

Global Network Initiative

www.globalnetworkinitiative.org

Inaugural Report 2010

**Our work.
Our vision.
Our progress.**



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GNI MEMBERS

The Global Network Initiative (GNI) benefits from the active involvement of a broad range of participants, including companies in the information and communications technology (ICT) sector, civil society organizations (including human rights and press freedom groups), investors and academics. Our current members are:

ICT Companies

Google
Microsoft
Yahoo!

Civil Society Organizations

Committee to Protect Journalists
Center for Democracy & Technology
Electronic Frontier Foundation
Human Rights in China
Human Rights First
Human Rights Watch
IBLF
Internews
United Nations Special Representative to the Secretary-General on Business & Human Rights (Observer Status)
World Press Freedom Committee

Investors

Boston Common Asset Management
Calvert Group
Domini Social Investments
F&C Asset Management
Trillium Asset Management

Academics and Academic Organizations

The Berkman Center for Internet & Society at Harvard University
Deirdre Mulligan, U.C. Berkeley School of Information
Ernest Wilson, Annenberg School for Communication & Journalism, University of Southern California (*personal capacity*)
Rebecca MacKinnon, New America Foundation (*personal capacity*)
Research Center for Information Law, University of St. Gallen

All GNI participants were saddened by the loss of **Persephone Miel** from Internews in 2010. Her dedication and contribution to the work of GNI is missed.

MESSAGE FROM GNI EXECUTIVE DIRECTOR SUSAN MORGAN

The Internet and related communications technologies have tremendous potential for furthering the public good. They can lower the cost of market entry for businesses; enable access to knowledge in developing countries; and transform access to healthcare – the benefits can be huge and often unanticipated. Information and communications technologies (ICTs) can provide ordinary people everywhere with unprecedented opportunities to create, share and access information and content worldwide.

But as ICTs become ubiquitous in daily life, the impact of technology policy on fundamental human rights and civil liberties grows. Governments have responsibilities to address national security concerns, uphold laws and protect children online. Additionally, governments are responsible for upholding the internationally recognized human rights of their citizens. But in addressing legitimate issues, governments are increasingly asking companies in the ICT sector to take actions that could undermine the free expression or privacy rights of their users. Some governments make demands of the ICT sector that are related to suppressing political activity and which infringe human rights. Moreover, governments are not monolithic. Government actions focused on both legitimate and illegitimate objectives can arise within the same country. Among the foremost current challenges for governments is discharging the wide range of responsibilities for which they are accountable, while respecting human rights.

ICT companies are at the forefront of this challenge. Of course, ICT companies have an obligation to comply with lawful government demands, and ICT companies can and should play a role in addressing legitimate concerns such as cybercrime, national security and the safety of children online. But ICT companies also have a responsibility – rooted in internationally recognized human rights standards – to respect the free expression and privacy rights of their users. When ICT companies receive government demands that effect such rights, tension can arise between these two responsibilities.

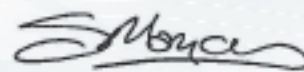
In this complex environment, there is a clear role and responsibility for civil society, academia and the investor community. Governments and ICT companies need good guidance, grounded in internationally accepted standards, and some degree of political consensus, in order to fashion responses to these challenges. By contributing analysis, expertise and perspective, civil society organizations, academia and investors support both ICT companies and governments, as they further security and law enforcement goals in a manner that protects and advances human rights.

GNI was created to address these issues. The GNI Principles,¹ Implementation Guidelines,² and Governance, Accountability & Learning Framework³ provide substantive and operational guidance to ICT companies regarding how to respond to government policies and practices in a manner that protects and advances freedom of expression and privacy.

GNI members benefit from:

- real-time problem-solving support from fellow GNI members with deep expertise and/or on-the-ground knowledge and networks
- an accountability framework that establishes the credibility of the process of implementing GNI's Principles and cultivates trust in GNI member company actions
- a unique platform for shared learning and collaborative public policy engagement.

In this inaugural report, we showcase the initial work of our members, consider the trends since GNI launched in 2008, and set forth our future vision. GNI is a collaborative effort, and the diversity of its membership is its greatest strength. As GNI's first Executive Director, I welcome and encourage greater participation, constructive criticism and growing membership. I invite you to join our ambitious and essential effort to protect and advance free expression and privacy in the ICT environment.



Susan Morgan

1. <http://www.globalnetworkinitiative.org/principles/index.php>.
 2. <http://www.globalnetworkinitiative.org/implementationguidelines/index.php>.
 3. <http://www.globalnetworkinitiative.org/governanceframework/index.php>.

HUMAN RIGHTS AND ICT: AN EVOLVING LANDSCAPE

The human rights and ICT landscape extends across not only the diversity of companies within the ICT sector, but also the growing variety of issues that place ICT companies in positions where they must wrestle with impacts on human rights such as censorship or surveillance. One of the ways in which GNI responds is by developing approaches that private sector actors can take to promote respect for human rights in light of government policies or practices that implicate free expression and privacy. GNI is guided in this by the diverse expertise of its members.

GNI was formed as a result of a groundswell of interest in two issues: (1) governments compelling online service companies to disclose personal data about their users in order to enforce laws against political activity, and (2) governments limiting access to information by removing it from search results, blogs and other online sources. In the early discussions that led to the creation of GNI, examples involving China dominated the headlines. Now, with rapid development in the industry, many new issues are emerging globally. For example:

- Governments increasingly link cyber-security to national security. This prompts consideration of the free expression and privacy implications of policy development in national security and law enforcement. Government policies on cyber- and national security may place ICT companies in

between security objectives and the privacy rights of users, including human rights activists, journalists and others who may be particularly at risk.

- Internet censorship is a rising trend, with approximately 40 countries⁴ filtering the Web in varying degrees, including democratic and non-democratic governments. Governments are using more sophisticated censorship and surveillance techniques, including blocking social networks, to restrict a variety of types of content, including content that is legally restricted (e.g., drugs) or culturally sensitive (e.g., related to sexuality), or that implicates national security matters.⁵
- Recent legislation and regulation around the world is calling intermediary liability protections into question for Internet service providers, search engines, blog hosts and other intermediaries.⁶ Even in countries that protect intermediaries from content liability, ICT companies are nonetheless often under pressure to police content published on their networks and platforms. In some jurisdictions, vague and/or overbroad content restrictions encourage self-censorship and other restrictions on online speech in order to minimise the financial and legal risk for intermediaries.
- Deactivating accounts and removing content on social networking and other sites presents a growing set of issues. In some cases, these

“In a world where the Internet is rapidly becoming the critical medium to ensure respect for human rights, complying with the Principles of GNI is an opportunity for companies to ensure that they are a part of this trend and reduce the risk that they undermine it.”

— Arvind Ganesan, Director of Business and Human Rights, Human Rights Watch

4. See <http://opennet.net/research/profiles>.

5. According to a new book from the OpenNet Initiative: [F]irst-generation controls, typified by China’s “Great Firewall,” are being replaced by more sophisticated techniques that go beyond mere denial of information and aim to normalize (or even legalize) a climate of control. These next-generation techniques include strategically timed distributed denial-of-service (DDoS) attacks, targeted malware, surveillance at key points of the Internet’s infrastructure, take-down notices, and stringent terms-of-usage policies. Ronald J. Deibert, John G. Palfrey, Rafal Rohozinski and Jonathan Zittrain (Eds.), *Access Controlled: The Shaping of Power, Rights, and Rule in Cyberspace* (2010) (<http://www.access-controlled.net/>).

6. http://www.globalnetworkinitiative.org/issues/Intermediary_Liability.php.

practices represent a form of censorship. And even where they are carried out for reasons like enforcement of abuse and security policies, specific risks for human rights activists (and negative implications for the rights they seek to protect) have nonetheless arisen.

