

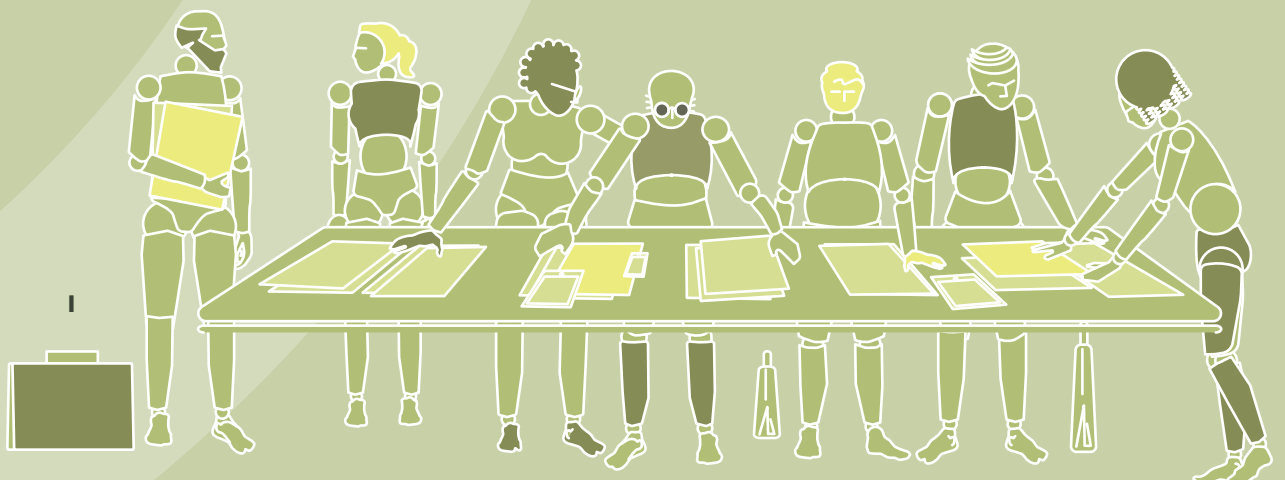
ABOUT THE GLOBAL NETWORK INITIATIVE

The Global Network Initiative plays a unique role in the global conversation about human rights, technology and public policy.

Our multi-stakeholder forum addresses the increasing pressures faced by the Information & Communications Technology (ICT) sector to comply with domestic laws and policies in ways that conflict with the internationally recognized human rights of freedom of expression and privacy.

The independent assessment of member companies, which is the subject of this report, is one of several components of GNI's work. Apart from member companies participating in the biannual independent company assessment process, the GNI pursues a number of important initiatives. These include private and public shared learning activities and policy advocacy – all focused on a multi-stakeholder approach to protecting the free expression and privacy rights of users around the world.

The GNI has an unparalleled ability to bring together civil society, companies, investor groups, academic institutions and others to engage in a dialogue and make recommendations based on the GNI Principles, about the global challenges to freedom of expression and privacy. By seeking common ground and exploring policies and solutions that draw on the perspectives of our diverse stakeholders, the GNI is a uniquely authoritative advocate for public policy



reforms. Whether it's providing views on the technical and human rights implications of a surveillance law, or pushing back against the growing trend of governments seeking to restrict access to online information and services, the GNI helps to shape global public policy and governance issues fundamental to the future of privacy and free expression around the world.

The GNI speaks with one multi-stakeholder voice to policymakers that brings together the perspectives of human rights activists, academics, investors and companies – because it has been carefully designed to:

- build trust among diverse and expert stakeholders;
- identify areas of common interest for policy development and advocacy;
- work together to educate and advocate for policy reform by engaging with governments, international institutions, civil society and the technology sector;
- facilitate the sharing of diverse perspectives and learning among GNI members within our confidential forum; and
- compliment the important work of individual members and partner organizations, while speaking with a voice larger than the sum of its parts.

