



# GLOBAL NETWORK INITIATIVE

PROTECTING AND ADVANCING FREEDOM OF EXPRESSION AND PRIVACY IN THE ICT SECTOR

2017 ANNUAL REPORT  
REINFORCING A GLOBAL STANDARD

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## 2017 ANNUAL REPORT

### REINFORCING A GLOBAL STANDARD

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PUTTING FREEDOM OF EXPRESSION  
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## LETTER FROM THE CHAIR AND EXECUTIVE DIRECTOR

Throughout this past year, governments around the world have intensified pressures on information and communications technology (ICT) companies to address a variety of perceived abuses of communications services and platforms by malicious actors, from terrorist content and hate speech to disinformation campaigns.

Legitimate concerns related to security, election integrity, and discrimination lie behind many of these efforts. But measures to censor content, disrupt networks, and compel the disclosure of user data continue to pose risks for privacy and free expression online and set harmful precedents for other governments following suit. These concerns are exacerbated by the increasing trend of governments seeking to extend their authority over the Internet beyond their own borders.

***GNI provides a framework for ICT companies to navigate these competing pressures effectively.*** The GNI Principles on Freedom of Expression and Privacy (“the GNI Principles”) and the GNI Implementation Guidelines for the Principles on Freedom of Expression and Privacy (“the Implementation Guidelines”) offer guidance on rights-respecting policies and procedures and help companies respond effectively to government requests with disproportionate costs to human rights.

***Significant membership expansion.*** In 2017, GNI further established the GNI framework as a global standard. In March, seven global telecommunications operator and vendor companies joined GNI and committed to the GNI Principles — Millicom, Nokia, Orange, Telefónica, Telenor Group, Telia Company and Vodafone Group — and BT Group later joined as a member with observer status. Digital rights leaders from Africa, Latin America, and the Middle East that joined this past



MARK STEPHENS



JUDITH LICHTENBERG



year will enhance GNI's capacity to respond to legal and policy developments in challenging human rights environments in the Global South.

As public concerns grow about how governments and companies are handling their respective roles online, GNI's multistakeholder platform is a crucial, authoritative voice for ensuring human rights are a factor. GNI's membership of ICT companies, investors, academics, and civil society groups collectively engaged with the players setting the global technology policy agenda throughout 2017: the European Union, the Council of Europe, the UN Counter Terrorism Executive Directorate, and UNESCO, to name a few. The trusted platform that GNI provides for members to share experiences and best practices helped build consensus along the way.

Looking ahead, GNI sees important opportunities to enhance its policy advocacy and on the ground engagement. In August, we were thrilled to welcome Jason Pielemeier as policy director in support of this goal. Jason was previously responsible for Internet freedom and business and human rights policy at the U.S. State Department and brings valuable insights and expertise to his new role helping focus GNI's policy strategy and build policy engagement with key stakeholders around the world.

Since the launch of the GNI Principles in 2008, GNI has offered a model to respond effectively to increasingly complex laws and policies with implications for freedom of expression and privacy in the ICT sector. Looking forward, GNI's surging global presence, trusted platform for multistakeholder collaboration, and collective engagement with leaders shaping the intersection of technology and human rights position the organization well to protect free expression and privacy online, and preserve open, interoperable, and reliable networks.



**Mark Stephens**  
INDEPENDENT CHAIR



**Judith Lichtenberg**  
EXECUTIVE DIRECTOR



## KEY RESULTS

### MORE DIVERSE AND EXPANDING GNI MEMBERSHIP

The number of GNI members grew by nearly a third in 2017.

GNI took a major step in further establishing the GNI Principles as a global standard for the ICT sector by adding seven of the world's largest telecommunications operator and vendor companies: Millicom, Nokia, Orange, Telefónica, Telenor Group, Telia Company and Vodafone Group, impacting over 1.5 billion combined users. Formerly members of the Telecommunications Industry Dialogue, these companies gained full GNI membership after a year of participation with observer status.

New civil society and academic members build upon GNI's shared expertise and global presence. GNI added civil society organizations from Chile, Colombia, Mexico, Nigeria, and Lebanon, as well as distinguished academics working at the intersection of technology and human rights. [READ MORE >](#)

### REVISED GNI PRINCIPLES REFLECTED IN INTERNATIONAL NORMS DEBATES

In response to the growing complexity of the global ICT regulatory environment, GNI issued updates to the GNI Principles and the Implementation Guidelines in March, the first time since GNI launched in 2008. [READ MORE >](#)

In addition, a number of influential human rights and corporate sustainability experts promoted the GNI Principles as good practices for ICT companies, including David Kaye, UN Special Rapporteur on the right to freedom of opinion and expression, the London Stock Exchange Group, the Ranking Digital Rights Project, and the Institute for Human Rights and Business. [READ MORE >](#)

The GNI Principles will continue to guide members to better protect free expression and privacy of Internet users as they reflect real challenges faced by companies today.

## RAISING KEY ACTORS' AWARENESS ON THE HUMAN RIGHTS IMPACTS OF NETWORK DISRUPTIONS

Governments around the world continue to disrupt citizens' access to the Internet and communications platforms, affecting millions of users, often in moments of political importance. Such disruptions risk evoking global scrutiny and substantial harms to economies, human rights, and public safety.