- The issues surrounding WikiLeaks not only underscore the need for companies to consider the human rights implications of the business decisions they take, but also show how the situations confronting companies are constantly evolving.

GNI's approach developed within a framework of international human rights. Our vision is to protect free expression and privacy rights in the context of today's and tomorrow's information technology environment. That context is extraordinarily complex.

The ICT sector includes networks, hardware, software, content and diverse services. Within this sector, many businesses are built and operated by the private sector; others are entirely or partially state-owned; still others may have been initially created by the state and then privatized (especially telecommunications). Aspects of ICT industry operations may require heavy in-country investment and a considerable presence in each market; others may require neither.

Compounding this complexity are the following factors: (a) the fast pace of innovation of Web 2.0 products, services and technologies (web-based services accessed via the Internet regardless of device), (b) the flow of huge amounts of data across borders, and (c) the storage of data in multiple jurisdictions. Against this backdrop, and given the pace of technological advances, creating law and policy in a timely way is especially challenging.

These complexities and challenges have not escaped the media's attention. The free expression and privacy dimensions of issues arising in the ICT

"GNI has an important role to play in ensuring that IT companies not only voice their support for online freedom of expression but actually take concrete steps to avoid being the accomplices of censorship or the online surveillance of dissidents by law enforcement officials. "

— Lucie Morillon, Head of New Media Desk, Reporters Without Borders

landscape are increasingly subject to media scrutiny. Here are some descriptions, drawn from media reports, of notable issues:

- China's Ministry of Industry and Information Technology proposed in 2008 that personal computers sold in China must run software called "Green Dam Youth Escort."⁷ In addition to blocking access to blacklisted websites, the Green Dam software collects personal data about users. As the BBC and other news outlets reported, the proposal for mandatory pre-installation has been suspended,⁸ but some computer makers are voluntarily complying, and public Internet facilities (e.g., Internet cafes) run the software.⁹
- In April 2010, the People's Committee of Hanoi in Vietnam followed China's example and required installation of monitoring software on all computers in public Internet facilities.¹⁰
- Mobile is already a popular access point for Internet services in the developed world, and it is very likely to become the access device of choice for the huge potential number of users in emerging markets. Human rights issues arising online could migrate to the mobile sector, which already sees its own specific issues. For example, in September 2010, during the outbreak of riots related to rising costs of food, cell phone users in Mozambique found they couldn't send text

7. http://www.globalnetworkinitiative.org/issues/Manufacturing_and_Software.php.

8. See, e.g., <http://news.bbc.co.uk/2/hi/technology/8124735.stm>.

9. http://www.usatoday.com/tech/news/2009-07-02-china-pc_N.htm.

10. <http://www.bbc.co.uk/news/world-asia-pacific-10968906>.

messages.¹¹ And in October 2010, the Egyptian government imposed a license requirement for sending out bulk text messages.¹²

- As covered by many news organizations around the world, in August 2010, the governments of the United Arab Emirates,¹³ Saudi Arabia¹⁴ and India¹⁵ raised concerns that a handheld device could send and receive encrypted messages that governments would be unable to access.¹⁶ Although the device manufacturer and communications service provider ultimately avoided being banned,¹⁷ its predicament is cautionary.
- Government blocking and content policies now also impact the domain registration and Internet addressing system. Web hosting companies have found domains they manage have been blocked, or have found that governments block citizens

“The jailing of Chinese journalist Shi Tao set off alarm bells for reporters worldwide. It prompted the Committee to Protect Journalists to engage with ICT companies to help ensure that the Internet is open and safe for journalists. The Global Network Initiative is an important first step towards that goal. Journalism is increasingly moving onto the Internet, but that platform is vulnerable to filtering and censorship. If there’s one statistic that sums up why it’s important for us to work with GNI it’s this: more than half the journalists in jail around the world today worked online.”

— Robert Mahoney, Deputy Director,
Committee to Protect Journalists

from accessing their services to register certain domains. The “country-code” domains controlled by governments (or in non-English languages associated with certain countries) may require contractual agreements to censor content as a condition of registering web addresses in those domains.¹⁸ Similar requirements may apply to other, new domains.¹⁹ And domain registries are confronting difficult questions regarding requirements that they collect – and forward to the government – detailed personal information from customers who register addresses.

- Various law enforcement and national security agencies are exploring proposals to extend wire-tapping onto the Internet.²⁰ Extensive media attention has focused on the pros and cons of making Internet communications services subject to the “lawful intercept” requirements that apply to telecommunications, including the risks to national security, the potential that such intercept capabilities could be exploited by hackers, and the inevitability of these issues arising as more and more of our data flows online.²¹

GNI’s response to these challenges looks first to internationally recognised human rights standards, including the United Nations Universal Declaration of Human Rights,²² The International Covenant on Civil and Political Rights²³ and The International Covenant on Economic, Social and Cultural Rights.²⁴ These standards represent a broad consensus among governments and societies about (a) the fundamental role of human rights in a global environment, (b) how to integrate free expression and privacy with other rights, such as security, liberty and economic rights, and (c) the framework for ongoing discussion and dialogue.

11. See, e.g., <http://allafrica.com/stories/201009230933.html>;
<http://www.google.com/hostednews/afp/article/ALeqM5grcsHilvOKbNXy9pEys0vHOS8Wg>.

12. <http://english.aljazeera.net/news/middleeast/2010/10/20101013161343686704.html>.

13. <http://www.arabtimesonline.com/NewsDetails/tabid/96/smId/414/ArticleID/157781/t/uae-ban-on-blackberry-a-security-%e2%80%98badge-of-honor%E2%80%99/Default.aspx>.

14. <http://english.aljazeera.net/news/middleeast/2010/08/2010844243386999.html>.

15. <http://indiatoday.intoday.in/site/Story/109680/the-blackberry-storm.html?page=0>.

16. <http://www.telegraph.co.uk/technology/blackberry/7922936/Future-is-no-longer-so-sweet-for-BlackBerry.html>.

17. See, e.g., <http://www.telegraph.co.uk/technology/blackberry/8050443/BlackBerry-escapes-UAE-ban.html>.

18. See, e.g., <http://www1.cnnic.cn/html/Dir/2005/03/24/2861.htm>, Article 27.

19. <http://arstechnica.com/old/content/2007/02/8928.ars>.

20. <http://www.nytimes.com/2010/09/27/us/27wiretap.html?ref=us&pagewanted=all>.

21. <http://arstechnica.com/tech-policy/news/2008/04/fbi-wants-to-move-hunt-for-criminals-into-internet-backbone.ars>.

22. <http://www.un.org/Overview/rights.html>.

23. <http://www2.ohchr.org/english/law/ccpr.htm>.

24. <http://www2.ohchr.org/english/law/cescr.htm>.

“Governments no longer accept the Internet and its applications as they are found – they now aspire to reshape these technologies. GNI has formed at a crucial time, helping to sort out legitimate requests and demands from overreaching ones, ensuring that the desires of regulators are weighed within a larger context valuing innovation, freedom, and protection from abuse.”

— Jonathan Zittrain, Professor of Law, Harvard Law School; Co-Funder and Co-Faculty Director, Berkman Center for Internet & Society

Taking this framework of internationally recognized human rights as a starting point, GNI focuses on providing good practice guidance for ICT companies. This guidance is developed with an understanding, however, that everyone – Internet users, ICT companies and their employees, academics, activists, business interests, policymakers and policy implementers – has a vital role in reducing human rights risks and promoting an Internet that is safe, thriving, and protective of free expression and privacy.

Internet users can promote good governance on these issues by (a) making known their views, both to governments and to service providers; (b) learning to identify and mitigate safety and privacy risks online; and (c) calling for greater transparency from companies and governments.