For more information about the policy positions, advocacy, and learning activities of the GNI, please visit our website.

If you would like to explore membership of the GNI as part of our civil society, academic, investor or company constituencies, please contact the GNI's Executive Director, Judith Lichtenberg, judith@globalnetworkinitiative.org

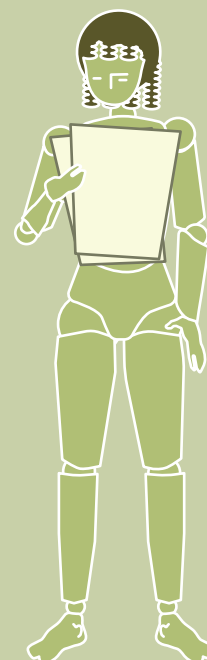
The rest of this document discusses the independent assessment process, which is another distinct component of GNI's work.

A Step-by Step Guide to the GNI assessment process can be found [here](#).

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

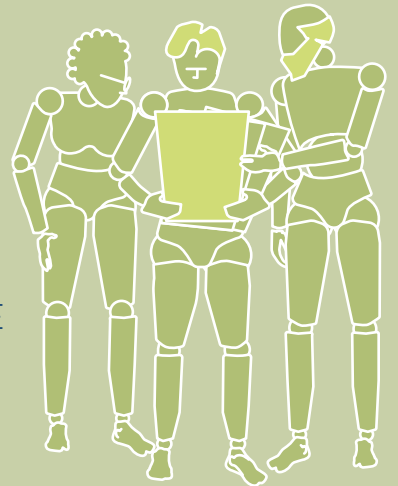
The GNI assessment process continues to evolve. After the completion of this second cycle of assessments in 2016, the GNI will carry out a review of the conduct and results of this assessment process. The review, like that conducted after the first assessment cycle, will allow the GNI to draw on the 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.

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1- INTRODUCTION



1.1 THE GLOBAL NETWORK INITIATIVE

Launched in 2008, the Global Network Initiative is a multi-stakeholder organization bringing together companies, civil society (including human rights and press freedom groups), investors and academics to forge a common approach to protecting and advancing freedom of expression and privacy in the information and communication technology (ICT) sector.

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. The GNI welcomes new members for all its constituencies.

1.2 WHAT ARE THE GNI INDEPENDENT COMPANY ASSESSMENTS?

When companies join the GNI, they commit to the GNI Principles on Freedom of Expression and Privacy (the “GNI Principles” or “the Principles”). The Principles are informed by the corporate responsibility to respect human rights articulated in the United Nations (U.N.) “Protect, Respect and Remedy” Framework and the U.N. Guiding Principles on Business and Human Rights. The Principles were created to provide direction and guidance to the ICT industry and its stakeholders on protecting and advancing the enjoyment of the human rights to free expression and privacy wherever they operate around the globe. The GNI Implementation Guidelines (“Implementation Guidelines”) provide further details on how member companies will put the Principles into practice.

Under the GNI Accountability, Policy and Learning Framework (the “Framework”), each member company participates in an independent assessment of its compliance with the GNI Principles. The independent company assessment process fosters accountability by bringing in independent, third-party assessors to review whether and how a company is meeting its commitments under the GNI Principles and Implementation Guidelines. It provides the GNI with a confidential window into how and what a company is doing to promote free expression and privacy. This accountability process, overseen by the multi-stakeholder GNI Board of Directors (the “Board” or the “GNI Board”) is the only one of its kind in the ICT sector.

WHAT DO THE GNI PRINCIPLES REQUIRE OF MEMBER COMPANIES?

The GNI Principles and Implementation Guidelines provide a framework for responsible company decision-making, including in response to government requests that may impact user privacy and free expression. The GNI Principles do not require companies to violate local law, even when that law is inconsistent with international human rights norms. However, the GNI Principles do require companies to monitor and assess risks to privacy and free expression from local laws, and to take measures to mitigate those risks as set forth in the GNI Implementation Guidelines.