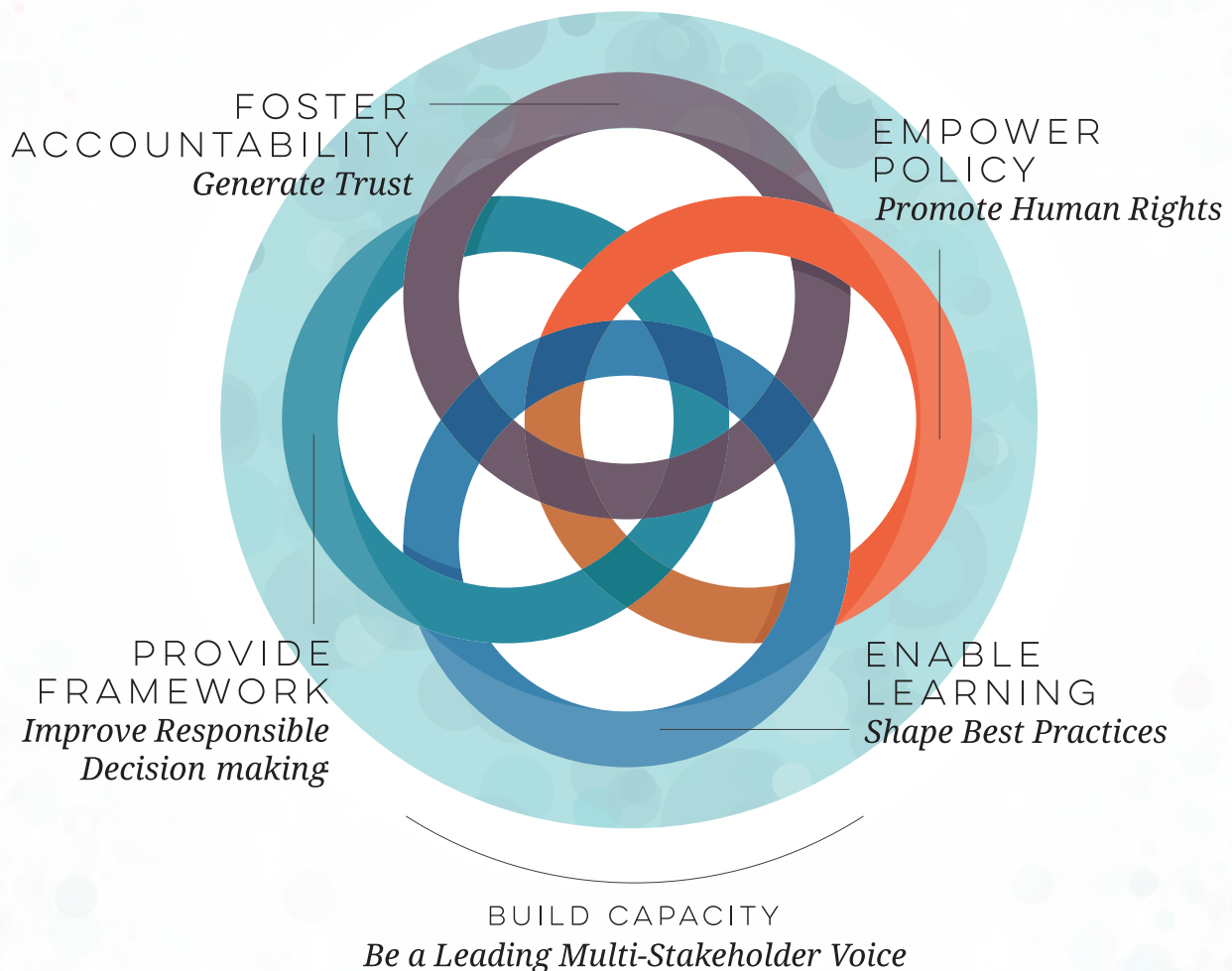
GNI raised policymakers' awareness of these risks by publishing a one-page guide, "[Weighing the Impact of Network Disruptions and Service Restrictions](#)," that was translated into ten languages. These recommendations supported online advocacy in response to global disruptions in places like Cameroon and Egypt, and members raised concerns with key stakeholders at international fora. [READ MORE >](#)

## FORGING CONSENSUS ON RIGHTS-RESPECTING RESPONSES TO PROBLEMATIC CONTENT

ICT companies face increasing pressures to remove or restrict access to controversial content on their platforms and services in ways that could threaten free expression online. In particular, GNI members have expressed concerns with regulatory measures that [penalize companies](#) for content hosted on their platforms.

GNI fostered discussion about and promoted rights-respecting methods for companies and governments to respond to online content that may pose legitimate danger to public safety. Highlights included a high-level roundtable with UK government and EU representatives and serving on the advisory council for the [Tech Against Terrorism Project](#). [READ MORE >](#)

## OVERVIEW OF ACTIVITIES IN 2017



GNI acts to protect and advance free expression and privacy in the information and communications technology (ICT) sector **through four interconnected work streams:** providing a framework for responsible company decision making; implementing GNI's accountability mechanism for member companies; engaging in joint policy advocacy; and facilitating shared learning and multi-stakeholder collaboration.

This overview of GNI's activities in 2017 highlights progress in each of these four areas. GNI grew and diversified its membership, further establishing the GNI framework as a global, sector-wide standard; adapted and streamlined the independent assessment process; collectively pushed back on new and increasingly challenging legal and policy challenges for free expression and privacy in the ICT sector; and enhanced members' work through shared learning along the way.



## GNI'S FRAMEWORK FOR COMPANY DECISION MAKING

The GNI Principles on Freedom of Expression and Privacy (“the GNI Principles”) and the Implementation Guidelines for the Principles on Freedom of Expression and Privacy (“the Implementation Guidelines”) provide a framework for companies to ensure respect for freedom of expression and privacy in their operations. Anchored in international human rights law and informed by the UN Guiding Principles on Business and Human Rights and the OECD Guidelines for Multinational Enterprises, the framework offers guidance for companies when responding to government requests and laws and policies that may harm users’ rights.

### REINFORCING THE GNI FRAMEWORK AS A GLOBAL STANDARD

GNI’s multistakeholder membership underpins the promotion of the framework. GNI’s 53 members include preeminent global ICT companies, leading civil society groups on digital rights and press freedom, academics and academic institutions researching the intersection of human rights and technology, and investors seeking to hold companies accountable for their influence on free expression and privacy.

In 2017, GNI added 16 new members to this group – organizations and individuals that will help build GNI’s capacity, broaden members’ issue expertise and insights into good practices, and augment an on the ground presence in the Global South. Through the work of GNI’s membership committee, GNI members from all four constituencies collaborate on integrating and engaging with new members in addition to identifying targets and strategies for membership recruitment.

In March, in a milestone moment for the ICT sector, GNI more than doubled its company membership with the addition of seven new telecommunications operator and vendor companies: Millicom, Nokia, Orange, Telefónica, Telenor Group, Telia Company and Vodafone Group, until then members of the Telecommunications Industry Dialogue. Their membership helps GNI build greater leverage for engagement with policymakers and deepens shared expertise on challenges unique to telecommunications operators and vendors. These companies will participate in the GNI independent assessment process for the first time (see page 12) in the next assessment cycle of 2018/19.

GNI added another prominent telecommunications company when BT Group gained observer status in May. Observer status includes hands-on participation in GNI committees and policy work, the sharing of best practices on conducting



MEMBER OF  
THE EUROPEAN  
PARLIAMENT  
MARIETJE SCHAAKE  
PRESENTS DURING  
THE BRUSSELS  
LAUNCHEVENT  
FOR SEVEN NEW  
COMPANY MEMBERS

human rights due diligence, and attendance at meetings of the GNI Board of Directors (“GNI Board”) and other GNI events. Observer companies do not yet participate in the independent company assessments or formally commit to the GNI Principles.