Similarly, governments have, not only the primary obligation to uphold human rights, but also an important role to play in the way in which they interact with the ICT industry and civil society to

implement law and policy. Governments should, within their domestic spheres, protect national security and enforce laws without impinging unduly on human rights while respecting and upholding free expression and privacy. As international actors, governments must demonstrate leadership in forging greater international consensus. The international community needs to agree on balanced and predictable rules relating to government access to data, including assertions of jurisdiction over data by law enforcement and other government agencies. Government support for international efforts to promote and protect free expression and privacy is also critical.

GNI's development of good practice is strengthened by the diversity of its participants and the different perspectives they bring. Civil society and business interests may sometimes appear disconnected from one another or at odds on these issues – and in some cases these divisions are real. But the participants in GNI have come together in a multi-stakeholder process, so that each can contribute to the development of practical solutions.

GNI is uniquely positioned to facilitate this dialogue and thereby provide guidance to ICT companies striving to uphold human rights and avoid complicity in human rights violations. GNI member companies can leverage the on-the-ground expertise of civil society organization members, the detailed analysis and considered judgment of academic members, and the support and influence of investors to develop considered responses to the requests and demands they face from governments around the world. In so doing, participating companies can better respond to the concerns of users and the broader public.

GNI: GOVERNANCE AND WORK

GNI's Governance Charter²⁵ establishes GNI's approach to governance and its primary organizational elements. The Governance Charter describes how the governance structure will ensure integrity, accountability, relevance, effectiveness, sustainability and impact.

GNI was formally incorporated in the United States on 26 February 2010. Its first Executive Director, Susan Morgan, began work on 1 June.

GNI is completing recruitment of an Independent Chair to provide objective, innovative leadership. GNI's Board of Directors functions to further the Principles and to ensure that the organization's work fulfils GNI's vision. The Board currently has eleven members (five seats remain open for future member companies). The current composition of GNI's Board is as follows:

ICT Companies

Chuck Cosson, *Microsoft*

Ebele Okobi-Harris, *Yahoo!*

Lewis Segall, *Google*

Civil Society Organizations

Arvind Ganesan, *Human Rights Watch*

Leslie Harris, *Center for Democracy & Technology*

Robert Mahoney, *Committee to Protect Journalists*

Meg Roggensack, *Human Rights First*

Investors

Bennett Freeman, *Calvert Group*
(Secretary of the GNI Board)

Adam Kanzer, *Domini Social Investments LLC*

Academics and Academic Organizations

Colin Maclay, *Berkman Center for Internet & Society at Harvard University*

Rebecca MacKinnon, *New America Foundation*
(personal capacity)

The Board has constituted the following committees to carry out its work: (a) Audit, (b) Executive and Management, (c) Governance and Accountability, (d) Outreach and Communications, and (e) Policy and Learning.

GNI's work arises in the context of governments asking ICT companies to take actions that may impair the free expression and privacy rights of users. GNI works in the following four areas:

1. **Establishing a framework for responsible company decision-making and action:** Our Principles, Implementation Guidelines and Governance, Accountability & Learning Framework take as their starting point universal, internationally-recognized human rights standards. The United Nations "Protect, Respect and Remedy" Framework, presented by the Secretary-General's Special Representative for business and human rights (Harvard professor John Ruggie) and unanimously welcomed by the Human Rights Council in 2008, has also been a prime influence. GNI's Principles, Implementation Guidelines and Governance, Accountability & Learning Framework are designed to help companies:

- respect and protect the free expression and privacy rights of users when companies respond to government demands, laws and regulations

"The declaratory era of CSR is over: It's not enough for companies to say that they respect human rights, they must know and show that they are doing so. GNI is an important platform for ICT companies to do just that: to develop robust policies and processes in collaboration with other experts, and share their learnings with the public. This report is an important first step."

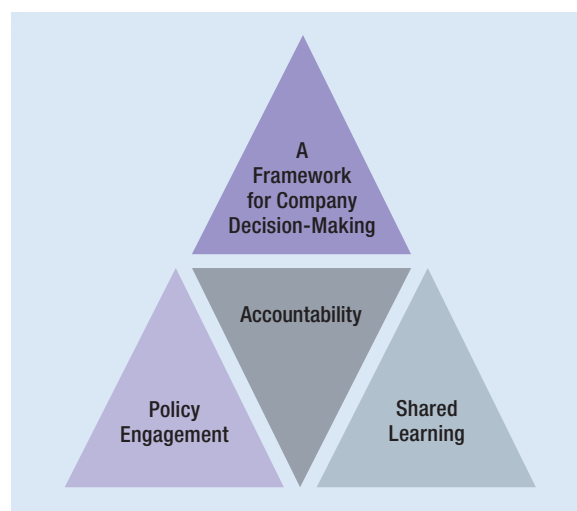
— Professor John Ruggie, UN Secretary-General Special Representative on business and human rights

25. <http://www.globalnetworkinitiative.org/charter/index.php>.

- integrate into their decision-making, policy implementation and organizational cultures responsible policies and procedures that protect and advance free expression and privacy
- communicate policies and practices with users.

Our central vision and purpose are clear. However, the Principles, Implementation Guidelines and Governance, Accountability & Learning Framework are not intended to be static, but rather documents that will be adapted and developed at the Board's direction to keep pace with issues as they emerge, with GNI's anticipated growth, and to reflect the learning and maturity of GNI.

2. **Fostering accountability:** GNI companies commit to an independent assessment process to evaluate their implementation of the Principles. GNI helps to identify issues and work collaboratively to find solutions. The assessment process provides a sense of how the companies are taking responsibility for protecting the freedom of expression and privacy of their users. In so doing, companies also demonstrate the integrity of the GNI process and the trust among constituents and stakeholders, including users, industry participants, civil society organizations, academics, business interests and governments. The first external assessment of GNI member companies will begin in 2011. Details about the process are described on pages 11-12.
3. **Promoting policy engagement:** Because GNI provides a single platform for collaboration between ICT companies, civil society organizations, investors and academics, GNI is uniquely situated to engage governments, intergovernmental organizations and international institutions on issues related to free expression, privacy and ICT company practices. While GNI participants have a long history of policy engagement, more integrated GNI efforts have become possible only with the organization's recent increase in capacity. GNI has already had numerous interactions (both formal and *ad hoc*) with representatives of diverse governmental institutions, and GNI is currently in the process



of creating more structured channels for transparent, regular consultation with governments. Notwithstanding that GNI is at the beginning stages of this work, two public examples of GNI's work in this arena during 2010 include:

- In June 2010, GNI participated in a workshop sponsored by the Organisation for Economic Co-operation and Development (OECD) on intermediary liability.²⁶ At this workshop, we put forward the view that intermediary liability for ICT companies can ultimately impair free expression and, in some jurisdictions, the potential liabilities can result in companies self-censoring to reduce their financial and legal risks.
- In March 2010, we submitted a written statement to support and assist the U.S. Senate Judiciary sub-committee on Human Rights and the Law in its hearing on "Global Internet Freedom and the Rule of Law, Part II."²⁷ GNI's statement identified key human rights challenges and opportunities for collaboration to promote Internet freedom.

These contributions to policy dialogue are merely a beginning. GNI is committed to continuing and expanding its policy engagement with governments, intergovernmental organizations and international institutions on issues relevant to its work.

26. www.oecd.org/dataoecd/42/52/45509346.pdf.

27. http://www.globalnetworkinitiative.org/newsandevents/GNI_Hearing_Statement_20100302.php.

“As ICTs become increasingly integral to people’s lives and livelihoods, government strategies for control have adapted as well, in pervasiveness, sophistication and reach. This evolving landscape constantly raises new and challenging questions for a broad range of ICT companies and other stakeholders. A collaborative and adaptive model such as GNI is well positioned to formulate principled responses and guidance for both companies and policy-makers alike – leveraging data, experience, and empirical research – to better understand threats, trends and the impact of interventions.”