1.3 WHAT IS CONTAINED IN THIS 2015/16 PUBLIC ASSESSMENT REPORT?

This public assessment report covers the 2015/16 independent assessments of the five GNI member companies: Facebook, Google, LinkedIn, Microsoft, and Yahoo. This is the second public assessment report issued by the GNI, following the report on founding companies Google, Microsoft and Yahoo published in January 2014.

The 2015/16 independent company assessments were conducted over a period of one year, from May 2015 to May 2016, and covered a range of topics relating to free expression and privacy online, including government requests for user data or to restrict content,

and internal systems, policies and procedures relevant to these topics. The assessment was limited to a 24-month period, starting for each member company between June and September 2013, and ending between July and October 2015 (the “Reporting Period”).

This report explains how the GNI process works and contains aggregated findings, case examples and information about key challenges identified in this assessment. It also describes the GNI Board’s view of whether each of the assessed companies is meeting its obligations under the GNI Principles and provide examples of the recommendations made by the independent assessors to, as well as examples of follow up on these recommendations by the GNI member companies and the GNI.

TRANSPARENCY AND CONFIDENTIALITY

The GNI is committed to providing as much transparency as possible about the independent assessment process to both its members and the wider public. At the same time, the GNI is mindful that its independent assessment process was designed to be conducted within its confidential forum.

This confidentiality ensures that GNI members from civil society, companies, investors and academics can engage candidly and collaboratively around sensitive issues during the assessment process. It allows companies to provide the maximum amount of information to the independent assessor, and ultimately, to the multi-stakeholder GNI Board.

For these reasons, the majority of the cases or examples included in this report have been anonymized. The report also includes some company cases that have not been anonymized, in order to better illustrate the sorts of cases examined in the assessment process. These examples can be found in section 2.7 “GNI Board Review and Determination”.

Following the completion of the first cycle of assessments in 2014, the GNI undertook a Strategic Review that, among other things, recommended measures to enhance transparency around the GNI assessment process. As part of this current cycle of assessments, we are publishing the GNI Assessment Guidance and Reporting Framework and each assessed company will communicate to the public about the outcome of its assessment within six months of the completion of the assessment process.



2 THE 2015/16 GNI INDEPENDENT ASSESSMENTS

2.1 ASSESSED COMPANIES

The member companies that were independently assessed in the 2015/2016 assessment cycle are Facebook, Google, LinkedIn, Microsoft, and Yahoo. In keeping with the GNI Assessment Guidance and Reporting Framework, the assessments of all five companies consisted of a process review and case review.

Facebook and LinkedIn were subject to an independent assessment for the first time. Their assessments therefore covered all relevant aspects of systems, policies, and procedures to implement their GNI commitments.

This was the second independent assessment cycle for Google, Microsoft, and Yahoo, following the two separate phases that made up the first cycle ending in 2014. As such, these assessments focused on any material changes that have been made since the previous assessment. These assessments also reviewed Google, Microsoft, and Yahoo's responses to the recommendations for improvement they each received as part of the previous assessment cycle.

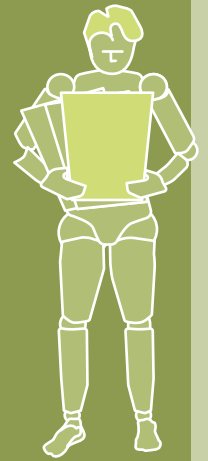
THE GNI ASSESSMENT PROCESS EXPLAINED

Companies that participate in the GNI agree to a process of assessment of their implementation of the GNI Principles. The GNI assessment is conducted in accordance with the GNI Assessment Guidance and the Reporting Framework, and is made up of an initial company self-assessment, followed by the bi-annual independent assessment.

SELF-ASSESSMENT

After one year of GNI membership, the GNI member companies are first required to issue a self-assessment report to the GNI Board.

