a trade union.
- What have been called "employee shares" in "Huawei" are in fact at most contractual interests in a profit-sharing scheme.
- Given the public nature of trade unions in China, if the ownership stake of the trade union committee is genuine, and if the trade union and its committee function as trade unions generally function in China, then Huawei may be deemed effectively state-owned.
- Regardless of who, in a practical sense, owns and controls Huawei, it is clear that the employees do not.

What Is Ownership?

It is important to clarify first why anyone would care about ownership. Obviously, formal labels are not important here. People care about who owns Huawei because they want to understand who exercises control over Huawei and what their incentives and motivations are. Thus, our analysis of who owns Huawei will look at issues of control and economic interest. Who decides what Huawei will do, and who bears the economic consequences of those actions? If it is the same person, we can pragmatically call that person the owner. To the extent that the attributes of control and risk-bearing are separated, then we are looking at divided or incomplete ownership. Nevertheless, because those who ask "Who owns Huawei?" are usually more concerned about who controls it rather than who benefits from its operations, the employee profit-sharing scheme we describe below does not suggest ownership in this sense.

The General Corporate Structure

Huawei should be understood as an umbrella term covering more than one entity. At present, there is an operating company called Huawei Technologies, Inc. (华为技术有限公司; “Huawei Tech”).⁴ That is the entity that actually engages in manufacturing and presumably the one that has large numbers of employees. That is not, however, the entity that talks about itself at the www.huawei.com website and issues an annual report. The entity that does that is a different company called Huawei Investment & Holding Co., Ltd. (华为投资控股有限公司; “Huawei Holding”).⁵ Holding companies typically do not have large numbers of employees; they exist as a legal convenience, not to produce things.

Huawei Tech is a single-shareholder limited liability company (有限责任公司 *youxian zeren gongsi*, one of the two basic corporate forms under China’s company law), and is 100% owned by Huawei Holding.⁶ Huawei Holding in turn has only two shareholders: Ren Zhengfei, the founder, with “nearly 1.14%,”⁷ and an entity called Huawei Investment & Holding Company Trade Union⁸ Committee (华为投资控股有限公司工会委员会; “Huawei Holding TUC”),⁹ with the remaining

⁴ [BEC Huawei Tech](#); [Tianyancha Huawei Tech](#). We have provided links to documentation and corporate records so that interested readers can both view the corporate records and recreate the analysis if desired. Given the opacity of documentation surrounding Huawei, we think it is important to provide as much transparency, data, and replication opportunity as possible. We have also where possible provided direct links to archived copies of various documents; the original URL is available at the archived site. A link labeled “BEC” indicates the Baidu Enterprise Credit (百度企业信用) corporate information database at <https://xin.baidu.com>; a link labeled “Tianyancha” means the Tianyancha (天眼查) corporate information database at <https://www.tianyancha.com>.

⁵ [BEC Huawei Holding](#); [Tianyancha Huawei Holding](#).