— John Palfrey, Faculty Co-Director, Berkman Center for Internet & Society
Henry N. Ess, Professor of Law and Vice Dean for Library and Information Resources at Harvard Law School

4. **Enabling shared learning:** A central aspect of our work is fostering collective learning among GNI participants. While this learning can take a variety of forms – including informal exchanges, Board interactions, one-on-one conversations and committee calls – collaboration and shared learning on ICT issues are fundamental to the sustainability and impact of the GNI model.

Among GNI’s core membership benefits is the trusted interaction that participants enjoy. GNI offers member companies the confidential setting and relationships to explore challenges and exchange information on how to approach and resolve ICT issues with human rights groups, academics and investors, and vice versa (often as events are unfolding).

In addition to GNI’s internal learning opportunities, we have also created forums for members and non-members to learn with and from each other about emerging ICT issues, including participation in our “live issue” conference calls. For example, current activities include:

- We host a series of calls about account deactivation and content removal. The calls have examined a range of resolutions to various ICT issues and involved participation from activists. We are also compiling a wiki to present the relevant policies, documents and best practices distilled from these calls.
- We also host a series of calls on the issues of intermediary liability and export controls, exploring different international legislative and regulatory regimes, seeking to integrate diverse perspectives, concerns and practices. As with the issue of account deactivation and content removal, we are compiling a wiki of the insights derived from the call and associated resources.

In the coming year, GNI will continue this productive approach to addressing new ICT issues as they arise. In addition, GNI will explore other forms of interaction to best advance our collective understanding.

Since launching, GNI has continued an active dialogue with diverse companies, in order to encourage their membership or, alternatively, to understand barriers to their active participation. In February 2010, we held an implementation dialogue to explore whether there was a current need to adapt the Principles.²⁸ This dialogue clarified that, while the Principles apply across the sector, four areas present opportunities for potential development:

1. free expression and privacy risks associated with product functionality, as opposed to content
2. conducting human rights due diligence before entering into relationships with potential partners and customers, as well as understanding the intended use of products, services or functionalities
3. free expression and privacy concerns implicit in consulting services provided alongside the product, service or technology
4. responding to government demands and mandated standards, while simultaneously acting responsibly to protect human rights.

Further dialogue in the autumn of 2010 has helped us design a programme of work for 2011 to address the issues raised. Our focus will depend, in part, on the companies that express interest in working with us.

28. http://www.globalnetworkinitiative.org/cms/uploads/1/GNI_Written_Statement_2010_03_01_1.pdf.

GNI: CREATING ACCOUNTABILITY AND TRANSPARENCY

The independent assessment to which GNI member companies commit has the following benefits:

- It promotes respect for and protection of the free expression and privacy rights of ICT users by ensuring that companies are implementing the Principles effectively.
- It provides a competitive advantage to GNI member companies by demonstrating that they are living up to their commitments and earning the trust of stakeholders such as users, investors and civil society organizations.
- GNI member companies share an external, independently assessed commitment (made by a group of companies, including competitors) to respond to government demands in a manner that respects human rights. Member companies enjoy the strength of speaking with a united voice.
- The independent assessment process provides a genuine opportunity for companies to build their capacities, through constructive, confidential feedback.
- Assessment informs the ongoing process of refining GNI's Principles, Implementation Guidelines and Governance, Accountability & Learning Framework. Without assessment, GNI would lack ready means for knowing whether the Principles are effective in reducing human rights risks to users, or how to calibrate the Principles to

enhance their effectiveness. Assessment thereby strengthens GNI's integrity, and all members – as well as users – benefit.

Whatever their size or market reach, committing to independent assessment is a significant step for GNI member companies. For this reason, companies have two years from the date they join GNI to build the capacity to make the Principles and Guidelines operational in ways appropriate to their businesses, including establishing processes to evaluate what risks to free expression and privacy are relevant to their operations. This period is an opportunity to learn from other members about the assessment process, and to seek guidance and advice from other constituencies about implementation of the GNI Principles.

GNI provides both a common baseline for implementation of the Principles, as well as flexibility. Implementation may vary across different types, sizes and structures of companies, and across different lines of business. Some GNI guidelines will apply in every case: for example, GNI member companies must have channels for regular communication at a senior level about risks to human rights identified in the company's operations, as well as a person or team within the company with responsibility for implementing GNI's Principles. That established, however, given the many different companies in the sector, spanning different business models, products, services, technologies and markets of operation, the way in which companies implement the Principles will be tailored to their own

“The Global Network Initiative recognizes that companies face daily pressures to limit services in ways that affect the free expression and privacy rights of their users. As Human Rights First knows firsthand from working with frontline activists, when companies ‘go it alone’ in complying with government demands, they put the rights of users at risk. GNI was established to help companies make decisions which preserve and promote an open and accessible information infrastructure, and to ensure that they are accountable to the public for the decisions they make. We’re committed to ensuring that the GNI’s approach becomes the global standard by which ICT companies are judged.”

— Meg Roggensack, Senior Advisor for Business and Human Rights, Human Rights First

“GNI is a vitally important initiative to protect freedom of expression and the right to privacy on the Internet as so many companies in the ICT sector operate across a range of countries – from authoritarian to democratic – whose governments deliberately or inadvertently threaten those rights. It is essential that the GNI principles are implemented by a widening circle of companies across the sector in ways that are transparent and accountable. This first public report is a step towards achieving such transparency and accountability in the interests of Internet users, ordinary citizens and investors as well as the companies themselves.”

— Bennett Freeman, Senior Vice President for Social Research and Policy, Calvert Group

contexts and characteristics. Such adaptations will affect the assessments; indeed, a critical step in the assessment process is articulating why, and gaining feedback about how, the company’s chosen method of implementation works for its business model and circumstances.

The upcoming assessment of current GNI member companies’ implementation of the Principles will take place over 2011-2012: (a) in 2011, the assessment will focus on the processes, systems and training that the company has established to ensure compliance with the GNI Principles; and (b) in 2012, the assessment will examine specific company responses to government demands implicating free expression and privacy, and seek to learn from those experiences. The goal of examining specific responses is not to audit whether the company made the “right” choice in a given experience, but to assess whether the processes and systems established earlier work in the context of actual practice. Here is a brief overview:

2011 Assessment

1. Using criteria established by GNI to determine assessor eligibility, the company appoints its assessors. An independent assessor could be an individual or, more likely, a team. Qualified assessors may have varying types of expertise: law, accounting or business consultants may all qualify, as long as the assessor is independent of the company and substantively qualified to perform the task (both determined by GNI criteria)
2. To initiate the assessment, the company prepares a report, using guidance that GNI has developed to describe the company’s processes for implementing the Principles. In accordance with confidentiality agreements governing the assessment process, the independent assessor alone has access to this report

3. The independent assessor reviews the report, and is also likely to interview relevant personnel to get a clear sense of the company and its processes to ensure they are fit for purpose for implementing GNI’s Principles
4. The independent assessor reviews relevant company documentation and data, with exceptions for instances where providing such access would either (a) be prohibited by law, or (b) jeopardize trade secrets or attorney-client privilege; in which case the company may withhold such information (recognizing the potential implications for the ability to conduct a full assessment)
5. The independent assessor produces a written evaluation of the company’s approach to implementing the GNI Principles, which is shared with the company and GNI staff
6. The GNI Executive Director prepares a report to the Board and to the public, incorporating the findings of the assessment.

