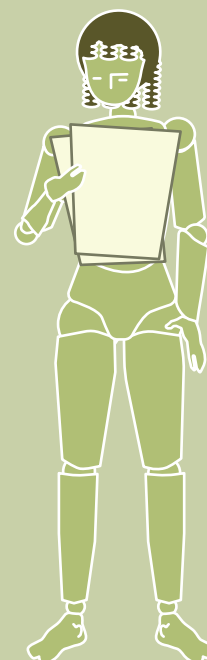


EXECUTIVE SUMMARY

This is the Public Report on the 2015/16 Independent Assessments of the five member companies of the Global Network Initiative (GNI) – Facebook, Google, LinkedIn, Microsoft and Yahoo.

This report describes the second cycle of independent assessments for GNI’s three founding companies – Google, Microsoft and Yahoo – who completed their first independent assessment in 2014. Facebook and LinkedIn are participating in their first independent company assessment.



ABOUT THE GLOBAL NETWORK INITIATIVE

Launched in 2008, the Global Network Initiative (“the GNI”) occupies a unique place in the global conversation about human rights, technology policy and corporate social responsibility.

The GNI is a multi-stakeholder forum that brings together information and communications technology companies, civil society (including human rights and press freedom groups), academics and investors from around the world to protect and advance freedom of expression and privacy.

As of June 2016, the GNI has 46 participants from across the world. GNI’s member and observer ICT companies have global footprints, and its civil society, academic and investor members bring global as well as country-specific expertise including from the United States, Sweden, Italy, United Kingdom, Argentina, India, Pakistan, Azerbaijan, China and South Korea.

A full list of GNI members and observers can be found [here](#).

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A Step-by-Step
Guide to the
GNI Independent
Assessment
Process is [here](#).

ABOUT THE GNI PRINCIPLES

The GNI Principles and Implementation Guidelines provide a framework to guide the ICT industry and its stakeholders on respecting the freedom of expression and privacy of users around the world. The GNI Principles are based on international human rights laws and standards, and informed by the U.N. Guiding Principles on Business and Human Rights.

ABOUT THE GNI INDEPENDENT COMPANY ASSESSMENTS

When companies join the GNI they agree to have their implementation of the GNI Principles assessed independently by participating in the GNI's assessment process. The assessment is made up of a review of relevant internal systems, policies and procedures for implementing the Principles (“the process review”), and an examination of specific cases or examples that show how the company is implementing them in practice (the “case review”).

CONFIDENTIALITY OF THE ASSESSMENT PROCESS

The GNI Assessment process is confidential. This allows the multi-stakeholder Board of ICT companies, civil society organizations, academics, and investors to review sensitive case studies of government requests from countries around the world, and for these to be discussed in detail within its forum. It also allows the GNI to review the evolution of the internal systems, processes and policies our member companies use to protect the privacy and free expression rights of their users. To preserve confidentiality, cases presented in this report are aggregated, and most are anonymized. Where appropriate, this report cycle does include some non-anonymized cases, which are discussed in each company's Determination of Compliance description.

THE GNI INDEPENDENT ASSESSORS

Only assessors accredited by GNI's multi-stakeholder Board may conduct the assessments. From the current pool of accredited assessor organizations, Ernst & Young LLP (U.S. member firm of Ernst & Young Global), Foley Hoag LLP, and KPMG AG (Switzerland) were selected by the five GNI member companies to conduct the assessments described in this report.

THE 2015/2016 ASSESSMENT CYCLE

“We noted that the company’s commitment to protecting freedom of expression and privacy genuinely seems to have become a “lens” through which business decisions are evaluated at various levels of the company.” — GNI INDEPENDENT ASSESSOR.

AGGREGATED FINDINGS, CASE EXAMPLES AND KEY CHALLENGES

The 59 sample cases reviewed in this assessment cycle demonstrate that amidst ongoing challenges for freedom of expression and privacy online, users around the world are benefiting from the adoption and implementation of the GNI Principles embraced by all GNI members.

AREAS OF PROGRESS

(i) Companies are using the GNI Principles to respond to government requests.