On the non-company side, GNI added regional leaders in digital rights advocacy throughout the Global South. Lagos-based [Paradigm Initiative](#) joined GNI with experience as a convener of high-level engagement with officials across the African continent. New GNI member [SMEX](#) spotlights and defends against threats to human rights online throughout the Middle East and North Africa. In Latin America, [Derechos Digitales](#) brings a network of local partners and extensive research mapping regional challenges for human rights online, and Bogota-based [Fundación Karisma](#) joined GNI as a coalition-builder and activist on the human rights risks and opportunities that arise alongside the technology for development movement.

In addition, GNI deepened its collaboration with two international leaders in multidisciplinary convening and research on digital rights issues: London-based [Global Partners Digital](#), and the [Open Technology Institute](#) at New America both joined GNI’s civil society constituency.

GNI also continued the GNI-Internews Fellowship in 2017, which supports digital rights advocates from the Global South to participate in GNI Board meetings, policy development and learning activities with a view toward applying for full GNI membership. This year’s fellows were [Red en Defensa de los Derechos Digitales \(R3D\)](#), an organization working to promote and protect human rights online in Mexico, and [Fundación Karisma](#). [Paradigm Initiative](#) was the previous GNI-Internews fellow.

Finally, GNI amplified its thought leadership with the addition of three new academic members: [Eileen Donahoe](#), founding executive director of the Global Digital Policy Incubator at Stanford University’s Center for Democracy, [Jennifer Daskal](#), associate professor of law at American University Washington College of Law and leading voice on issues around privacy and law enforcement access to data across borders, and [Meg Roggensack](#) of Georgetown University, a recognized expert on business and human rights with experience designing and leading multistakeholder engagement strategy and initiatives.

## UPDATING GNI’S FRAMEWORK TO REFLECT CHANGING NORMS AND HUMAN RIGHTS ISSUES

The international landscape for free expression and privacy in the ICT sector has shifted dramatically since GNI first adopted the GNI Principles and the Implementation Guidelines in 2008, with new legal and policy challenges affecting companies’ operating environments and new international instruments for business and human rights adopted after GNI’s launch.

“Committing to the GNI Principles, companies set an example that others across the ICT sector should follow: demonstrating that companies who compete with each other commercially can collaborate successfully to improve protections for free expression and privacy for all users.”

— VIVEK KRISHNAMURTHY,  
CLINICAL INSTRUCTOR IN  
HARVARD LAW SCHOOL’S  
CYBERLAW CLINIC AND  
GNI BOARD MEMBER

GNI's framework was constructed to be adaptable to such shifts and to reflect human rights risks facing the entire ICT sector; [GNI's Governance Charter](#) requires that the GNI Board regularly reviews the GNI Principles and Implementation Guidelines. For these reasons, GNI established a multistakeholder working group consisting of representatives from each constituency to review the GNI Principles and the Implementation Guidelines in November 2014.

In 2017, this work was finalized with GNI Board approval of the updated Implementation Guidelines in February 2017 and the subsequent [publishing of the updates in March](#).

Updates to the GNI Principles largely reflected provisions in the UN Guiding Principles on Human Rights (UNGPs), officially adopted in 2011. While consultations on the higher-level predecessor to the UNGPs, the Respect, Protect, and Remedy (Ruggie) Framework, informed the initial formation of the GNI Principles and Implementation Guidelines, the UNGPs provide further guidance on implementing the Ruggie Framework in practice. The GNI Principles now reflect language in the UNGPs and the OECD Guidelines for Multinational Enterprises clarifying the state obligation to protect and fulfill human rights and companies' role in respecting and promoting human rights, as well as provisions on ensuring the safety of company personnel on the ground.

Following the updates to the GNI Principles, the updates to the Implementation Guidelines include:

- incorporating lessons learned from GNI's first cycle of Independent company assessments, and the [2014 GNI Strategic Review](#);
- describing roles of companies' senior managers and respective boards in exercising oversight of implementation of the GNI Principles;
- clarifying that human rights impact assessments are a form of human rights due diligence in line with definitions outlined in the UNGPs;
- adding further guidance related to the human rights impacts on individuals, as well as implementation of the GNI Principles during mergers and acquisitions and for joint ventures where the company may not have operational control; and
- streamlining the Implementation Guidelines for readability.

More information on the GNI framework and on the updates to these documents is available on the [GNI website](#).

## THE GNI PRINCIPLES REFLECTED IN INTERNATIONAL NORMS AND STANDARDS

The GNI Principles were referenced and reflected in emerging norms and standards for responsible business conduct. In February, the London Stock Exchange Group issued [voluntary guidance](#) for companies reporting on environmental, social and governance factors, which includes recommendations related to human rights risks. In the report, participation in GNI was referenced as an example of a qualitative indicator for practice and performance under "human rights & community." The guidance cited "how the issuer addresses freedom of expression" through "being a member of a relevant industry initiative such as the Global Network Initiative." GNI companies were recognized in the Ranking

Digital Rights Project's 2017 [Corporate Accountability Index](#), which evaluated a set of 22 companies, chosen based in part on their size and geographical reach, on their public commitments and disclosed policies affecting users' freedom of expression and privacy. The index cites GNI Principles as a best practice on indicators related to stakeholder engagement, management oversight on institutionalized, corporate-level human rights commitments, and human rights due diligence processes. Of the 22 companies included, the top four Internet companies in the rankings were GNI members (Facebook, Google, Microsoft, Oath [formerly Yahoo!]) while three of the top four telecommunications companies in the rankings were former Telecommunications Industry Dialogue and now GNI member companies (Orange, Telefónica, Vodafone Group).

Collaboration with UN Special Rapporteur on the promotion and protection of the right to freedom of opinion and expression David Kaye has enabled GNI to promote its work and raise awareness at the international level on issues related to free expression and privacy in the ICT sector (see page 15). In Kaye's [June 2017 report](#) to the UN Human Rights Council, he noted that ***“researchers have found that membership in sector or industry-specific human rights initiatives, such as the Global Network Initiative and the [former] Telecommunications Industry Dialogue, coincides with companies' human rights performance.”***

Kaye also recommended provisions from the GNI Principles and Implementation Guidelines on multi-stakeholder collaboration, responding to overbroad government requests, and company transparency as good practices.