2012 Assessment

1. The Board of GNI accredits a number of independent assessors, building on the experience gained in 2011 in terms of available and capable candidates
2. The member company selects its independent assessor from the pool of accredited assessors
3. The member company prepares a report, using guidance developed by GNI, to describe the company’s processes for implementing the GNI Principles, and also specific examples of application of the Principles to actual experience. Again, confidentiality agreements govern this report, so that only the independent assessor may review it

4. The independent assessor conducts the assessment, reviewing the report, company documentation and data and conducting interviews with relevant employees
5. The independent assessor reviews relevant company documentation and data, with exceptions for instances where providing such access would either (a) be prohibited by law, or (b) jeopardize trade secrets or attorney-client privilege; in which case the company may withhold such information (recognizing the potential implications for the ability to conduct a full assessment)
6. The independent assessor prepares a report evaluating the response of the company to specific government demands, including a judgment of the effectiveness of the company's implementation of the GNI Principles in its response(s)
7. Where warranted, the independent assessor recommends options for better implementation of the GNI Principles
8. The member company may review and respond in writing both to draft and final reports of the independent assessor. These responses will be provided to GNI staff for review and evaluation
9. GNI staff present the outcome of the assessment to the Board
10. The GNI Board will determine whether the company is compliant with the GNI Principles. The Board's decision will be included in GNI's annual report to the public
11. GNI member companies report on their progress in implementing the GNI Principles through their own communications to the public.

Assessments are annual once a company reaches its third year of membership in GNI.

GNI will report publicly on its work and progress.

GNI: DRIVING CHANGE

GNI's unique strength is its breadth and diversity of membership: before GNI formed, many of our core members were either unknown to or critical of one another. But a shared commitment to creating and, subsequently, promoting the GNI Principles, along with a belief in the effectiveness of the multi-stakeholder process, has allowed these differing organisations to collaborate and contribute, as individual entities and jointly, to pioneer practical solutions to ICT issues.

Each constituency within GNI plays a role in driving change, both with respect to helping companies make the right decisions in tough situations, and to supporting a shared mission to improve respect for freedom of expression and privacy through the advancement of the Principles. While these objectives are collectively held, each participant may play a different type of role in GNI, depending on the type of organization:

- **ICT companies** commit to upholding the GNI Principles by implementing them within their organizations, by undertaking independent assessment to evaluate the effectiveness of their implementation, and by publicly reporting on their progress. The work of these company members is especially critical in light of the worldwide economic power they represent: the revenue of GNI's current company members, Google, Microsoft and Yahoo!, exceeds that of some nations, and their reach spans the globe. Their willingness to commit to high standards in their operations sets a leadership bar and, at the same time, the diversity of their operations illustrates that implementing GNI's Principles is an achievable goal for ICT companies. Greater detail about the work of GNI's member companies follows on pages 15-22.
- **Civil society organizations**, including human rights and press freedom groups, participate in GNI because they recognize that the ICT sector must respond to government demands to comply with laws and policies that implicate free expression and privacy. GNI's Principles require member companies to respond to these demands in ways that preserve and promote free expression and privacy. Civil society members support member

“GNI has taken on a hugely important and dynamic suite of issues, employing a blend of familiar and novel approaches to create a robust, collaborative platform for learning and action that is designed to evolve alongside – and hopefully, ahead of – the complex challenges faced by both its members and societies around the world.”

— Colin Maclay, Managing Director, Berkman Center for Internet & Society at Harvard University

companies through their in-depth knowledge and expertise on human rights issues and their direct connection to people on the ground. Civil society members also contribute to GNI's responses to the challenges of upholding human rights in the ICT environment and ensure that GNI addresses credibly and transparently the concerns of users most directly affected.

- **Investors** have a particular interest in encouraging ICT sector companies to respect the rights of their users and protect their brands, while continuing to operate in diverse and challenging countries and markets around the world. Investors therefore have been committed to building GNI because they recognize that censorship and surveillance pose direct threats to the long-term viability of ICT sector companies, as well as to users of these technologies around the world. Investors commit to the GNI Principles by discussing GNI and its benefits with the companies in which they invest, by incorporating these issues into their investment decision-making, and by seeking to influence companies to join GNI and to otherwise address the issues implicating human rights in the ICT environment through shareholder resolutions, proxy voting and company communications.
- **Academics and academic organizations** have contributed a wide array of research findings and analysis that have enhanced our understanding of, and approaches to, the human rights issues arising within the ICT landscape. Academics have worked with GNI members and affiliates to bring diverse perspectives and deeper analysis to the discussions surrounding the Green Dam Youth

“Governments are increasingly pressing the ICT sector to implement policies that impact the free expression and privacy rights of users. For tech companies who want to do good and do well, the GNI provides a forum for charting an accountable and ethical path forward. GNI aims to articulate a global standard of care, while providing practical guidance for companies facing complex real-time challenges.”

— Leslie Harris, President & CEO, Center for Democracy & Technology

Escort software, account deactivation, intermediary censorship, and other emerging issues. Academics have led our development of online and wiki-based resources. Their practical and empirical research on government controls and the rise of online filtering, censorship and surveillance has informed company best practices and identified relevant trends.

Since the launch of GNI, these groups collectively have driven change in three primary ways:

1. Promoting the Principles, the Implementation Guidelines and the Governance, Accountability & Learning Framework in their work and their conversations with others in the business, human rights, academic, journalist, CSR and investor communities
2. Creating platforms for, participating in, and otherwise contributing to, public dialogue about these issues and additional learning within GNI
3. Preparing to implement, or supporting the work of GNI member companies as they implement, GNI's Principles.

In this first annual report to the public, the work of GNI member companies merit special focus.

The following is a detailed description and status report on the progress that our current three company members (Google, Microsoft and Yahoo!) have made implementing the Principles. While they have yet to undergo their first assessments, the breadth of their experiences illustrates how companies are tailoring implementation to meet the specifics of their company profiles.

These descriptions are provided by the companies themselves to illuminate three points:

- i. how GNI member companies are implementing the Principles
- ii. how GNI member companies operate differently because of their membership
- iii. how GNI membership has helped address a problem or problems.

“The ICT sector is designed to further freedom of expression and depends upon strong privacy protections to maintain consumer trust and confidence. There is a business imperative, therefore, to defend these fundamental human rights.”

— Adam Kanzer, Managing Director & General Counsel, Domini Social Investments LLC

Google

Google's mission is to organize the world's information and make it universally accessible and useful. Since the company's inception, free expression has been one of Google's core values, as has been protection of user privacy. Google's Code of Conduct requires respect for the privacy of users' information and implementation of the internationally recognized human rights of free expression and privacy in the context of government demands for information. Revenue last financial year was \$23.65 billion. Google has over 20,000 employees and locations in over 35 countries. Its products are split into the following categories: (a) search, (b) advertising, (c) applications, and (d) mobile.

A committee composed of senior representatives from its legal, ethics and compliance, policy and communications, product, and engineering teams oversees implementation of GNI's Principles. This committee meets quarterly and reports to the senior legal executive officer, who reports directly to Google's CEO.

Google's implementation of GNI's Principles relies on corporate infrastructure to ensure that human rights concerns are mainstreamed into Google's business operations. To this end, Google has established protocols for ensuring consideration of free expression and privacy rights in the following contexts:

- When responding to a government request for user information, for removal of content, or to restrictions on the provision of information, Google undertakes a legal examination to determine the validity of the request or restriction in light of applicable law
 - Google's policy requires that Google receive a government request via valid legal process before Google will disclose non-public user data, with the following exceptions: (1) an emergency where disclosure is needed to avert
- When deciding to enter a particular market, whether by opening an office or establishing a data center, Google analyzes the political, legal and cultural conditions. If warranted by the risks to user privacy or free expression that it identifies in a particular jurisdiction, Google may limit its delivery of certain products or services, offer them from outside the jurisdiction and/or store sensitive user data elsewhere
- When developing and launching products, Google conducts a legal review to identify free expression and privacy issues, as well as to propose methods for minimizing these risks. Products, services or technologies that collect personally-identifiable information or involve user-generated content are especially likely to implicate these concerns and therefore warrant close review. Last February, for example, Google introduced Buzz, a social networking application. Immediately after launch, Google made significant product improvements to respond to concerns about privacy.³⁰

imminent loss of life or serious injury; (2) the user has consented to the disclosure, or (3) disclosure is necessary to defend Google rights and property. When requests from government officials appear overbroad, Google negotiates with the aim of limiting the scope of the request

"In a time of rapid change and increasing challenges to the free flow of information on the Internet, GNI has proved remarkably valuable to Google. The ties that we have established to the NGO community — through the formal guidelines and informal work — have helped warn us of upcoming dangers, protect the rights of our users and promote online free expression in the U.S., Europe and beyond."

