

GNI Written Evidence for Inquiry on the Internet Regulation

The Global Network Initiative (GNI) respectfully submits the following information in response to the Committee’s call for evidence regarding its inquiry on “The Internet: to regulate or not to regulate?” GNI is a multistakeholder initiative that brings together Information Communications and Technology (ICT) companies, civil society organizations, investors, and academics to forge a common approach to protecting and advancing freedom of expression and privacy online.

1) Introduction

- 1.1 GNI encourages governments around the world to carefully consider how they can help ensure that the Internet remains both an open and interoperable global network, as well as a secure and safe space for users with diverse demographics, backgrounds, and views. Given the speed with which associated technologies and social practices evolve, we recognize that the Internet may occasionally present novel and unique challenges that may require, equally, novel and unique policy responses. However, those responses will be more effective and less likely to result in unintended consequences if they are carefully considered, evidence-based and developed in consultation with experts and stakeholders. For those reasons, we welcome this Committee’s transparent and participatory approach.
- 1.2 As the Committee considers “regulation” of the Internet, it is important to underscore that regulation can include a wide spectrum of arrangements between relevant actors, including voluntary commitments by companies on one end, and binding laws with government enforcement on the other. In between these poles, lie a range of possible arrangements that may exhibit various degrees of flexibility, transparency, and accountability.
- 1.3 Multistakeholder initiatives like the GNI, which are based on voluntary commitments by companies, informed by and assessed in collaboration with other stakeholders, represent one form of arrangement that can be considered to address various challenges related to the Internet.
- 1.4 In order to further inform the Committee about this particular example of how multistakeholder initiatives can work, GNI has provided details in this submission regarding its structure and activities. However, we want to be clear that GNI’s focus is specifically on situations where companies face government restrictions that can negatively impact the rights of their users. We are not suggesting that GNI should be used to address other related or distinct concerns that may be considered by this Committee during its deliberations.

2) GNI's Governance

- 2.1 GNI's launch in 2008 was a result of proactive and collective efforts by ICT companies, human rights and press freedom organizations, academics, and investors to address increasing demands by governments on ICT companies to censor and/or hand over user data. GNI has developed a set of Principles (the Principles) and Implementation Guidelines (the Guidelines) based on international human rights laws and standards, which guide responsible company action when facing restrictions from governments around the world that could impact the freedom of expression and privacy rights of users, and to which all GNI members commit. More than 1.5 billion people in over 120 countries in Africa, North, Central and South America, Europe, the Middle East and the Asia-Pacific are affected by the standards and user rights protections outlined by GNI principles.
- 2.2 To ensure accountability, GNI assesses member company compliance with the GNI Principles and Implementation Guidelines. The assessment process seeks to determine whether GNI member companies are making good faith efforts to implement the Principles and demonstrating improvement over time.
- 2.3 On the basis of the trust built among members through assessment, GNI also fosters internal shared learning. Harnessing the collective intellectual and practical experience and capability of our diverse membership enables GNI to bring unparalleled resources to bear upon new challenges at the intersection of free expression, privacy, and the ICT sector. In addition to structuring and facilitating internal discussion and information exchange, we also proactively engage external stakeholders through our annual learning forum and other topic-specific learning events.
- 2.4 Lastly, GNI actively engages in relevant policy discussions to promote rule of law and the development of laws, policies and practices that promote and protect freedom of expression and privacy. GNI's policy work includes support for and amplification of the work that our members conduct in their individual capacity, as well as coordinated and collective engagement through GNI.
- 2.5 GNI is a not-for-profit corporation registered in the United States, with a small staff located in both Europe and the U.S. GNI is governed by a board composed of representatives of our four constituencies (civil society, ICT companies, academics, and investors), and our board is chaired by Independent Board Chair Mark Howard Stephens, CBE.

3) The GNI Principles on Free Expression and Privacy

a. Multistakeholder Collaboration

3.1 GNI facilitates a collaborative approach to problem solving and explores new ways in which the collective learning from multiple stakeholders can be used to advance freedom of expression and privacy. The members commit to engage governments and international institutions to promote the rule of law and the adoption of laws, policies and, practices that protect, respect and fulfill freedom of expression and privacy.

b. Responsible Company Decision Making

3.2 GNI member companies commit to responsible company decision making by aligning their policies, procedures, and processes with the Principles. In addition to ensuring that key decision makers are informed of the Principles, GNI requires companies to proactively identify circumstances where freedom of expression and privacy may be jeopardized or advanced and integrate the Principles into their decision making in these circumstances.

3.3 GNI expects participating companies to implement the Principles when they have operational control. When they do not have operational control, we ask participating companies to use best efforts to ensure that business partners, investments, suppliers, distributors and other relevant related parties follow these Principles. In implementing the Principles, GNI expects companies to prioritize the safety and liberty of company personnel who may be placed at risk.

c. Freedom of Expression

3.4 Freedom of opinion and expression supports an informed citizenry and is vital to ensuring public and private sector accountability. Broad public access to information and the freedom to create and communicate ideas are critical to the advancement of knowledge, economic opportunity, and human potential.

3.5 GNI asks participating companies to respect and work to protect the freedom of expression of their users by seeking to avoid or minimize the impact of government restrictions on freedom of expression, including restrictions on the information available to users and the opportunities for users to create and communicate ideas and information, regardless of frontiers or media of communication. Participating companies commit to protect the free expression rights of users when confronted with government demands that are inconsistent with internationally recognized laws and standards.

d. Privacy

3.6 GNI believes privacy is a human right and guarantor of human dignity. Privacy is important to maintaining personal security, protecting identity and promoting freedom of expression in the digital age.

3.7 Under GNI Principles, participating companies are asked to employ protections with respect to personal information in all countries where they operate in order to protect the privacy rights of users. In addition, participating companies commit to respect and work to protect the privacy rights of users when confronted with government demands, laws or regulations that compromise privacy in a manner inconsistent with internationally recognized principles and standards.

e. Governance, Accountability and Transparency

3.8 A governance structure that supports the purpose of the Principles is crucial in ensuring companies' sustainable commitment to the Principles. Participating companies must be held accountable for their role in the advancement and implementation of these Principles. GNI requires participating companies to adhere to a collectively determined governance structure, with defined roles and responsibilities for participants. Companies are further held accountable through a system of (a) transparency with the public and (b) independent assessment and evaluation of the implementation of the Principles.

4) The GNI Implementation Guidelines

4.1 GNI Guidelines provide a more detailed roadmap to ICT companies on how to put the Principles into practice, and also provide the framework for assessment and collaboration among company, NGO, investor and academic members. The Guidelines are available on our website at: <https://globalnetworkinitiative.org/implementation-guidelines/>.

5) Company Assessment

5.1 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 is made up of a review of relevant internal systems, policies and procedures for implementing the Principles and an examination of specific cases or examples that show how the company is implementing them in practice.

5.2 After self-reporting from the companies to GNI after the first year of membership, an independent assessment is conducted of each company member beginning in their second

year and then repeated every two years. This assessment is conducted by independent, GNI-accredited assessors and includes both a review of company systems and processes, as well as the review of specific, timely, and topical case studies.

5.3 The GNI assessment process is confidential. This allows GNI's multistakeholder Board to review and discuss in detail sensitive case studies of government requests from countries around the world. 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.

5.4 It is the role of the GNI Board to review the company assessments and to conclude whether the GNI member company is making good faith efforts to implement the Principles with improvement over time. The GNI's evaluation of compliance by participating companies will be based on an assessment of the totality of a company's record during the assessment phase to put into operation the Principles and the Implementation Guidelines.