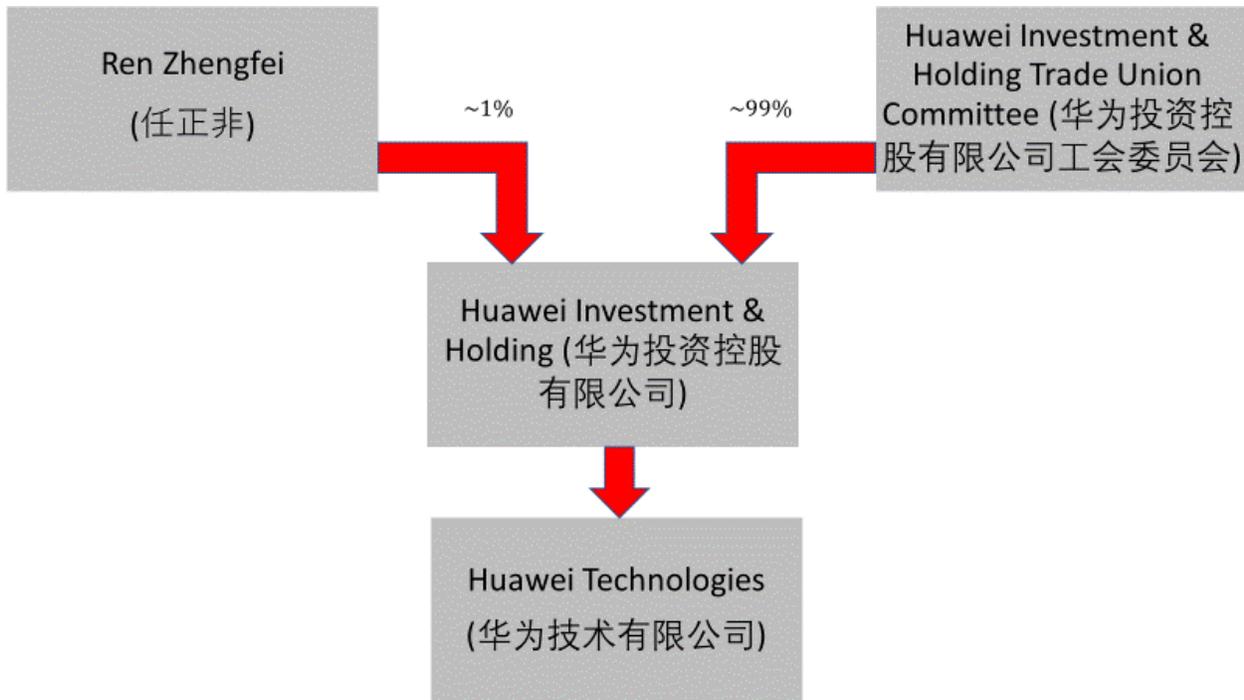
⁶ [BEC Huawei Tech](#).

⁷ [HHAR 2018](#), p. 131.

⁸ The relevant term (工会 *gonghui*) is better translated as “labor union,” especially given the fact that Chinese unions are not in fact organized by trade, but the standard translation in the Chinese context has come to be “trade union” and so we have adopted that in order to minimize confusion.

⁹ [Tianyancha Huawei Holding TUC](#). Although corporate information records list the major shareholders of corporations, they do not have information about the shareholders themselves where the shareholders, like Ren Zhengfei and Huawei Holding TUC, are not themselves corporations.

98.86%.¹⁰ Note that Huawei Holding TUC is not, by its terms, a trade union *per se*; it is a trade union *committee*;¹¹ note further that it is not associated with Huawei Tech, but is instead, by its terms, associated with Huawei Holding. Very little is known about the internal governance structure of Huawei Holding TUC—what its constitutional documents say, who makes decisions in its name, or even whether it is in fact a union, an intra-union organ (a trade union committee being different from a trade union), or something else entirely going by a misleading name. It is cloaked in opacity.



In the discussion that follows, it is important to bear in mind that the sources may have used names carelessly—in particular, there are frequent references to the “Huawei trade union,” when it is possible the author really means the trade union *committee* of Huawei *Holding*. And Huawei Holding and Huawei Tech are frequently conflated. On the other hand, it is possible that they have used names correctly, and that the Huawei entities themselves have been careless about who does what, treating different entities as interchangeable.

¹⁰ See [Tianyancha Huawei Holding](#) for virtually identical figures.

¹¹ We confess we do not know the exact significance of this distinction, but note it for the record.

Employee “Ownership” of “Stock”

The structure that is today labeled “employee ownership” by Huawei has a long history. The following account is pieced together from on-line Chinese media reports. These reports do not generally cite written sources for their assertions, and sometimes contain identical language, suggesting that one report is just repeating what an earlier report said instead of discovering the same facts itself. Thus, they cannot be treated as completely reliable. Nevertheless, our research corroborates the broad outlines of what they report. These broad outlines have not, to the best of our knowledge, been challenged by Huawei.

