



**Statement of the Global Network Initiative  
for the Commission on Security and Cooperation in Europe  
“Internet Freedom in the Age of Dictators and Terrorists”  
March 3, 2016**

Chairman Smith, Co-Chairman Wicker and Members of the U.S. Helsinki Commission, thank you for the opportunity to provide an overview of the Global Network Initiative and its policy priorities.

The Global Network Initiative is an international, multi-stakeholder collaboration between information and communications technology (ICT) companies, civil society organizations, investors, and academics. Formed in 2008, our mission is to promote human rights by creating a global standard for companies that supports responsible decision-making, and by being a leading voice in policy debates to advance freedom of expression and privacy rights in the ICT sector.

The GNI’s company members are Facebook, Google, LinkedIn, Microsoft, and Yahoo, and its non-company members include the Berkman Center for Internet & Society, the Center for Democracy and Technology, Human Rights Watch, Bolo Bhi of Pakistan, the Centre for Internet & Society of India, and the Church of Sweden, among many others.<sup>1</sup> For the past three years, the GNI has collaborated with companies participating in the Telecommunications Industry Dialogue. Seven of these global companies recently became observers to the GNI with an aim to become full members in March of next year.

The GNI works in four areas:

- 1) It provides a framework for responsible company decision-making and action;
- 2) It fosters accountability through company commitment to an independent assessment process to evaluate their implementation of the Principles;
- 3) It promotes policy engagement; and
- 4) It enables shared learning among our participants.

**Responsible company decision-making**

In the first area, the GNI’s Principles and Implementation Guidelines were developed through a multi-stakeholder process and are based on international human rights standards.<sup>2</sup> Our guidelines are influenced by, and are compatible with, the UN Guiding Principles on

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<sup>1</sup> A complete list of participants is available at <http://globalnetworkinitiative.org/participants/index.php>.

<sup>2</sup> The GNI Principles and Implementation Guidelines are available at <http://globalnetworkinitiative.org/corecommitments/index.php>.

Business and Human Rights and the ‘Protect, Respect, and Remedy’ framework. The GNI framework helps member companies to respect and protect the freedom of expression and privacy rights of their customers and users when they respond to government demands, laws and regulations. Companies worldwide can use this framework to implement their responsibility to respect human rights.

## **Accountability**

In terms of accountability, GNI member companies undergo a biennial assessment of their implementation of the GNI Principles, conducted by organizations that are accredited by the GNI’s multi-stakeholder Board and which meet independence and competency criteria. In addition to reviewing the GNI company’s policies and procedures and interviewing staff members, the assessor selects case studies that determine how a company has responded to government demands involving freedom of expression and privacy. The assessor prepares a report that is reviewed by the GNI Board, and the Board determines whether the companies are complying with the Principles, which means that in the Board’s view, the company is making a good faith effort to implement and apply the GNI Principles and to improve over time.

In 2013, the GNI completed assessments for its three founding companies,<sup>3</sup> and its second round of assessments for all member companies is currently underway. The experiences shared through the assessment process are channeled into shared learning and policy efforts.

## **Policy engagement**

In terms of policy engagement, the multi-stakeholder nature of GNI gives us a deep capacity for informed and credible engagement with governments, intergovernmental organizations and international institutions. The GNI generally advocates for laws that are consistent with international human rights standards and with the principles of legality, necessity, and proportionality. At present, we are focusing our policy efforts on five issues of priority.

First, the GNI is concerned by the adoption of broad laws prohibiting extremist content and the promotion of terrorism. The GNI acknowledges the legitimate national security and law enforcement obligations of governments. At the same time, there continues to be no internationally agreed upon definition of terrorism, and across the world, counterterrorism laws have led to the criminalization of speech in political contexts and to the restriction of large amounts of content in countries like Tajikistan. Similarly, some authorities have proposed that

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<sup>3</sup> The Global Network Initiative, *Public Report on the Independent Assessment Process for Google, Microsoft, and Yahoo* (January 2014), available at: <http://globalnetworkinitiative.org/sites/default/files/GNI%20Assessments%20Public%20Report.pdf>

ICT companies should face criminal liability for failing to delete content praising terrorism from their platforms.<sup>4</sup>

This is related to a second area of policy priority, which is legislation on intermediary liability and calls for service providers to police user content and communications, at times under broad and vague standards of what content is considered illegal.