Finally, on Human Rights Day 2017, the Institute for Human Rights and Business issued its [top 10 business and human rights issues for 2018](#). This included “making big data freer and safer,” and noted that “efforts like the Global Network Initiative have offered guidance” with regards to effective responses to propaganda, surveillance, and clamping down on access to information.

***“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

## ACCOUNTABILITY THROUGH INDEPENDENT COMPANY ASSESSMENT

GNI member companies commit to participating in the biennial GNI independent assessment process, the only accountability mechanism of its kind in the ICT sector.

GNI laid the groundwork for the next cycle of independent company assessments, which will begin in late 2018. Companies participating in GNI are independently assessed every two years on their progress in implementing the GNI Principles. The purpose of the assessment is to enable the GNI Board to determine whether each member company is “making good faith efforts to implement the GNI Principles with improvement over time.”

The assessment process, which is confidential by design, entails a Process Review and Case Studies:

- The Process Review examines a company's systems, policies, and procedures to implement the GNI Principles.



- The Case Studies assess a number of specific cases for each company in order to show whether and how the company implemented the GNI Principles in practice.

Following the comprehensive review of the assessment process conducted by independent consultant Michael Samway on a pro bono basis in late 2016, the GNI Board began a process of updating the assessment guidance documents. This process was led by the academic constituency and Vivek Krishnamurthy, GNI Board member for the Berkman Klein Center at Harvard University, with support from students in Harvard Law School's Cyberlaw Clinic. Revisions aimed to reflect the revised GNI Principles and Implementation Guidelines, align with other business and human rights and corporate responsibility reporting initiatives, and enable the assessment process to include GNI's seven new telecommunications operator and vendor companies.

The GNI Board approved a revised assessment toolkit in early 2018, which will be used during the next assessment cycle. The schedule agreed by the GNI Board will have a first group of five company assessments conducted in the fourth quarter of 2018, followed by a second group of six companies in the first quarter of 2019.

## GNI POLICY ADVOCACY IN 2017

GNI's multistakeholder platform for collective engagement with governments and international institutions strives to provide an authoritative voice for the technology sector.

GNI worked to raise awareness and engage with governments on laws and policies that can harm users' free expression and privacy rights.

Key issues for GNI policy advocacy included human rights risks emerging from pressures on companies to respond to problematic content on their platforms; government orders to disrupt network and communications services; assertions of authority over data stored outside governments' own borders; and surveillance laws and activities.

## PRESSURES ON COMPANIES TO BE HELD LIABLE FOR CONTENT ON THEIR PLATFORMS

Growing public concerns about the use of ICTs for dissemination of controversial online content increased pressures on companies to remove such content under corporate terms-of-service/community guidelines, contributing to new legislative proposals that penalize companies for failing to do so. GNI worked to ensure that companies are not held legally liable for content generated by third parties on their platforms and that any informal mechanisms facilitating government requests for content removal are fully transparent and respect the rule of law.



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## PROMOTING RIGHTS-RESPECTING RESPONSES TO EXTREMIST CONTENT ONLINE

A growing number of public-private partnerships and voluntary frameworks seek to establish best practices for companies in responding to extremist content online. Throughout the year, GNI promoted recommendations to governments and companies on addressing extremist content online while protecting human rights, as outlined in the policy brief, [“Extremist Content and the ICT Sector.”](#)

In January, GNI Independent Board Chair Mark Stephens, CBE spoke at a [seminar](#) convened by the United Nations Office at Geneva (UNOG) and the Democratic Centre for Armed Forces, which marked the conclusion of the first phase of the [UN Counterterrorism Executive Directorate \(CTED\)/ICT4Peace Project](#). GNI has participated in this initiative since its inception. The project convenes representatives from civil society, governments, ICT companies, academia, and intergovernmental organizations to guide corporate action in response to extremists’ use of ICTs. GNI staff joined further deliberations with the group in Brussels, Ottawa, and Seoul.

The second phase of this collaboration, the [Tech Against Terrorism Project](#), was launched in a [RightsCon Brussels](#) session featuring GNI Executive Director Judith Lichtenberg. Tech Against Terrorism focuses on applying lessons from phase one to smaller ICT companies and startups. GNI also participated in a subsequent Tech Against Terrorism meeting in San Francisco in August launching the Global Internet Forum to Counter Terrorism (GIFCT). GNI Policy Director Jason Pielemeier then presented at a Tech Against Terrorism workshop in New York City during the UN General Assembly’s high-level week in September, where he emphasized the ways in which protecting freedom of expression can also offer positive implications for citizens’ security.

In November in Washington, D.C., Jason Pielemeier joined a [panel discussion](#) on extremism and the Internet at New America with UK Home Secretary Amber Rudd. Jason cautioned that with no internationally accepted definition of “extremist” or “terrorist” content, bulk censorship of material that is problematic, but not illegal, creates enormous potential risks.



GNI POLICY  
DIRECTOR  
JASON PIELEMEIER  
SPEAKING AT NEW  
AMERICA IN  
NOVEMBER 2017

## RESPONDING MORE BROADLY TO CONTROVERSIAL FORMS OF CONTENT ON PLATFORMS

Beyond content that is allegedly extremist in nature, fears about burgeoning misinformation and vitriol online created tensions between governments and companies about avenues for slowing the proliferation of such content effectively and in rights-respecting ways.

These tensions reached a tipping point with the German “Draft Law to Improve Law Enforcement in Social Networks” (Netzwerkdurchsetzungsgesetz or “NetzDG”) approved by the German Cabinet in April. The law pushes private companies to take down any content that might run afoul of some 24 current provisions of the German Criminal Code. Given Germany’s leadership role on

human rights and the digital economy, GNI [expressed concerns](#) that the rush to legislate, and to pressure companies under threat of fines to determine what is or is not illegal content, posed unintended but potentially grave consequences for free expression in Germany, across the EU, and worldwide. GNI clarified that similar legislative proposals share risks for free expression and may empower authoritarian leaders.

In December, GNI outlined members' collective recommendations for protecting human rights, while responding to controversial content online, including concerns about legislative approaches, in a [submission](#) to a report by David Kaye, UN Special Rapporteur on the promotion and protection of the right to freedom of opinion and expression. At the 2017 Internet Governance Forum, GNI socialized its recommendations in a well-attended feature event, "Content Regulation in the Digital Age, A conversation with the UN SR on Freedom of Opinion and Expression."