In its self-assessment report, a company describes the internal systems, policies, and procedures it has in place to implement the GNI commitments, including those for responding to government requests for user data and content removal, its conduct of human rights impact assessments (HRIAs) and its communications with users. After the self-assessment is completed, the company must undergo a bi-annual independent assessment.



INDEPENDENT ASSESSMENT

The purpose of the independent assessment process is to assess whether and how a member company is meeting its commitments under the GNI Principles.

The assessment is conducted by an independent, third-party organization and includes both a company process review and the review of specific cases or examples.



The **process review** is an examination of relevant aspects of internal company systems, policies and procedures that are in place to implement the GNI commitments. Following a company's first independent assessment, the focus of subsequent assessments is on any material changes that have been made since the previous assessment. Material changes include changes to systems, policies, and procedures to implement the GNI Principles, new markets, products and services, mergers, acquisitions or emerging human rights challenges, with a focus on the impacts of those changes to the rights of freedom of expression and privacy.

The **case review** assesses a number of specific cases or examples for each company in order to understand how the company is implementing the GNI Principles and Implementation Guidelines in practice. A case can be a single request or related set of requests from a particular government to a company or an example of a particular company process or policy that addresses GNI issues, such as a procedure to escalate cases to senior staff for review, or the conduct of a HRIA when acquiring a new business or entering a new market.

THE ROLE OF THE ASSESSOR AND THE GNI BOARD

The assessor assembles factual findings and prepares a set of recommendations based on those findings.

The role of the GNI Board is to review the assessor findings and to conclude whether a GNI member company is compliant with the GNI Principles. The Board then communicates that determination to the public.

THE GNI BOARD DETERMINATION

A determination of compliance means that the GNI Board believes that a member company is making good faith efforts to implement and apply the GNI Principles with improvement over time. The public report on the independent assessment process is issued by the GNI after the determinations are completed.

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

2.2 WHO ARE THE INDEPENDENT ASSESSORS?

Only organizations accredited by the multi-stakeholder GNI Board are eligible to conduct the independent assessments of member companies. Accredited assessors must meet the independence and competency criteria required by the GNI, and enter into an accreditation agreement with the GNI.

In 2013, the GNI accredited five assessor organizations. In 2015, four new organizations were accredited and another four were re-accredited. Each company must choose an assessor from that pool of accredited assessor companies and separately contract with their chosen assessor.

From the 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 companies to conduct the 2015/16 assessments described in this report.

The current cycle of assessments commenced in May 2015 with the GNI conducting an assessor orientation and training session for all accredited assessors. Assessors were briefed on the purpose of the assessment, the roles of the GNI Board, the GNI staff and non-company constituency members in the process, and the changes to the assessment process as a result of the 2014 GNI Strategic Review. The session also provided an opportunity to reflect on assessor recommendations

about the scope and methodology of the assessment process that arose from the first cycle of assessments ending in 2014.

2.3 CASE SELECTION

The case selection for the 2015/16 assessments focused on actual cases that arose during the Reporting Period. The objective was to select cases that were salient to each company's approach to implementing the GNI Principles given the company's products and services, geographical footprint, operating environments and particular human rights risk profile. Cases covered a range of scenarios. Some cases consisted of a single government request, or sets of related similar requests, and some showed how a company operated in a particular environment, rather than how it responded to a specific request. A number of topics related to freedom of expression and privacy were also covered.

The assessors consulted with the GNI's non-company stakeholders, who identified, based on their expertise, specific countries and operating environments where freedom of expression and privacy are at risk, specific cases of government requests, and certain company policies and procedures for consideration by the assessors.

The assessors conducted their own research and reviewed external sources, focusing on the countries where a company member is likely to face the greatest challenges. Based upon the criteria for case selection set forth in the GNI Assessment Guidance, assessors were required to include at least 8 cases per company, with some related to privacy and some to free expression. The companies provided cases based on these criteria, and the company and assessor agreed to specific cases. The assessment report was required to include an account of why any case that was specifically recommended in the case guidance was not selected for the assessment.