— Lewis Segall, Senior Counsel, Global Ethics and Compliance at Google

29. <http://www.chillingeffects.org/>.

30. See <http://gmailblog.blogspot.com/2010/02/new-buzz-start-up-experience-based-on.html>.



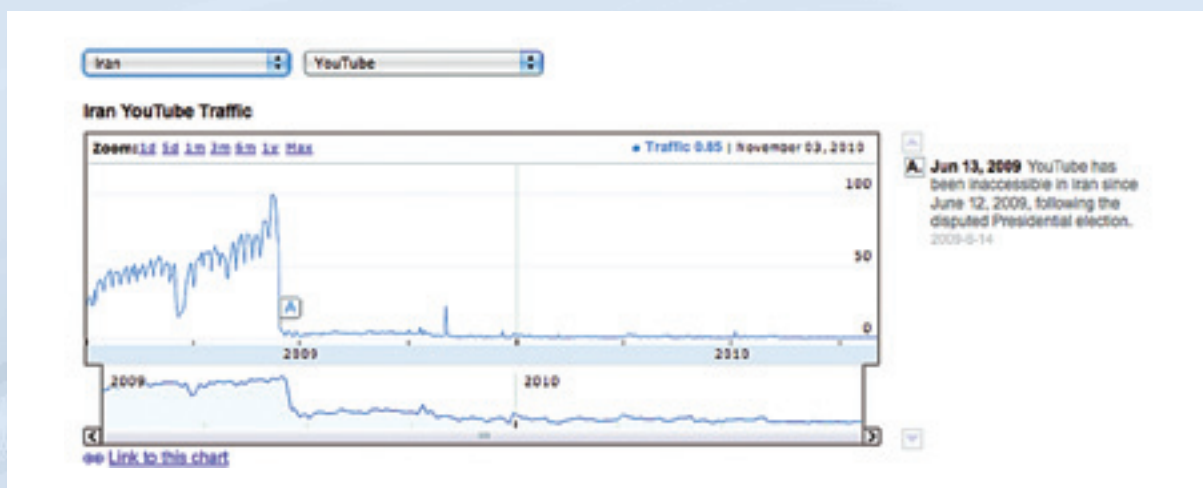
Screen shot of Google's Transparency Report, which tracks government requests to limit access to information or seek information about individual Internet users.

Google also implements the Principles through support of and engagement with individuals, organizations and entities that further the cause of user freedom of expression and privacy. Google's support includes the following:

- Google provided assistance to NGOs that support free expression in the form of financial aid, in-kind advertisement space and technological capacity building. The purpose of Google's assistance is to

raise awareness about human rights risks in the Web 2.0 and ICT environment; to train activists, bloggers and traditional journalists; and to grow these NGOs

- Google sponsored or supported awards for global Internet activities like the Reporters Without Borders "Netizen" prize³¹ and the Global Voices "Breaking Borders" award³²
- With the Central European University, Google sponsored the "Internet at Liberty 2010" conference, which brought together more than 300 participants from 74 countries³³
- In both Europe and the U.S., Google engaged with governments on policy development:
 - Google contributed to the initiative on Internet freedom propounded by the French and Dutch governments, as well as to the Swedish government's work on a report for the U.N. Special Rapporteur on Freedom of Expression
 - In the aftermath of U.S. Secretary of State Hillary Clinton's speech on global Internet freedom, Google engaged with Executive and Congressional leaders and staff on the issues she raised



Screen shot of Google's Transparency Report, which tracks global availability of Google services.

31. <http://en.rsf.org/iranian-women-s-rights-activists-12-03-2010,36718>.

32. <http://globalvoicesonline.org/2010/05/07/announcing-the-winners-of-the-breaking-borders-award/>.

33. <https://sites.google.com/a/pressatgoogle.com/internet-at-liberty-2010/>.

- In collaboration with other industry associations, Google is assisting in building the case that blocking the free flow of information is a barrier to trade
- Google additionally is a leader in the Digital Due Process coalition, which advocates updating U.S. surveillance law.³⁴

Two examples from the past year illustrate how Google implements the GNI Principles to further user privacy and freedom of expression:

1. Like many companies, Google regularly receives requests from governments for the removal of content from its services or for information about its users. The company also occasionally finds its services blocked or filtered around the world. To promote transparency around these issues, the company built an online Transparency Report³⁵ as a deterrent to censorship and to educate users and others. The Transparency Report not only provides details about government requests for content removal (including information on the number of removal requests received and the number complied with) and user data, but it also contains a traffic tracking tool to provide nearly real-time information about disruptions to Google services around the world. Each traffic graph shows historic traffic patterns for a given country and service and indicates whether a disruption is government-induced. By showing outages, the traffic graphs visually depict disruptions in the free flow of information, whether due to a government blocking information or a cable being cut.
2. In December 2009, Google discovered that it and more than 20 major companies had been the target of an unusually sophisticated attack, and

that a primary goal of the attackers was accessing the Gmail accounts of Chinese human rights activists. Separate from these attacks, Google discovered that the Gmail accounts of dozens of human rights activists interested in China were routinely accessed using phishing scams and malware, not via Google.

These events – combined with Chinese attempts over the previous year to further limit free speech on the web – led the company to stop censoring search services – Google Search, Google News and Google Images – on Google.cn. Starting in March 2010, users visiting Google.cn were redirected to Google.com.hk, where they were offered uncensored search in simplified Chinese.

In June 2010, conversations with Chinese government officials clarified that if the company continued redirecting users automatically, its Internet Content Provider license would not be renewed. Without an ICP license, Google wouldn't be able to operate a commercial website like Google.cn. Many Chinese users were vocal about their desire to keep Google.cn alive.

After looking at alternatives, Google decided to take users to a landing page on Google.cn that linked to Google.com.hk – where users could conduct uncensored web search or continue to use Google.cn services like music and text translate. This approach ensured that Google stayed true to its commitment not to censor results on Google.cn and to give users access to Google's services from one page.

In July 2010, the Chinese government renewed Google's ICP license.

34. <http://www.digitaldueprocess.org/index.cfm?objectid=37940370-2551-11DF-8E02000C296BA163>.

35. <http://www.google.com/transparencyreport>.



Microsoft

Microsoft is a large multinational company with annual revenue of \$62.5 billion reported for the fiscal year ended June 30, 2010, almost 90,000 employees and 700,000 partners in over 100 countries. There are five major business segments: (a) Windows and Windows Live, (b) Server and Tools Business, (c) Online Services Division, (d) Microsoft Business Division, and (e) Entertainment and Devices Division.

Oversight of Microsoft's implementation of the GNI Principles and Guidelines is carried out by an Executive Board comprised of the General Counsel and Chief Research and Strategy Officer. Two Corporate Vice Presidents, as delegates of the Executive Board, have daily oversight and responsibility for the Freedom of Expression and Privacy Working Group. This group constitutes the senior human rights team referred to in the GNI Guidelines. The two Vice Presidents and the working group review GNI issues quarterly, while the working group meets on a more frequent basis. Microsoft keeps its Board of Directors apprised of its implementation efforts and related material issues by including information on free expression, privacy and other issues of GNI concern in quarterly reports to its Board of Directors. Privacy and free expression issues have also been incorporated in its enterprise risk management processes.

