

December 8, 2011

UN Working Group on Human Rights and Transnational Corporations
and Other Business Enterprises

Mr. Michael Addo (Ghana)
Ms. Alexandra Guaqueta (Colombia / USA)
Ms. Margaret Jungk (USA)
Mr. Puvan Selvanathan (Malaysia)
Mr. Pavel Sulyandziga (Russian Federation)



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

Dear Mr. Addo, Ms. Guaqueta, Ms. Jungk, Mr. Selvanathan, and Mr. Sulyandziga:

The Global Network Initiative (GNI) welcomes the opportunity to engage with the UN Working Group on Human Rights and Transnational Corporations and Other Business Enterprises as it determines its key thematic priorities and opportunities. We propose that the issues of free expression and privacy in the information and communications technology (ICT) sector be a focus for the working group. The office of UN Special Representative for Business and Human Rights John Ruggie served as an observer of GNI during its mandate, and we look forward to building on our prior exchanges with the office of the Special Representative as we serve as a resource to you.

With billions of people around the world using Information Communication Technology (ICT), the decisions that companies make in this sector—about where they store their data and how they respond to government requests, to name just a few—can have far-reaching human rights consequences. These are not easy issues. Governments have a responsibility to preserve national security, however they do not always do so in ways consistent with other fundamental rights including freedom of expression and privacy. Recent events from the Arab Spring to the initial reaction of the UK government to the riots in London have demonstrated the importance of these issues to companies in many countries they operate in around the world. More companies than ever, operating across the ICT sector, face significant scrutiny regarding their human rights policies and practices.

GNI is founded upon Principles of Freedom of Expression and Privacy and supported by specific implementation commitments and a framework for accountability and learning. Together, this framework provides a systematic approach for companies, NGOs, investors and academics to work together in resisting efforts by governments that enlist companies in acts of censorship and surveillance that violate international standards. Attached is a copy of our 2010 Annual Report, as well as a BSR report commissioned by GNI that examines the freedom of expression and privacy risks across the ICT sector.

Through GNI's Principles, GNI's participants seek to implement a standard for freedom of expression and privacy in the ICT sector that is consistent with the UN's Protect, Respect, and Remedy framework. The first round of independent assessments of company implementation of our Principles are currently underway. GNI has also served as a platform for collective action on policy, speaking out on issues ranging from the shutdown of the Internet in Egypt, to social media and unrest in London, to the free expression implications of intellectual property enforcement legislation proposed in the United States.

GNI welcomes the important steps forward taken by UN and other intergovernmental organizations during the past year on the business and human rights agenda as it relates to the ICT sector. These include the endorsement by the UN Human Rights Council of the Guiding Principles for Business and Human Rights and the establishment of your working group, as well as the references to human rights and Internet freedom in the in the OECD's recent update of the

Guidelines for Multinational Enterprises, and the consideration of key issues around intermediary liability and the protection of privacy in the report of Frank La Rue, UN Special Rapporteur on Freedom of Opinion and Expression.

The increasing importance and ubiquity of ICTs in daily life has increased the impact of technology policy upon fundamental human rights, and placed the ICT sector at the center of global dialogue around business and human rights. GNI commends you on your appointment to the Working Group, looks forward to engaging with you as you fulfill your mandate, and recommends that you make freedom of expression and privacy in the ICT sector a priority. We welcome the opportunity to serve as a unique multi-stakeholder resource for your work, and we would welcome the opportunity to meet with you.

Sincerely,

A handwritten signature in black ink, appearing to read "Susan Morgan". The signature is fluid and cursive, with a long horizontal flourish at the end.

Susan Morgan
Executive Director of the Global Network Initiative

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 information and communication technologies (ICT) sector. 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. GNI has created a framework of principles and a confidential, collaborative approach to working through challenges of corporate responsibility in the ICT sector.