CASE SELECTION IN CONTEXT

The review of responses to specific government requests is based on a limited number of cases. The cases do not represent a statistically significant sample of cases and no inferences can be drawn about the total population of requests received by the companies in the Reporting Period based on this limited sample.

The cases are selected to try to address issues of particular concern and challenges highlighted by the GNI Board and the GNI participants. The assessment report reflects both the strengths of the approaches used by companies, and instances where gaps and opportunities for improvement may exist, often as a result of constantly evolving operating environments and circumstances on the ground.

2.4 ASSESSOR ACCESS TO INFORMATION

In line with the GNI Assessment Reporting Framework, the assessors provided commentary to the GNI Board on whether their access to information was sufficient to effectively conduct the assessment described in this report. The assessors also included information in their reports on the number of interviews that were conducted, as well as on the roles and responsibilities of senior management and other employees that were interviewed.

For all of the assessed companies, the assessors informed the GNI Board that when they were unable to review specific documents or access certain information due to limits on disclosure (as outlined in "Limits on Disclosure" - see below), they were able to make use of alternative approaches that were sufficient to acquire the necessary information. These approaches included interviews with senior management and other relevant employees; reviewing written responses to specific questions; and reviewing documentation of incoming government requests and outgoing company responses.

LIMITS ON DISCLOSURE

The GNI assessments are a review by independent third party assessors of company responses to government requests implicating free expression and privacy. However, both external and internal company constraints limit the information available to assessors. These limits were recognized at the time of the formation of the GNI.

Specific reasons for limits on disclosure include the following:

LEGAL PROHIBITIONS

There are situations where companies are legally prohibited from disclosing information. For example, in the United States, some companies face non-disclosure obligations covering National Security Letters and United States Foreign Intelligence Surveillance Act (FISA) orders.

USER PRIVACY

Companies have legal obligations to maintain the privacy of users' personal information as set out in their Terms of Service and privacy policies. This can affect a company's ability to disclose information about a case, even if that case is well known and has been the subject of public reporting.

ATTORNEY-CLIENT PRIVILEGE

These are instances where internal company information is the subject of legal advice.

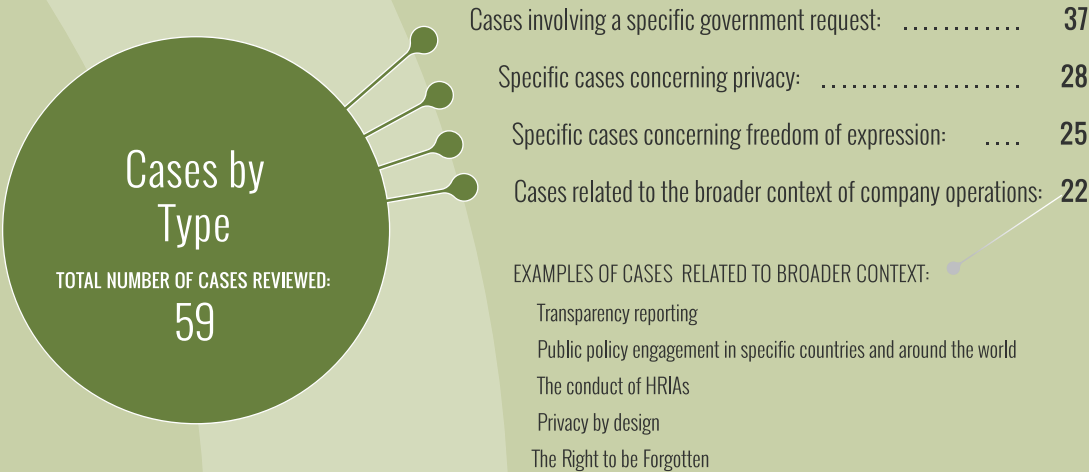
COMPANY CONFIDENTIAL INFORMATION / TRADE SECRETS

GNI assessment reports are reviewed by the GNI Board, which includes representatives from other GNI member companies. As such, companies may withhold confidential information, including trade secrets, from the assessment process. In addition, an antitrust review is completed on the assessment reports prior to their distribution to the GNI Board.