GNI also sought opportunities to directly engage with government and inter-governmental representatives on these topics. Last October, GNI hosted a [closed-door roundtable](#) in London, "Addressing the message and protecting the medium," which included a number of representatives from the GNI

Board, as well as from the European Commission's DG Connect and DG Justice, the UK Government, the GSMA, civil and digital rights groups, and others. While in London, GNI Executive Director Judith Lichtenberg and GNI Policy Director Jason Pielemeier also met with Max Hill, the UK Independent Reviewer of Terrorism Legislation, together with GNI Independent Board Chair Mark Stephens, CBE and high-level officials from the UK Department of Digital, Media, Culture and Sport and Home Office.

### RAISING AWARENESS ON THE HARMS OF NETWORK AND SERVICE DISRUPTIONS

GNI's multistakeholder membership share concerns that disrupting networks and services for the sake of public safety or national security almost always constitutes a disproportionate approach, inconsistent with international human rights law.

In July, GNI launched a tool for engaging policymakers on the potential risks of network and service disruptions: "[Weighing the Impact of Network Shutdowns and Service Disruptions](#)." This one-page guide illustrates the potential harms of disruptions to economies, societies, the media, international scrutiny, and public safety alike. The document featured the collective input of GNI membership and select external stakeholders and informed GNI advocacy.

The document was translated into ten languages throughout the year, including all six official UN languages, and was shared in response to a number of government disruptions around the world. Patrik Hiselius, Senior Advisor, Digital Rights and GNI Board representative with Telia Company, presented the document for the first time on a panel at the 2017 Stockholm Internet Forum, "[The Global Shutdown Epidemic – From Rights, Tech and Economic Perspectives](#)."



## ENGAGEMENT WITH EXTERNAL STAKEHOLDERS

From Brussels to Johannesburg to New Delhi, GNI staff and members participated in events focused on curbing the increasing instances of shutdowns and disruptions worldwide.

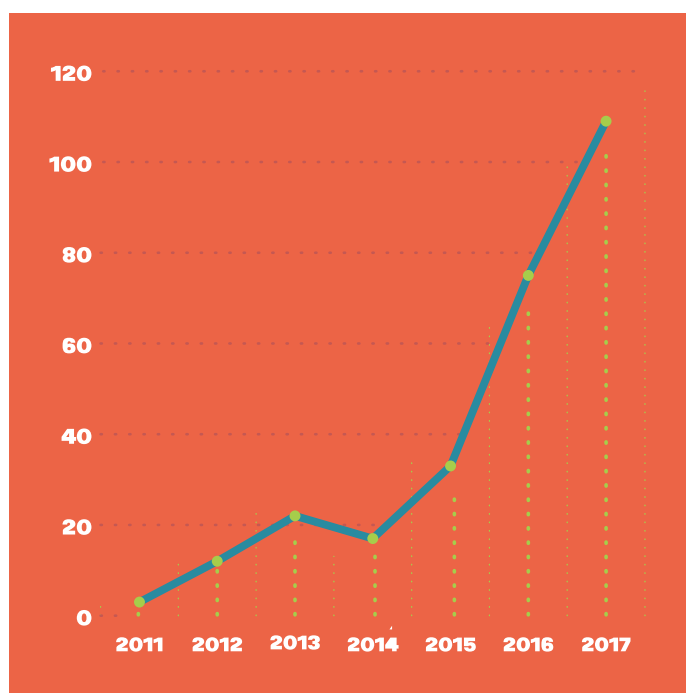
During RightsCon Brussels, GNI held a session highlighting the economic costs of network disruptions. “At What Cost? Telecoms and Internet Companies Discuss Internet Shutdowns,” featured representatives from GNI members Centre for Communications Governance at National Law University, Delhi, Facebook, and Orange, as well as a representative from the NGO Bahrain Watch, with GNI Board Secretary Bennett Freeman serving as a moderator.

In June, GNI co-hosted a [learning call](#) on disruptions together with the Freedom Online Coalition, the preeminent multilateral platform for digital rights, and AccessNow, conveners of the global [#KeepitOn campaign](#), helping frame key strategies and identify pressure points for global advocacy with a wide variety of actors working on disruptions.

In September, GNI Alternate Board Member Andreas Reventlow, program manager and advisor at International Media Support, participated in a panel discussion on network disruptions in Johannesburg, South Africa, alongside the launch of a new report [measuring the costs of network disruptions in Sub-Saharan Africa](#), also promoting GNI’s [one-page guide](#).

In December, GNI Board Secretary Bennett Freeman travelled to India for a discussion on the risks facing a number of Indian journalists who had experienced regional disruptions in different parts of the country. Along with independent academic member Rebecca MacKinnon, he offered a global perspective on the need for company transparency on network shutdowns and disruptions.

Finally, demonstrating the importance of curbing the rise in network disruptions as a priority for the international Internet policy community, during a plenary session at the [2017 Internet Governance Forum](#), Telefónica Director of Public Policy and GNI Board Member Christoph Steck, called for transparency from governments on disruption and shutdown orders, proportionality reviews, and redress mechanisms.



ESTIMATED NUMBER OF NETWORK DISRUPTIONS PER YEAR WORLDWIDE (JAN 2011– DEC 2017). RESEARCH COURTESY OF JAN RYDZAK, PHD CANDIDATE AT ARIZONA STATE UNIVERSITY FOR “DISCONNECTED, A HUMAN RIGHTS BASED APPROACH TO NETWORK DISRUPTIONS”

## JURISDICTIONAL ASSERTIONS AND LIMITS

The digitization of our societies, the global nature of the Internet, the immense amount of data online, and the various approaches to Internet and telecommunications policies in different environments create inherent legal and regulatory



challenges. In some cases, conflicts of laws emerging from requests that states make of Internet and telecommunications companies to share data or enact policies outside of the requesting country, can have negative implications for free expression and privacy.

#### THE “RIGHT TO BE FORGOTTEN”

Enforcement in Europe of the right to be delisted, often called the “right to be forgotten,” is an example of an issue that is creating significant jurisdictional challenges. A 2014 decision by the European Court of Justice, in a case involving Google and the Spanish data protection agency, clarified that citizens in the European Union have the right to request that URLs be delisted from search results associated with searchers for the requestors’ name when information on those URLs is deemed inaccurate, inadequate, irrelevant or excessive.