We begin with the conclusion, about which all Chinese media reports and the corporate database records are in agreement: employees of companies in the Huawei group do not own actual stock either in Huawei Tech or in Huawei Holding.¹² Instead, they possess, via contract, a kind of virtual stock that allows them a share in the profits.¹³ But this virtual stock is a contract right, not a property right; it gives the holder no voting power in either Huawei Tech or Huawei Holding, cannot be transferred, and is cancelled when the employee leaves the firm, subject to a redemption payment from Huawei Holding TUC at a low fixed price.¹⁴ At present, this virtual stock ownership has nothing to do with financing or control. It is purely a profit-sharing incentive scheme.¹⁵ The

¹² As noted above, we are assuming that the number of persons formally employed by Huawei Holding is very small. If the 180,000 employees claimed by Huawei (see Huawei 2019) are in fact formally employed by Huawei Holding, our discussion would have to be a little different, but the bottom-line conclusion would be the same. Which entity formally employs the employees is yet another mystery. In a 2016 case, an employee claimed he was entitled to virtual shares on the basis of a document issued by Huawei Holding. The defendant, Huawei Tech, successfully argued that the employee had not thereby shown that Huawei *Tech* owed him anything. See *You v. Huawei Technologies, Inc.*, Shenzhen Municipal Intermediate People’s Court, July 5, 2016 ((2016) 粤 03 民终 7007 号). available at <https://perma.cc/Z2PY-BBMW>.

¹³ [Su Yi 2013](#). But *whose* profits? It would make sense for the profits to be those of Huawei Holding, consolidating the results of its subsidiaries, but we do not know this for a fact.

¹⁴ [Sohu 2017](#).

¹⁵ This conclusion is endorsed by Huawei itself. In a 2018 case in Shanghai involving a Huawei employee in a dispute over marital assets, Huawei (the exact entity was not specified by the court) submitted a letter stating that what the employee possessed was “virtual limited shares” (虚拟受限股 *xuni shouxian gu*) that could not be transferred or possessed by anyone other than employees. See *Liu v. Zhang*, Shanghai Pudong

thick volumes of names and numbers displayed to journalists—paper records, under glass, in a shrine-like setting, at a high-tech company in the 21st century—bear every mark of being a Potemkin shareholder register.¹⁶

Now for the history. Huawei Tech’s predecessor, a company called Shenzhen City Huawei Technologies, Inc. (深圳市华为技术有限公司; “Shenzhen Huawei”), was founded in 1987 by Ren Zhengfei and five others, who initially had equal shares.¹⁷ In 1990, the company began distributing actual shares to employees.¹⁸

All sources seem to agree that in 1997, Shenzhen Huawei’s shareholding underwent a major restructuring. As part of this share restructuring, shares owned by employees (including employees of a Shenzhen Huawei subsidiary) were held in a kind of trust by the respective company labor unions, which apparently held formal title to the shares and exercised voting rights.¹⁹ By the time the smoke had cleared in 2000, the company was apparently renamed Huawei Tech, Ren Zhengfei owned approximately 1%, and the remaining 99% was owned by Huawei Tech Trade Union (not Huawei Holding TUC, and not a trade union committee).²⁰

New Area People’s Court, March 14, 2018 ((2017) 沪 0115 民初 34055 号), available at <https://perma.cc/XSC9-MVMS>.

¹⁶ See note 1 above and accompanying text.

¹⁷ [Sohu 2017](#). Huawei officials recently corroborated this account, providing the *Los Angeles Times* with the names and occupations of the five initial co-investors. According to Huawei, they all withdrew their stakes between 1991 and 2000. The *Times* reported that it was unable to find a single one of the five persons named. [Pearlstone et al. 2019](#). Another source ([Liu Ning 2013](#)) says the initial shareholders were all organizations, not natural persons: the Shenzhen City Huawei New Technology Joint Stock Corporation (深圳市华为新技术股份有限公司), the Shenzhen City Huawei New Technology Joint Stock Corporation Trade Union (深圳市华为新技术股份有限公司工会), and the Shenzhen City Huawei Technologies, Inc. (深圳市华为技术有限公司工会). We have no explanation for the discrepant accounts, but the one in the text seems more likely to us.

¹⁸ [Sohu 2017](#).

¹⁹ [Sohu 2017](#). How this was accomplished as a legal matter is not clear. At the time in question, China had no law of trusts and no other legal device whereby one party could hold legal title to assets beneficially owned by another.

²⁰ [Zhu Zi 2017](#).