Measures used in cases reviewed in this assessment include: questioning requests, requiring valid court orders or mutual legal assistance processes where appropriate, and, in some cases, challenging a government in domestic courts. Cases show that requests for content restriction that may be overbroad or which rely on company Terms of Service, are escalated to senior counsel to determine they comply with local laws, and to ensure they meet international human rights standards. Companies also have made efforts to share information on their process for responding to government requests. Case reviews conducted in the current assessments indicate that in a number of cases this approach has resulted in the denial of all or part of government requests to provide user data, take down, or otherwise restrict user content.

(ii) The expanding adoption and implementation of human rights impact assessments. This current cycle of assessments has illustrated that member companies are taking, or are continuing to take steps to integrate the GNI Principles into all of their operations. Companies use Human Rights Impact Assessments (HRIAs) to identify how product design, acquisitions, and business relationships affect the rights of users. In response to recommendations from the previous assessment cycle some member companies have also

implemented company-specific human rights training for employees working on due diligence, mergers and acquisitions.

(iii) Company engagement in the escalating global public conversation around surveillance and censorship to promote free expression and privacy. Since the last assessment report was published in January 2014, GNI member companies have stepped up their public presence to promote privacy and freedom of expression online and to educate policymakers on surveillance, risks to free expression and the importance of encryption and an open internet. This includes public leadership by senior company officials, engagement with governments and international institutions, being active members of the Reform Government Surveillance coalition in the United States, and a willingness to mount challenges in courts around the world, where appropriate.

AREAS OF ONGOING CHALLENGE

(i) Ongoing limits on disclosure that companies have in relation to national security requests from governments. Legal prohibitions on the disclosure of information relating to national security requests, or even the existence of the request itself, present a continuing obstacle to companies' ability to be transparent regarding such requests. The Board noted that since 2014, GNI companies have taken important steps to improve transparency about national security requests, especially in the United States. Companies have filed legal challenges with the U.S. Government seeking the right to share more information with the public about national security requests for user data, they have advocated for the passage of laws, including the USA FREEDOM Act, which allow companies wider latitude to disclose these requests. All GNI member companies now publish transparency reports that disclose the number of national security requests in the United States.

(ii) The acute strains on the systems enabling law enforcement requests for cross-border data. Cases reviewed as part of this assessment process demonstrated the increasing strain on the system by which law enforcement can legitimately collect the digital evidence they need from across borders to prosecute crime. These cases underline the urgent need for reform of the mutual legal assistance system.

(iii) Government pressures on companies to address “extremist” or “terrorist” content on their platforms. Several cases reviewed in the assessment demonstrate the escalating pressures on companies to block search results, restrict content and provide user data associated with “extremist” or “terrorist” content online.

The GNI will work with GNI members and other stakeholders to continue meaningful dialogue and progress on all these issues.

GNI BOARD DETERMINATION

Based on a detailed review and evaluation of the confidential assessment reports prepared by the independent assessors, the GNI Board determined that Facebook, Google, LinkedIn, Microsoft and Yahoo are compliant with the GNI Principles. A finding of compliance means that the companies are making good faith efforts to implement the GNI Principles and to improve this implementation over time. For each company, this report sets out the view of the GNI Board on processes and systems for implementing the GNI Principles and Guidelines, and for the first time includes some company cases that have not been anonymized.

INDEPENDENT ASSESSOR RECOMMENDATIONS

This report describes examples of recommendations made by the assessors to one or more companies for consideration, and also provides examples of how one or more companies are addressing recommendations from their previous assessments. The recommendations to the companies are presented in aggregated form and some recommendations are generalized. The GNI Board reviews the full set of recommendations for each company during its review and determination of compliance. This report also includes a summary of assessors’ recommendations for the GNI on how to improve the assessment process itself.

LOOKING AHEAD

The GNI assessment process continues to evolve. After the completion of this second cycle of assessments in 2016, the GNI will carry out a review of the conduct and results of this assessment process. The review, like that conducted after the first assessment cycle, will allow the GNI to draw on the recommendations of the assessors and the insights of its members to build on its standards and processes in a way that is responsive to the cases evaluated, and to the lessons learned from the company process reviews.