Initially, these requests, when granted, were implemented on country-specific search engine domains, and later through the “geo-blocking” of IP addresses from the enforcing jurisdiction. However, the French data protection authority has since demanded that delistings on Google must apply to all domains globally, an order that was referred to the European Court of Justice in July. In a [statement](#), GNI noted that applying the right to be delisted globally and to all search engines could set a harmful precedent with consequences for access to information and freedom of expression, by empowering leaders to enact laws restricting the speech of political opponents, journalists, or marginalized groups worldwide.

#### CONTENT AND JURISDICTION

Other challenges in this policy area revolve around the cross-border applicability of policies related to content restrictions (see pages TK-TK). In this regard, GNI staff joined high-level representatives from governments, intergovernmental organizations, technical bodies, and Internet companies to discuss this topic through the Content & Jurisdiction Contact Group, one of three expert groups established by the [Internet & Jurisdiction Policy Network](#). The group analyzed options for governments and companies to effectively balance various domestic legal frameworks, international human rights laws, and companies’ policies and practices.

#### LAW ENFORCEMENT ACCESS TO DATA ACROSS BORDERS

The storage of the content of communications in locations that may be outside of the country where a law enforcement demand is issued can also lead to conflicts of law and jurisdictional challenges. These challenges were the focus of a European Commission consultation: [“Improving Cross-border Access to Electronic Evidence in Criminal Matters.”](#) GNI provided a [formal submission](#) to this consultation, calling on any EU-level policies instituted to honor internationally-recognized human rights principles of legality, necessity, and proportionality. Additionally, GNI called for any new mechanisms facilitating cross-border requests to ensure measures to protect human rights, including independent prior authorization of requests, a focus on serious crimes, availability of meaningful redress, transparency regarding the number, type, and scope of the requests, and oversight and accountability.

## WORKING TOWARD RIGHTS-RESPECTING SURVEILLANCE LAWS AND PRACTICES

The use of ICTs by governments for surveillance purposes has grown extensively in recent years, as knowledge and cost barriers have fallen for undertaking such efforts. GNI convened a number of sessions and events to help raise awareness on the challenges facing the ICT industry in balancing surveillance-related pressures with users' rights to privacy.

In a March panel organized by GNI titled "In Search of Rights-respecting Freedom of Expression and Privacy Laws," GNI members Human Rights Watch, Microsoft, Telenor Group, and Professor K.S. Park, highlighted the different ways in which restrictions to oversight regimes and transparency provisions around surveillance laws and practices conflict with human rights law. They also discussed the increasing problem of governments facilitating means of real-time access to the networks of telecommunications operators without making specific or periodic demands of the operator.

## ADDRESSING SURVEILLANCE PRACTICES IN THE UNITED STATES

In November, GNI convened a session at the offices of the U.S. Senate in partnership with the George Mason University Law School's National Security Institute, titled "702 Reform and Reauthorization: Views from Across the Spectrum." This standing room only event was attended primarily by congressional staff and featured a diverse group of panelists, including representatives from GNI members Google and the Open Technology Institute, exploring the privacy and security implications of various proposals for reform of Section 702 of the U.S. Foreign Intelligence Surveillance Act (FISA). Section 702 authorizes elements of the US Intelligence Community to obtain "foreign intelligence information," by targeting surveillance of non-U.S. persons located abroad.

This event followed a statement in October by GNI commending guidance issued by the U.S. Department of Justice allowing companies to be more transparent about government requests to access user data. By limiting the use of so-called "gag orders," the guidance will allow companies to inform their users more quickly about legally compelled searches and disclosures of their personal data to federal law enforcement.

## BRIDGING GAPS IN LEGAL FRAMEWORKS AROUND THE WORLD

As this report demonstrates, GNI's member companies face challenges with sometimes vague and unclear legal frameworks that govern privacy and freedom of expression in their operating jurisdictions. In particular, GNI is concerned about a worldwide trend toward government laws and policies pressuring ICT companies to intercept communications, share user data, and restrict content and service access in ways that may threaten internationally



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EV, UNSPLASH

recognized rights to freedom of expression and privacy. 2017 saw the gaps between domestic and international human rights laws widen in some cases.

To help address this gap, GNI aimed to grow and expand the [Country Legal Frameworks Resource \(CLFR\)](#), a project started by GNI's telecommunications operator and vendor company members in their former capacities as members of the Telecommunications Industry Dialogue. The CLFR documents the laws governing a number of markets in which GNI company members have a presence. GNI added seven new country reports to the CLFR, making for a total of 51 countries, and will continue to look for ways to diversify the information included in the country reports. These reports constitute a valuable repository of well-researched information for member companies and others seeking to better-understand and influence relevant laws around [the world](#).

## GNI'S 2017 LEARNING PROGRAM

GNI offers members a uniquely safe and trusted space to share knowledge and learn together about new challenges at the intersection of freedom of expression and privacy and the ICT sector.

Shared learning helps members exchange good practices and benefit from each other's perspectives. Leveraging the expertise of our members, GNI convenes shared learning discussions and briefings on key issues.

### LEARNING ACTIVITIES

Throughout the year, GNI organized learning opportunities, including webinars, calls, in-person meetings, and expert briefings in support of its shared-learning agenda, occasionally holding ad hoc sessions at the suggestion of members, on topics including:

- Cuba's emerging Internet ecosystem and the resultant challenges and opportunities for free expression and privacy;
- Russia's data localization requirements;
- Freedom of expression and privacy risks at U.S. border crossings;
- Insights from BSR's Human Rights Impact Assessments, commissioned and published by Telia Company; and
- Government-sponsored intentional network disruptions, a call co-hosted by GNI, the Freedom Online Coalition and AccessNow.

GNI also holds learning events in conjunction with Board meetings. In 2017, topics for these sessions included an overview of human rights due diligence processes for network operators and vendors and a discussion with Cloudflare



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LITTLESTAR19,  
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on the human rights implications of and motivations for the decision to suspend the Daily Stormer account, a challenging content removal decision of value to GNI members facing similar scenarios.

Ms. Sara Nordbrand, head of sustainability at Church of Sweden and GNI alternate board member, reflects on the significance of GNI's learning efforts: "GNI membership allows companies to work with both corporate peers and diverse global stakeholders to build leverage and refine their practice of human rights due diligence across the ICT value chain. From an investor perspective, that's a sign of quality."