Finally, in 2001, the other shoe dropped. Pursuant to a plan explicitly labeled “Provisional Measures for the Administration of Huawei Technologies, Inc. Virtual Stock Option Plan” (华为技术有限公司虚拟股票期权计划暂行管理办法), employees gave up their real stock and received virtual stock in exchange.²¹ In other words, shares owned by employees in Huawei Tech or its predecessor that were held in a kind of trust by the Huawei Tech Trade Union were swapped for virtual stock in Huawei Tech.

In 2003, Huawei Holding was founded and became a shareholder of Huawei Tech. Ren Zhengfei withdrew as a shareholder of Huawei Tech and was replaced by Ji Ping, the executive vice president and CFO, who held 0.01%. The rest was held by Huawei Holding.²² Ren became a 1% shareholder in Huawei Holding; the rest was owned by the Huawei Holding TUC.²³ Employee interests in Huawei Tech, whether in the form of stock, virtual stock, or virtual stock options, were converted to interests in Huawei Holding.²⁴

From about 2001 until 2011, Shenzhen banks were willing to lend large amounts to employees of Huawei—we deliberately use the vaguer umbrella term here—to fund their purchases of virtual stock and stock options.²⁵ The purchase price seems to have gone to the 99% owner—the Huawei Holding TUC—which presumably then funneled the funds to Huawei Holding, and thence to Huawei Tech. One source puts the amount raised in this fashion at 26 billion yuan;²⁶ another puts it at over 10 billion yuan.²⁷ When employees bought virtual stock, they were required

²¹ [Zhu Zi 2017](#).

²² [Liu Ning 2013](#).

²³ [Zhu Zi 2017](#). The source here refers to the “Huawei Holding Trade Union,” not to the Trade Union Committee. We will assume that references to the “trade union” in this and other sources are careless errors and that in fact the Trade Union Committee is meant. Assuming otherwise makes the analysis more complicated but does not change the ultimate conclusion.

²⁴ [Zhu Zi 2017](#).

²⁵ The sources are unclear as to whether the virtual stock is virtual Huawei Tech stock or virtual Huawei Holding stock. In a sense it doesn’t matter, since it is not real stock, but instead only a label attached to a profit-sharing arrangement. It would make sense for the profits in question to be those of the group, i.e., Huawei Holding, but we do not know this for a fact; see note 13 above.

²⁶ [Zhu Zi 2017](#).

²⁷ [Sohu 2017](#).

to sign a contract, the sole copy of which was then kept by the company. They received no physical evidence of stock ownership or virtual stock rights.²⁸

In 2004, Ji Ping ceased being a shareholder of Huawei Tech; Ren Zhengfei re-appeared as a shareholder. In May of 2006, the current ownership configuration took hold: Huawei Holding became the sole shareholder of Huawei Tech, and Ren Zhengfei became the sole human shareholder in the entire Huawei group. Ren also apparently had (and retains to this day) veto power of resolutions of Huawei Tech's board.²⁹

In 2013, Huawei rolled out a new type of virtual stock incentive plan involving virtual stock options. These apparently gradually replaced the old kind of virtual shares.³⁰

Ownership of Stock in Huawei Holding by Huawei Holding TUC

Since Huawei Holding TUC is the only entity other than Ren Zhengfei that holds stock the Huawei Holding, the sole owner of Huawei Tech, the key to understanding the ownership of the Huawei group lies in understanding Huawei Holding TUC. This, however, is hard to do. There are no publicly available constitutional documents of Huawei Holding TUC that we could look at to understand even its formal governance structures, to say nothing of its actual governance structures. Assuming, however, that it is an actual trade union organization, some consequences follow.

First, we note again that the trade union committee in question is associated with Huawei Holding, not Huawei Tech. As Huawei Holding has only a few hundred employees,³¹ that would normally mean that only those employees could be members of the Huawei Holding trade union and have a voice (if perhaps only a formal one) in its decisions. The other approximately 188,000 employees³² in the Huawei group would be members of different unions. But we will assume going forward that Huawei Tech and other Huawei group employees can be members of the Huawei Holding trade union.

²⁸ [Zhu Zi 2017](#); [Sohu 2017](#).

²⁹ [Liu Ning 2013](#); [Pearlstone et al. 2019](#).

³⁰ [Zhu Zi 2017](#).

³¹ The Tianyancha database reports that Huawei Holding has 100-499 employees. See [Tianyancha Huawei Holding](#).