Third, the GNI advocates for laws that regulate government access to user data in a way that protects the right to privacy. Recently, for example, we have engaged with the U.K. government and provided input to consultations on its Investigatory Powers Bill.<sup>5</sup> The GNI has also urged governments to support strong encryption and not to subvert security standards.<sup>6</sup>

Fourth, the GNI has advocated for reforms to the Mutual Legal Assistance (MLA) regime, which is the dominant method for managing lawful government-to-government requests for data across jurisdictions. The regime has not been updated to keep pace with globalized data, making the process inefficient and opaque, and requests to the U.S. government take an average of 10 months to fulfill. As a result, authorities from other governments sometimes resort to drastic measures. Some states have attempted to demand that their domestic laws apply extraterritorially, have proposed data localization measures, and have sought to compromise the digital security of individuals. All of these measures would be harmful to an open, robust, and free Internet.

The GNI has identified a series of practical and legal reforms that policymakers could adopt in order to reform the current MLA system.<sup>7</sup> We also support efforts to develop a new international legal framework to enable foreign law enforcement authorities to have efficient access to information when this access is consistent with international norms on human rights and privacy. The GNI supports reforms that would allow governments to make requests for data from providers, as long as stringent human rights requirements apply and the process is characterized by robust transparency, accountability, and international credibility.

Finally, the GNI has advocated for governments to take steps to be more transparent about the laws and legal interpretations that authorize electronic surveillance or content removal. Similarly, we urge governments and intergovernmental organizations to take a

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<sup>4</sup> See, The Global Network Initiative, *Extremist Content and the ICT Sector: Launching a GNI Policy Dialogue* (July 2015), available at:

<http://globalnetworkinitiative.org/sites/default/files/Extremist%20Content%20and%20the%20ICT%20Sector.pdf>.

<sup>5</sup> Global Network Initiative, *Written Evidence to the Joint Committee on the Draft Investigatory Powers Bill*, December 21, 2015, available at: <http://globalnetworkinitiative.org/sites/default/files/Written%20evidence%20-%20Global%20Network%20Initiative.pdf>.

<sup>6</sup> Global Network Initiative, *Submission to the UN Special Rapporteur on the promotion and protection of the right to freedom of opinion and expression* (February 2015), available at: <http://globalnetworkinitiative.org/sites/default/files/GNI%20Submission%20on%20Encryption.pdf>.

<sup>7</sup> Andrew K. Woods, *Data Beyond Borders: Mutual Legal Assistance in the Internet Age*, The Global Network Initiative (January 2015), available at: <https://globalnetworkinitiative.org/sites/default/files/GNI%20MLAT%20Report.pdf>.

multistakeholder approach when debating laws and policies that impact the freedom of expression and privacy of Internet users globally and to ensure that these are subject to public debate.<sup>8</sup>

## Learning

In terms of learning, the GNI provides opportunities for its members to work through complex issues with other participants in a safe, confidential space. We have commissioned reports that examine the challenges facing governments and technology companies as they balance the rights to freedom of expression and privacy with law enforcement and national security responsibilities. And we have held public learning forums to discuss these challenges in the United States, Brussels, and Geneva.

## Conclusion

In conclusion, I would like to highlight a few of the GNI's achievements. The GNI's independent assessment process has yielded tangible changes and improvements in company policies and practices. These include the adoption of human rights impact assessments and the development of enhanced company transparency with customers, users and the wider public. The application of GNI Principles has reduced the amount of content removed and personal data released as a result of government requests. We have also successfully encouraged governments to increase transparency and public debate around their surveillance laws, policies and practices, securing commitments on judicial oversight from the almost 30 governments in the Freedom Online Coalition and reforms of surveillance and intermediary liability laws.

Thank you again for the opportunity to give an overview of the GNI and its activities.

*The Global Network Initiative is an international multi-stakeholder organization that brings together information and communications technology companies, civil society (including human rights and press freedom groups), academics and investors to work together to forge a common approach to protecting and advancing free expression and privacy around the world. GNI members commit to, and are independently assessed on GNI principles and guidelines for responding to government requests that could harm the freedom of expression and privacy rights of users.*

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<sup>8</sup> See, e.g., Global Network Initiative, *Submission to the Office of the UN High Commissioner for Human Rights on "The Right to Privacy in the Digital Age"* (April 1, 2014), available at: <http://globalnetworkinitiative.org/sites/default/files/GNI%20submission%20OHCHR%20April%201%202014.pdf>