With new challenges in the headlines on a daily basis, there is no shortage of topics for learning within GNI. When deciding what issue to prioritize, GNI considers the scope of the GNI framework, the significance for free expression and privacy, and the timeliness of potential topics, often identifying and bringing in outside experts to participate in learning calls and activities. This approach not only helps set a baseline understanding of key free expression and privacy challenges among our expanding membership, but it also helps organizations and individuals outside our network to better understand our approach.

Looking ahead, GNI's learning committee, which meets on a quarterly basis, provides a venue for collaborative work to plan shared learning activities, coordinates learning in support of GNI's policy priorities, and provides substantive support to our accountability and company assessment process.

## 2017 ANNUAL PUBLIC LEARNING FORUM

GNI's 2017 Annual Public Learning Forum took place on June 21 at Google's Washington, D.C. office. More than 100 experts, government representatives, students, and advocates attended. Panel discussions and questions from the audience explored current government threats to free expression and privacy in the ICT sector. Sessions addressed extremism, hate speech and disinformation online, as well as global surveillance reform and the treatment non-citizens, and ways in which multistakeholder engagement can drive a constructive global agenda for free speech and privacy rights online.



PANEL DISCUSSIONS AT GNI'S 2017 ANNUAL PUBLIC LEARNING FORUM. PICTURED, FROM LEFT: ANDY O'CONNELL, FACEBOOK; SUSAN BENESCH, DANGEROUS SPEECH PROJECT; DANYA CENTENO, R3D EN DEFENSA DE LOS DERECHOS DIGITALES. PHOTO CREDIT: JASON DIXSON PHOTOGRAPHY





# GOVERNANCE

## THE GNI BOARD IN 2017

The GNI Board of Directors is responsible for the strategic direction and fiduciary operations of GNI and is led by an independent board chair.

### INDEPENDENT CHAIR

MARK STEPHENS, CBE.

### COMPANIES' REPRESENTATIVES

PABLO CHAVEZ<sup>1</sup>, *LinkedIn* (THROUGH JUNE 2017)

STEVE CROWN, *Microsoft*

ANNETTE FERGUSON, *Vodafone Group*

PATRIK HISELIUS, *Telia Company*

NICOLE KARLEBACH, *Oath*

YVES NISSIM, *Orange*

SIDSELA NYEBAK, *Telenor Group*

ANDREW O'CONNELL, *Facebook*

LAURA OKKONEN, *Nokia*

LEWIS SEGALL, *Google*

### CIVIL SOCIETY ORGANIZATIONS' REPRESENTATIVES

KAT DUFFY<sup>2</sup>, *Internews* (from October 2017)

JODIE GINSBERG, *Index on Censorship*

ROB MAHONEY, *Committee to Protect Journalists*

GREG NOJEIM, *Center for Democracy & Technology*

CYNTHIA WONG, *Human Rights Watch*

### ACADEMIC ORGANIZATIONS' REPRESENTATIVES

VIVEK KRISHNAMURTHY,  
*Berkman Klein Center for Internet & Society,  
Harvard University*

K.S. PARK, *Korea, University Law School* (INDEPENDENT)

MEG ROGGENSACK, *Georgetown University* (INDEPENDENT)

### INVESTORS' REPRESENTATIVES

BENNETT FREEMAN (GNI BOARD SECRETARY),  
*EIRIS Conflict Risk Network*

ADAM KANZER, *Domini Impact Investments LLC*

### BOARD ALTERNATE REPRESENTATIVES IN 2017

FARIEHA AZIZ, *Bolo Bhi*

ARTURO CARRILLO,

*The George Washington University Law School*

ARVIND GANESAN, *Human Rights Watch*

MILKA PIETIKAINEN\*, *Millicom* (THROUGH JUNE 2017)

SILVIA GARRIGO\*, *Millicom* (FROM DECEMBER 2017)

ELONNAI HICKOK, *Centre for Internet and Society*

MOLLY LAND, *UConn Human Rights Institute*

EMMA LLANSÓ,

*Center for Democracy & Technology*

PHILLIP MALLOCH, *Telia Company*

SARA NORDBRAND, *Church of Sweden*

MAI OLGARD, *Telenor Group*

MATTHEW PEACOCK, *Vodafone Group*

ANDREAS REVENTLOW,  
*International Media Support*

KATIE SHAY, *Oath*

BERNARD SHEN, *Microsoft*

CHRISTOPH STECK, *Telefónica*

ALEXANDRIA WALDEN, *Google*

ALEX WAROFKA, *Facebook*

<sup>1</sup> Mr. Chavez represented LinkedIn until June 2017. Subsequently Mr. Crown became the representative for both Microsoft and LinkedIn following the implementation of Microsoft's acquisition of LinkedIn.  
<sup>2</sup> Ms. Duffy replaced Jeanne Bourgault in October 2017.

\* MS. GARRIGO JOINED THE GNI BOARD IN DECEMBER 2017.

Since the launch of GNI at the end of 2008 and the creation of the GNI Board, our membership has expanded significantly and now includes a much broader international representation among our academics, civil society, investor and company participants, including the addition of seven new telecommunications operator and vendor company members in March 2017.

As a result, the GNI Board expanded the number of seats in advance of the March 2017 election of GNI's next board of directors, who will serve a three-year term through 2020. As of March 2017, the GNI Board was composed of the independent chair and representatives of GNI's four constituencies, including ten company representatives, five civil society organizations representatives, three academic representatives and two investor representatives. Board alternates are also selected among nominated candidates from each constituency.

## GNI COMMITTEES

GNI operates through committees and working groups that report to the board and the membership. The committees include: executive & management, accountability, policy, learning, membership and development. All except executive & management (which draws only from GNI Board members) are open to every GNI member. All have two co-chairs, one from a company member and one from a non-company constituency member, except for executive & management, which is chaired by the independent board chair together with the board secretary. Special representatives from the constituencies not represented by the co-chairs are also appointed.

## STAFF

The GNI secretariat is based in Washington, D.C., and Amsterdam. It supports the GNI committees and working groups, develops and hosts closed-session and public events, prepares for GNI participation in conferences and meetings, drafts submissions, reports and media releases, and facilitates the collaboration of GNI's diverse participants.