³² [HHAR 2018](#), p. ii.

In a sense, it is likely not an important issue. The decisions of the Huawei Holding TUC are likely either driven by the voting structure described below, which includes all Huawei group employees holding virtual shares, or driven by a small group of unknown people who staff its executive organs. The likelihood that Huawei Holding TUC is in reality controlled by the few hundred employees of Huawei Holding, assuming they are regular employees engaged in managing Huawei Holding's operations and not powerful Huawei insiders holding those posts as a mere formality, seems to us vanishingly small. But if the vast majority of Huawei group employees are not members of the Huawei Holding trade union, then of course they have even less of a claim to ownership of Huawei Tech or any say in how it operates.

Second, the leadership of the trade union—that is, the decisionmakers—are not selected by or accountable to the employees. In China, trade union officials are appointed by management or by the administratively superior trade union organization, not chosen by the members.³³ Thus, under Chinese labor law, employees *qua* employees have no voice in how the union leadership decides to use its share ownership in Huawei Holding.

Third, what about economic interest? Certainly it seems that Huawei has in place a well-functioning incentive plan. But the insubstantiality of employee stock interests in any real sense can be shown by asking where the Huawei Holding TUC's assets would go if it were to be dissolved. If Huawei Holding TUC were like a holding company, with the employees as shareholders, then it is clear that after debts were paid off, any residual would go to the employee shareholders in proportion to their shareholdings.

But that is not what happens when a trade union dissolves for any reason (for example, dissolution of the company where the trade union existed). Instead, *residual assets of a trade union go up*, not down, to the trade union organization at the next highest administrative level.³⁴ Employees have no claim to trade union assets. That is a very odd kind of ownership.

Huawei Holding in its official documents presents a somewhat contradictory picture of its corporate governance structure. According to its 2018 annual report,³⁵ there is a “Representatives’ Commission” through which the union “fulfills shareholder responsibilities and exercises

³³ [Estlund 2017](#), pp. 52-55.

³⁴ [Asset Administration Measures 1995](#), Art. 18; [ACFTU Reply 2002](#).

³⁵ [HHAR 2018](#), pp. 131 ff.

shareholder rights.” This Representatives’ Commission consists of 115 members, who then elect a 17-person slate for the Huawei Holding Board of Directors and a 10-person slate for its Board of Supervisors, both of which are then formally voted in by the two shareholders.³⁶ Corporate records show that membership of both boards is identical in Huawei Holding³⁷ and Huawei Tech;³⁸ presumably Huawei Holding uses its 100% ownership of Huawei Tech to obtain this result.

The contradiction lies in the method by which the Representatives’ Commission is elected. Huawei Holding states that representatives are elected for five-year terms by “active shareholding employees.”³⁹ If the employees vote in their capacity as shareholders, their votes should be weighted in accordance with their shares: more shares, more votes. Is that the case? If they vote in their capacity as employees, their votes should be weighted equally. Moreover, if the vote is a vote by trade union members directing their leadership how to act, then all employees, not simply those who own virtual shares, should have a vote.

The corporate governance picture is further complicated by the fact that as a matter of law (and usually fact), trade union officers—those who decide what the trade union shall do with its assets, for example—owe their loyalty and are accountable to superior trade union organizations, all the way up to the All-China Federation of Trade Unions at the central level.⁴⁰ The Communist Party controls the ACFTU, with the head of the ACFTU sitting on the Politburo.⁴¹ The Party apparatus at any given administrative level controls the trade union organizations at the level,⁴² and unions are de facto government organs.⁴³ Union officials, while not technically civil servants, are treated as state employees, subject to the same administrative rules and pay scales, and with their

³⁶ This Representatives’ Commission appears to exist solely for the purpose of choosing directors and supervisors for Huawei Holding. It should not be confused with the membership of the Huawei Holding trade union or the Huawei Holding TUC, about which we know nothing.

³⁷ [BEC Huawei Holding](#); [Tianyancha Huawei Holding](#).

³⁸ [BEC Huawei Tech](#); [Tianyancha Huawei Tech](#).

³⁹ [HHAR 2018](#), p. 131.

⁴⁰ See generally Chapter Two of the Trade Union Law 2001.