Taking a materiality approach to GNI Implementation, Microsoft has sought to identify markets where fundamental rights are likely to be most at risk. Microsoft uses the annual work from Freedom House, which, in 2010, designated more than 50 countries as Not Free.³⁶ Microsoft treats these countries as High Risk Markets. In addition, Microsoft identifies High Risk Services by considering a variety of factors, including the number of users, historical data on the number of demands from government authorities, and whether it is a general communications service likely to be used for free expression. Of its services,

Bing presents the greatest potential for restriction of content due to government demands while Windows Live Hotmail and Windows Live Messenger present the greatest potential of generating interest from government authorities for user information.

Microsoft had existing policies and procedures for responding to government requests for user data or to filter or remove content. As part of its implementation of GNI's Principles, Microsoft supplemented these with a corporate Freedom of Expression policy, which applies across all Microsoft's online and communication services.

In particular, Microsoft's Freedom of Expression policy builds on GNI's foundation in international human rights laws and standards to draw distinctions between content which:

- is protected under international standards of free expression: Microsoft will not filter or remove such content without a legally binding notice, and Microsoft will take steps to minimize the impact of such demands
- is illegal in a particular geography and which international standards accept as reasonably restricted (e.g., explicit adult content): Microsoft may take voluntary steps to address government requests about such content
- Microsoft determines violates its terms of use or other agreements with end users: Microsoft will make discretionary business decisions in these situations. Users are presented with the terms governing their use of Microsoft services.

For Bing, features have been incorporated into the product design of the service to minimize the impact of government demands by enabling restrictions of content only for users in the market issuing the restriction and who use the version of Bing tailored to that market. Bing also provides notice to users

"Microsoft's mission is to enable people and organizations to realize their full potential, including the social and economic opportunity that technology can unlock through access to information. GNI helps us further that mission by creating a systemic approach to respecting user rights and a forum for ongoing learning on free expression and privacy."

—Chuck Cosson, Senior Policy Counsel at Microsoft

36. <http://www.freedomhouse.org/template.cfm?page=363&year=2009>.

directly on the page displayed following a query for which results have been restricted which explains that some results have been removed due to a government demand.

When considering hosting user data in a new location, Microsoft's existing data geo-location policy addresses the GNI guideline that companies will assess the human rights risks associated with the collection, storage and retention of personal information in the jurisdictions where they operate. This policy stipulates that legal obligations and human rights risks are analysed before hosting, in a new market, the types of user data of greatest interest to governments and which would most impact users' rights should such data be used in a manner inconsistent with international standards on privacy and freedom of expression. Reports from third party organizations such as Freedom House and The World Bank Institute are consulted as a part of this process. Senior executive approval is required before data can be located in a new market.

Microsoft will require all third parties who collect, handle or use personal information to comply with Microsoft's policies and practices relating to maintaining confidentiality, and has an established Vendor Privacy Assurance Program (VPA) to help ensure compliance with this requirement. This is an additional example of how existing processes were incorporated into a GNI implementation program.

In addition to the requirements in Microsoft's VPA, in High Risk Markets, Microsoft will add a human rights risk assessment to the due diligence process for certain arrangements with third parties that involve High Risk services. Senior executives will review the results of the risk assessment and any proposed risk mitigation measures to determine whether it is appropriate for Microsoft to proceed.

Microsoft's engagement in public policy around issues relating to freedom of expression and privacy is extensive, including in part:

- Calling for industry and governments worldwide take action to strengthen privacy and security in cloud computing
- Working with the Council of Europe Project on Cybercrime

- Convening the U.S.-China Internet Industry Forum
- Participating in discussions of network-based filtering process in Australia, Hong Kong, and Europe
- Working to explore the contours of free expression in relation to rights to human dignity, and to respond to concerns about cyber-bullying.

Given the profile of its business, Microsoft's work on public policy naturally extends beyond regulation of online services to matters of intellectual property protection. The value of multi-stakeholder collaboration on these issues was brought home strongly this year when *The New York Times* documented a challenge Microsoft faced in Russia regarding property rights enforcement actions against the media, NGOs, and others engaged in public advocacy. As *The New York Times* reported, NGOs had for some time believed that the purpose of such enforcement actions was harassment and the restriction of free expression.³⁷

Microsoft staff had already been looking at these issues, and they listened to human rights advocates in determining how to best respond. Microsoft welcomed the human rights groups' recommendations, and has been able to draw on their expertise as it works to address them. For example, one way Microsoft responded to this situation in Russia was by creating a one-time unilateral license for the software already on the computers of eligible NGOs and small media organizations in certain markets. Input from human rights groups helped inform Microsoft's choice of markets and the scope of the license.

Microsoft identified at least two inter-related challenges as it has worked to implement the GNI Principles and Guidelines. The first is jurisdictional, as it isn't clear in international law which government entities can assert jurisdiction over online service providers. Microsoft's position is that the location of user data is the key determinant of whether a government may compel disclosure. Many governments around the world demand disclosure of data based on other factors, such as the use of a foreign service by local citizens. Additionally, U.S. courts hold that a company with a presence in the U.S. is obligated

37. http://www.nytimes.com/2010/09/12/world/europe/12raids.html?_r=1.

to respond to a valid demand for information from the U.S. government regardless of the location of that information. This creates challenges in assessing privacy risks by focusing solely on data location.

The second challenge is the complexity this jurisdictional ambiguity creates for communicating clearly and transparently with users about their rights and,

in particular, which generally applicable laws and policies require Microsoft to provide personal information to government authorities. This is particularly difficult to do with certainty when operating in multiple markets, where user data may be stored in various locations, and where the location of the user may not remain constant.

Yahoo!

Yahoo! was founded on the principle that promoting access to information improves people's lives and enhances their relationship with the surrounding world. Yahoo!'s revenue exceeds \$6 billion. It employs approximately 14,000 people, and provides services in more than 50 countries.

Yahoo! has formally established a dedicated Business & Human Rights Program (BHRP) in order to lead its efforts to make responsible decisions in the areas of free expression and privacy. The BHRP is situated within Yahoo!'s legal team to provide a central vantage point for reviewing and advising on business decisions that might implicate human rights.

A full-time core team, including senior level employees, guides, directs and manages the BHRP. This team is also responsible for the implementation of GNI's Principles, Guidelines and Governance, Accountability & Learning Framework. To support the work of the BHRP, Yahoo! has additionally established a virtual team comprised of senior level employees, including representatives from Yahoo!'s product, law enforcement, security, public affairs, investor relations and global policy divisions. The virtual team's membership includes geographic representation from the United States, Asia, Europe, Latin America and the Middle East. This virtual team ensures that Yahoo!'s implementation of GNI's Principles is connected to business strategy, and it disseminates policies and procedures created by the BHRP.

The BHRP's work focuses on (a) responsible company decision making, (b) free expression and privacy, (c) multi-stakeholder collaboration and engagement.

Responsible internal company decision-making is central to the BHRP's mission.

- The BHRP team conducts employee training and in-depth reviews with employees and teams who have responsibility for content moderation and/or who have access to user data in the performance of their duties at Yahoo!. The trainings provide employees with a background on the legal and moral foundations of the company's human rights obligations, the relevant GNI Principles, Implementation Guidelines and Governance, Accountability & Learning Framework provisions, and specific guidance on relevant processes and procedures. To date, the BHRP has conducted these trainings and reviews with Yahoo! employees in a number of locations and functions, including the legal teams in the U.S., Latin America, Europe, Middle East and Africa (EMEA) and Southeast Asia, the global security team, customer care teams in Southeast Asia and the Middle East, and the product and editorial teams in the Middle East
- The BHRP conducts Human Rights Impact Assessments (HRIA) to identify circumstances when freedom of expression and privacy may be jeopardized or advanced. The BHRP conducts short-form HRIAs for specific, targeted questions or requests to review. Where Yahoo! identifies significant risks to users' free expression and/or privacy, however, it undertakes a long-form assessment. The long-form HRIA provides a comprehensive background on the business plans, human rights issues, potential risk mitigation strategies, and other relevant information. There are a variety of circumstances that trigger an HRIA, including:
 - review and revision of internal procedures for responding to government demands for user data or content restrictions in existing markets
 - entry into new markets

CASE STUDY

In Vietnam, Yahoo! conducted a human rights impact assessment, which enabled the company to tailor its business operations to be consistent with its corporate human rights commitments. In that instance, Yahoo! decided to manage and operate Yahoo!'s Vietnamese language services out of Singapore so the services would be governed by laws with stronger protections than those in Vietnam today. The HRIA process also enabled the company to create legal structures, internal policies, user terms of service and tailored approaches on data access and location to protect its users and employees.