GNI Executive Director **Judith Lichtenberg**, based in Amsterdam, oversees GNI's accountability and advocacy goals, the expansion of membership and funding, and building consensus for the advancement of freedom of expression and privacy across the four constituencies. GNI Director of Learning and Development **David Sullivan** works to devise and execute a shared learning agenda for participating members, strengthens membership integration and works to recruit new members and secure diverse funding sources. David also continued to oversee GNI's policy program during the search for a new Policy Director in 2017. GNI Policy Director **Jason Pielemeier**, based in Washington, D.C., joined GNI in August 2017 after previously being responsible for Internet freedom and business and human rights policy at the U.S. State Department. Jason works with GNI's diverse members to develop and articulate GNI's policy positions and engage with policymakers and other stakeholders to enhance protections for free expression and privacy globally. **Barbara Dourley**, research associate and former Georgetown University Master of Science and Foreign Service fellow, assists with research, events management and project coordination part time. Research and

Administrative Associate **Chris Sheehy** coordinates day-to-day operations for GNI staff and membership, providing support for research, communications, events, and social media.

GNI is grateful to **Kath Cummins**, who joined GNI in 2015 and served as director of communications and outreach through November 2017. Kath worked to develop GNI's internal engagement, developed transparency and public communications for the company assessments, and expanded outreach to policymakers, funders, stakeholders, and the media.

GNI is also grateful for the support of two policy fellows in 2017: Google Policy Fellow and George Mason University Candidate **David Morar**, and Georgetown University Master of Science in Foreign Service Fellow **Elyse Lee**.

## FINANCIALS

Total Public Support & Revenue: **\$712,412**

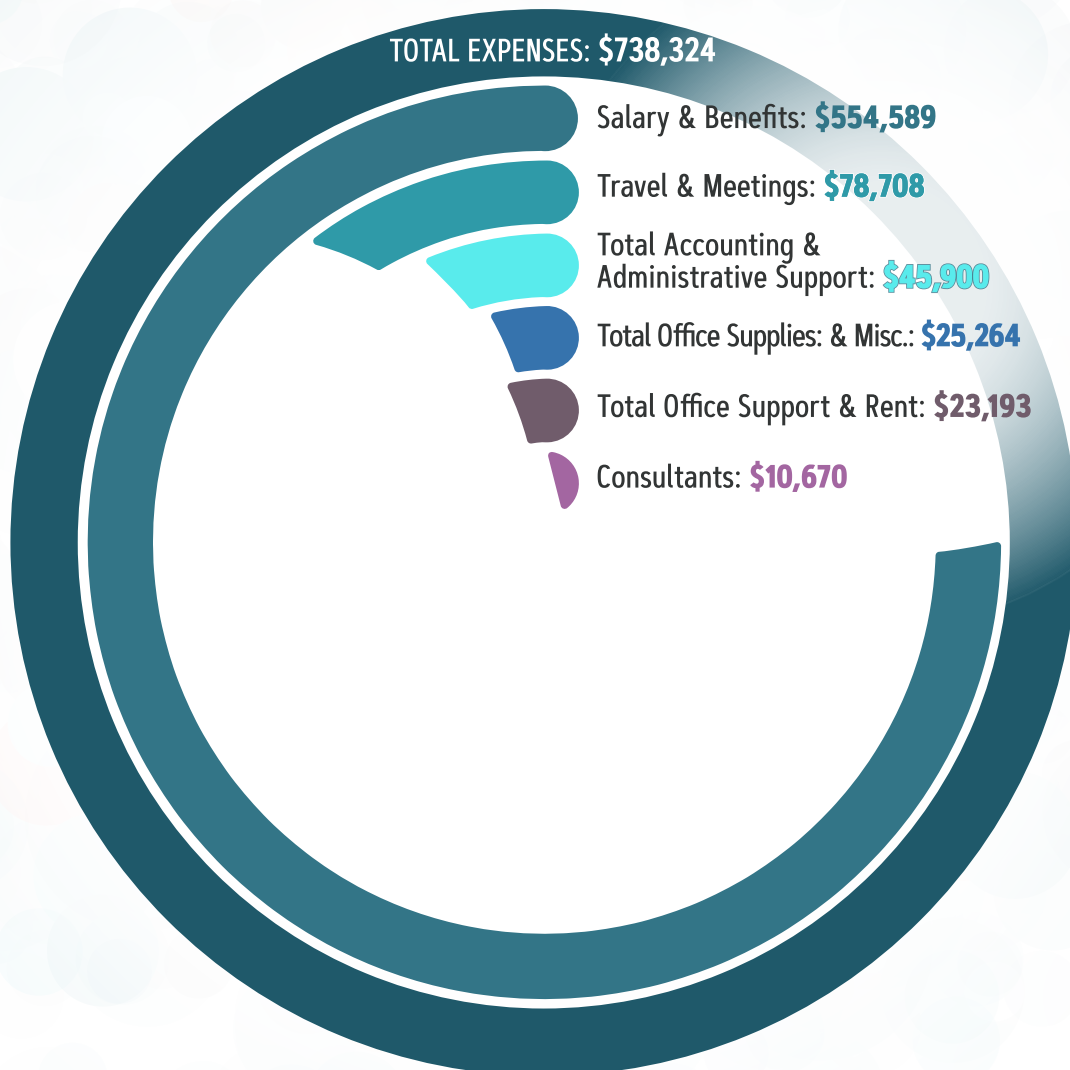
Membership Income: **\$710,872**

Released Gain on Disposition of fixed asset: **\$885**, Interest Income: **\$655**, Contributions & Grants: **\$0**

Net Assets Beginning: **\$668,568**

Net Assets Ending: **\$642,657**

Excess of income over Expenses: **-\$25,568**





# ACKNOWLEDGEMENTS

## LEGAL

GNI is very grateful for legal advice and support it receives from White & Case LLP, especially Charles Moore, Gabrielle Hodgson, Noah Brumfield, Earle Miller, and Bijal Vakil.

## ACCOUNTING AND ADMINISTRATION

We would like to acknowledge the assistance of staff from Glass Jacobson Financial Group, especially Andrea Montali, and also that of the staff at Howard Kennedy LLP, especially Eleanor Barker.

## DESIGN

j. Gregory Barton, of DC-based design and technology firm BRITT BARTON designed and produced this report.

## MEMBERS AND SUPPORTERS

The board chair, executive director and staff of GNI would like to thank GNI members and supporters around the world who help make our work possible.

We would also like to thank the students of the Harvard Law School Cyberclinic at the Berkman Klein Center for their research support throughout the year.

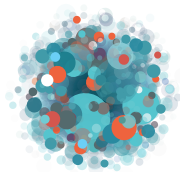
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