⁴¹ [Estlund 2017](#), pp. 47-48.

⁴² [Estlund 2017](#), p. 48.

⁴³ [Chen 2009](#).

salaries paid out of the state treasury.⁴⁴ In short, the ACFTU is not simply a trade union but is organized, both legally and practically, as a state-adjacent organization that exists to support and execute state policy directives.⁴⁵ As two scholars wrote, the ACFTU is “not a trade union at all but a part of the Party-State that represents the will of the leadership.”⁴⁶

Thus, if Huawei Holding is 99%-owned by a genuine Chinese-style trade union operating the way trade unions in China are supposed to operate, it is in a non-trivial sense state-owned. Unions in China are essentially state bodies, and, as noted above, if a trade union is liquidated, its assets go up to bodies that are closer to the central state, not down to individuals. If it is not owned by a genuine trade union operating the way trade unions in China are supposed to operate, then surely it is for Huawei to make this case. The information necessary to do so is in Huawei’s control.

Finally, it is worth noting that it is undisputed that whatever the directors of either Huawei Tech or Huawei Holding may decide, Ren Zhengfei has a veto. This was publicly declared by Ren as part of a recent media campaign by Huawei. Moreover, he has stated that the veto power is written into the “Articles of Governance” (presumably meaning what is usually called the “Articles of Association” (章程), and that it is inheritable (although he disclaimed the intention to pass it to his daughter Meng Wanzhou). He did not specify which company’s Articles of Governance he was referring to.⁴⁷

Conclusion

Understanding who controls the Huawei group involves questions of actual and formal power. As a matter for formal voting power, the Huawei group is controlled by Huawei Holding TUC. Thus, it is critical to understand who controls decision-making by Huawei Holding TUC. Again as a matter of formal power, Huawei Holding TUC votes for the slate recommended by the Representatives’ Commission, which is elected by shareholding employees. It is not clear whether the shareholding employees have one vote per person or vote in proportion to their holdings of virtual shares.

⁴⁴ [Traub-Merz 2011](#), pp. 10-11.

⁴⁵ [Traub-Merz 2011](#).

⁴⁶ [Taylor & Li 2007](#).

⁴⁷ The source for this paragraph is [Pearlstine et al. 2019](#).

One may reasonably doubt whether this is how things actually work. Let us put aside as unprovable the speculation that Ren Zhengfei is pulling the strings behind that scenes. There are still some obvious facts. First, the formal structure takes no account of Huawei Holding TUC's apparent status as a trade union organization governed by the Trade Union Law and with concomitant political and organizational responsibilities.

Second, the “shares” held by employees are only virtual shares; they are an employee profit-sharing device. They are at most a contractual obligation by Huawei Tech or Huawei Holding to the employees, and contractual obligations can be breached, subject at most to liability for damages. In other words, the voting “rights” can be abrogated.

Third, it does not appear that the holders of the virtual shares (whether they are deemed virtual shares of Huawei Tech or of Huawei Holdings) have any right to undistributed earnings. In other words, in the theoretical event of a Huawei liquidation tomorrow, they would not get cash left over after creditors had been paid off. Although a Huawei liquidation tomorrow is of course a very unlikely event, the thought experiment can be a useful way of thinking about ownership.

If Huawei Holding is in fact controlled by a trade union committee, then given the way such bodies are supposed to operate in China, it makes sense to think of it as state-controlled and even state-owned. If the formal picture does not represent reality, then Huawei, which controls the relevant information, can clarify this.

Finally, although we may not know exactly who does own Huawei in a realistic sense, we can be pretty sure the employees do not. They do not own equity or property rights in any single Huawei entity or the group of Huawei entities. They appear to have at most some kind of contractual claim on profits (possibly subject to the discretion of whoever the contract counterparty is—Huawei Tech, Huawei Holding, or Huawei Holding TUC), but have no claim on the residual. They have no governance or control rights over any single Huawei entity or the group of Huawei entities. In sum, Huawei is neither employee-owned nor employee-governed, and the question remains as to who actually does govern or control Huawei other than Ren Zhengfei, the holder of a 1% equity interest in a holding company that is the sole shareholder of the Huawei operating entity.

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