- launch of new products or services that may impact users' rights to privacy or free expression
- data storage decisions
- review of the free expression and privacy-related policies, procedures and activities of potential partners, investments, suppliers and other third-parties.
- The BHRP maintains an internal, restricted-access wiki that stores HRIAs, and internal requests to review transactions and business decisions
- In partnership with the Laogai Research Foundation, Yahoo! has created a Human Rights Fund to provide humanitarian and legal support to political dissidents imprisoned for expressing their views online, as well as assistance to their families.
- Yahoo! employees who receive government demands must escalate potential human rights issues to the BHRP
- Yahoo! discloses information only as required by applicable law; disclosures must be minimized
- Employees with access to personally-identifiable user data must protect the data from unauthorised access
- Yahoo! must respond to government requests for user data and content restrictions in a transparent manner.

Yahoo! has engaged on matters of public policy and supported other individuals, organizations and entities that advocate for privacy and free expression in the ICT sector. Yahoo!'s efforts in multi-stakeholder collaboration and engagement include the following:

- Yahoo! has created a set of Global Principles and Procedures for government demands relating to user data and content restrictions that impact free expression and privacy. The principles state that:
- Government demands must be in writing, except where applicable law permits verbal demands, or in cases of emergencies
 - Government demands must be made by authorized officials
 - Senior Yahoo! executives have engaged with representatives of the Council of Europe and members of the European Parliament, as well as a number of U.S. government officials, among others, on issues relating to online freedom. In particular, Yahoo! has advocated for the release of those who have been imprisoned for expressing their views online
 - The BHRP has participated in various panels and dialogues, including before the UN Secretary-General on Business and Human Rights, to shape solutions to issues of free expression and privacy in the ICT sector

“As technology evolves and the virtually universal state interest in regulating the ICT sector increases, the issues at the intersection of privacy, free expression and technology become ever more complex. GNI’s collective, multi-stakeholder approach is key to identifying better insights and implementing specific, concrete solutions.”

— Ebele Okobi-Harris, Director, Business and Human Rights Program at Yahoo!

- Yahoo! has established two international academic fellowships at Stanford and Georgetown universities to advance work on the intersection of privacy, freedom of expression and technology. The Yahoo! International Journalism Fellowship Fund was established at Stanford University in 2006 to support the work of journalists from countries in which there are serious challenges to a free press. The Yahoo! International Values, Communications, Technology, and Global Internet Fellowship Fund was established in 2007 at Georgetown University and supports the education and research activities of an annual Yahoo! Fellow in Residence and two Junior Yahoo! Fellows. The Yahoo! Fellows come from around the world, from diverse sectors (including corporations, government, academia, and civil society), and are responsible for multi-disciplinary research that explores how diverse international values apply to the development and use of new communications technologies
- Yahoo! promotes dialogue on the issues of free expression and privacy in the online context through an exchange of ideas and shared learning among companies, governments, non-governmental organizations, investors, users and other stakeholders at its annual Business & Human Rights Summit
- Yahoo!'s BHRP website (<http://humanrights.yahoo.com>) provides a platform to engage the company's multiple stakeholders on privacy and free expression issues, to describe the program's work, and to elicit feedback from Yahoo! users
- Yahoo! has funded organizations and projects including the 2010 Global Voices Summit, the Committee to Protect Journalists, Business for Social Responsibility and the Center for Democracy and Technology.

In its process of implementation of GNI's Principles, Yahoo! has gleaned a number of important lessons:

- First, the support of Yahoo!'s senior leadership has been critical to its progress thus far implementing GNI's Principles
- Second, GNI must take the variability of the ICT sector into account. GNI properly allows companies to be flexible in selecting the methods and processes that they use to incorporate human rights responsibilities into their business operations. For Yahoo!, having a dedicated Business & Human Rights Program has allowed the company to focus on the creation of necessary processes and procedures and provides a single point of contact for internal and external stakeholders
- Third, active and collective engagement with governments is critical to addressing the complex problems that lie at the intersection of privacy, free expression and the ICT sector
- Finally, GNI's great strength is the breadth of its participating organizations. The complexity of issues facing GNI member companies is best addressed with active participation and input of multiple stakeholders. In addressing business concerns globally, Yahoo! has drawn directly on the regional expertise of fellow GNI participants in different situations, including Human Rights Watch, the Committee to Protect Journalists and the Berkman Center for Internet & Society at Harvard University.

GNI: LESSONS LEARNED AND LOOKING TO THE FUTURE

Since GNI launched, the core issues we are seeking to address have gained prominence among policy makers, in the media, and on the agendas of Internet users globally. Cognizance of the complexity and interdependence of these issues is becoming more widespread. For example, Web 2.0 and social networking applications have been highlighted for their role in raising awareness of human rights abuses in developing countries. At the same time, technology companies have been criticized for selling telecommunications networks and equipment to regimes that use those technologies and hardware for surveilling political activists – but Web 2.0 services cannot operate in the absence of telecommunications networks that provide connectivity locally, nationally and internationally.

This example shows the inter-connectedness of ICT and underlines the importance of growing our company membership. We have learned this year from our dialogue with companies that some are interested, but not yet ready to join us. In 2011, we will reach out to companies to allow them to get to know us better, to inform our work, and to engage substantively with them. Other priorities for the year include:

- Growing our membership across all constituencies
- Undertaking the first assessments of current company members
- Establishing a regular review of the Principles and Implementation Guidelines to reflect our learning, and taking account of new issues as they develop and in anticipation of our future growth

“Enlightened companies now understand that environmentally sustainable and socially responsible business practices are essential for long-term business success. Protecting free expression and privacy is equally important. If people don’t feel that their rights will be protected and respected by operators of the telecommunications services they depend on, trust will erode and so will the value of the networks. Companies that earn people’s trust around the world will be the long-term winners.”

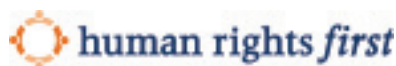
— Rebecca MacKinnon, Senior Fellow,
New America Foundation

- Developing our internal learning program around the implementation of the Principles
- Establishing more structured channels for consultation with governments
- Further developing our institutional capacity within GNI.

Put simply, GNI is at the beginning of its work. Moving ahead requires thoughtful re-evaluation, incorporation of constructive criticism and strenuous effort.

“Freedom House very much welcomes the work of GNI. Success should be judged according to the ultimate impact of policies on Internet use, especially in repressive environments. GNI needs to seek partners and members in Europe, Asia and Africa so that it is not seen just as a US initiative – but one that is truly global.”

— Robert Guerra, Program Director, Internet Freedom, Freedom House



GNI is grateful for the legal advice and support it has received from White & Case LLP as it becomes established as an organisation.

The Benefits of GNI Membership

- Build global public trust in your brand by demonstrating you care about users' rights around the world
- Manage company risk exposure and improve decision-making through GNI principles, guidelines, and the accountability process
- Engage in public policy as part of a diverse coalition
- Benefit from a unique opportunity to work through complex issues and learn in a safe space, gaining insight from other companies, civil society, investors and academic participants
- Demonstrate leadership in a critical area of social policy
- Influence a global standard for corporate responsibility in the ICT sector.

To Find Out More

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