

COMMISSION ON SECURITY AND COOPERATION IN EUROPE  
U.S. HELSINKI COMMISSION

## **Online Safety under Repressive Regimes: What is the Responsibility of Technology Companies?**

Susan Morgan  
Executive Director  
Global Network Initiative  
October 19, 2012



Protecting and Advancing  
Freedom of Expression and  
Privacy in Information and  
Communications Technologies

Chairman Smith, Co-Chairman Cardin, I wish to thank you and the Members of the Helsinki Commission for conducting this briefing and for the opportunity to address the work of the Global Network Initiative (GNI) in protecting and advancing freedom of expression and privacy rights in information and communication technologies (ICTs).

GNI is a multi-stakeholder group of companies, civil society organizations (including human rights and press freedom groups), investors and academics, who have created a collaborative approach to protect and advance freedom of expression and privacy in the ICT sector.

GNI is founded upon Principles on Freedom of Expression and Privacy that all its participants commit to uphold, rooted in international human rights standards. The Principles provide high-level guidance and are accompanied by Implementation Guidelines that set out in greater detail how companies put our Principles into practice. GNI provides resources for ICT companies to help them address difficult issues related to freedom of expression and privacy that they may face anywhere in the world. Alongside our framework of Principles we employ a confidential, collaborative, and accountable approach to working through challenges of corporate responsibility in the ICT sector.

### **Accomplishments**

Accountability is at the core of GNI, which builds upon similar efforts in other sectors that have come under scrutiny with regard to human rights issues. Member companies commit to a process of independent assessment of how they are implementing GNI's Principles. In 2012, GNI completed the world's first independent assessment of technology companies' policies and procedures for responding to government requests affecting free speech and privacy. The assessments of founding companies Google, Microsoft, and Yahoo! indicated the companies have made progress in adopting policies and procedures for dealing with government requests that could threaten the freedom of expression and privacy rights of users.

Each company's assessment produced different recommendations, but the types of recommendations made for the companies to consider include: engaging more directly with human rights groups and experts when conducting risk assessments; improving the sharing of information to help drive public policy engagement with governments; and documenting the process for conducting human rights impact assessments, updating it as new policy or legislative developments are identified. These assessments focused on the existence of policies and procedures that companies have adopted to implement the GNI Principles. The next and final phase of the assessment process will examine how

these policies and procedures are deployed in practice.

The breadth and expertise of GNI's diverse membership gives our collective voice authority when it comes to public policy affecting rights to free expression and privacy online. In 2012, GNI spoke out on issues of concern in key countries around the world, and engaged with international institutions to promote the adoption of laws, policies, and practices that advance freedom of expression and privacy. In Pakistan, for example, GNI worked with international and Pakistani civil society organizations to warn companies of the human rights implications of responding to a Request for Proposals to build a new system for Internet filtering and blocking. GNI member company Websense was the first to speak out and make a commitment not to submit a response to the proposal. Other companies including Cisco, Sandvine, Verizon, and McAfee also made public commitments not to respond and the government reversed course on this particular procurement.

GNI has taken some important steps to increase its global reach, gaining new members from six countries in the past year. New members include academic organizations, investors, and civil society members from Argentina, Denmark, India, Sweden, the United Kingdom and the United States. Two new companies, Evoca and Websense, joined in 2011, the first new companies to join GNI since the formation of the initiative. The addition of observer companies Facebook and Afilias has also contributed to increasing the breadth of the companies working with us.

Because the free expression and privacy issues facing technology companies are constantly changing, GNI provides opportunities for its members to work through complex issues with other participants in a safe, confidential space. GNI members regularly meet to discuss the risks in particular countries, new legislative and regulatory developments, as well as to discuss best practices for company human rights due diligence.

In June 2012, GNI hosted its first Annual Learning Forum in Washington DC, bringing together companies, civil society organizations, investors and academics both inside GNI and not to discuss freedom of expression and privacy issues. There GNI presented a new report, "Digital Freedoms in International Law: Practical Steps to Protect Human Rights Online," co-authored by Dr. Ian Brown and Professor Douwe Korff, which examines the challenges facing governments and technology companies as they balance rights to expression and privacy with law enforcement and national security responsibilities.

### **Challenges facing the technology sector**

The catalytic role that technology has played in support of democratic aspirations around the world is undeniable, but so too are its uses by governments to aid in the surveillance and suppression of rights. Increasing government interest in controlling ICT is illustrated by the proposal for code of conduct on information security put forward at the UN General Assembly by China, Russia, Uzbekistan, and Tajikistan, as well as proposals in advance of the World Conference on International Telecommunications in Dubai in December.

Although commonly associated with China's sophisticated censorship architecture or Mubarak's mass shutdown of the Internet during Egypt's revolution, these issues are by

no means limited to autocracies. In the United Kingdom, for example, the Draft Communications Data Bill (C8359), while pursuing legitimate law enforcement objectives, has worrying aspects to it, and could give authoritarian regimes justification for their own approach. It is critically important that as democracies address some of the challenges they face they do this in a way that sees legislation and policies developed that would serve as a worthy model for other countries to adopt.

Companies are facing new threats from governments in many markets that take increasingly diverse and complex forms. In Thailand, the troubling conviction of Chiranuch Premchaiporn, webmaster of the online forum Prachathai, for not moving quickly enough to remove content posted by users illustrates the serious harm that occurs when companies are held liable for content uploaded or sent by users. In Russia, new laws ostensibly aimed at curbing extremism may enable the widespread blocking of websites for the purpose of political suppression. Some countries are considering measures to require the location of data centers in country to control access to user data, as was proposed in Vietnam. Finally, some states continue to engage in the shutdown of communications networks and blocking of selected websites, as was recently the case in Tajikistan.

With increasing government interest in communications technologies, companies in the ICT sector can find themselves caught between government requests for information, and their responsibility to respect the human rights of their users. The resulting ethical questions are becoming increasingly complex and require proactive strategies to anticipate and address human rights risks. The role of GNI is to provide a platform for developing these strategies, and to allow companies to credibly demonstrate their commitment to human rights.

## **Opportunities**

The challenges of navigating the nexus of human rights and technology are too complicated for any single company to manage alone. GNI's experience demonstrates that even the fiercest of commercial competitors can work together when it comes to human rights. These efforts are further multiplied by the informed expertise of other stakeholders, including human rights organizations active on-the-ground in repressive regimes, investors interested in encouraging companies to respect the rights of their users while operating in diverse and challenging markets, and academic researchers whose findings and analysis enhances understanding of human rights issues in the ICT landscape.

GNI continues to pursue dialogue with companies across ICT sector, including with telecommunications firms, as the time is now right to address issues in this part of the sector.

By working together, rights-respecting companies have an opportunity to both set a global standard for how companies can responsibly manage government requests impacting free expression and privacy rights, but also collectively engage with those governments to promote the rule of law and the adoption of laws, policies and practices that protect, respect, and fulfill rights to free expression and privacy.