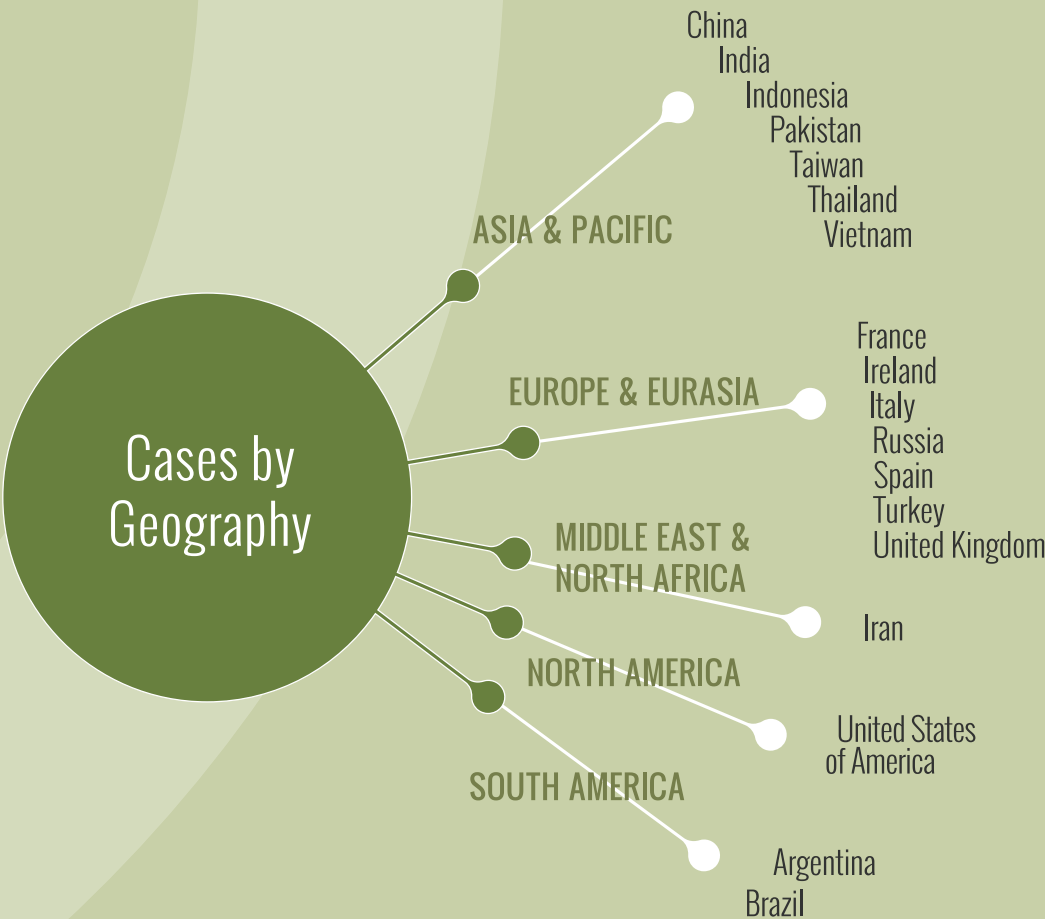
2.5 AGGREGATED FINDINGS AND CASE EXAMPLES

In this section we present specific findings from the assessment process in aggregate. We also include a set of individual cases that have been anonymized for company, and in some cases also for country. For more information on why we use aggregation and anonymization see Transparency and Confidentiality.

2.5.1 CASES BY TYPE

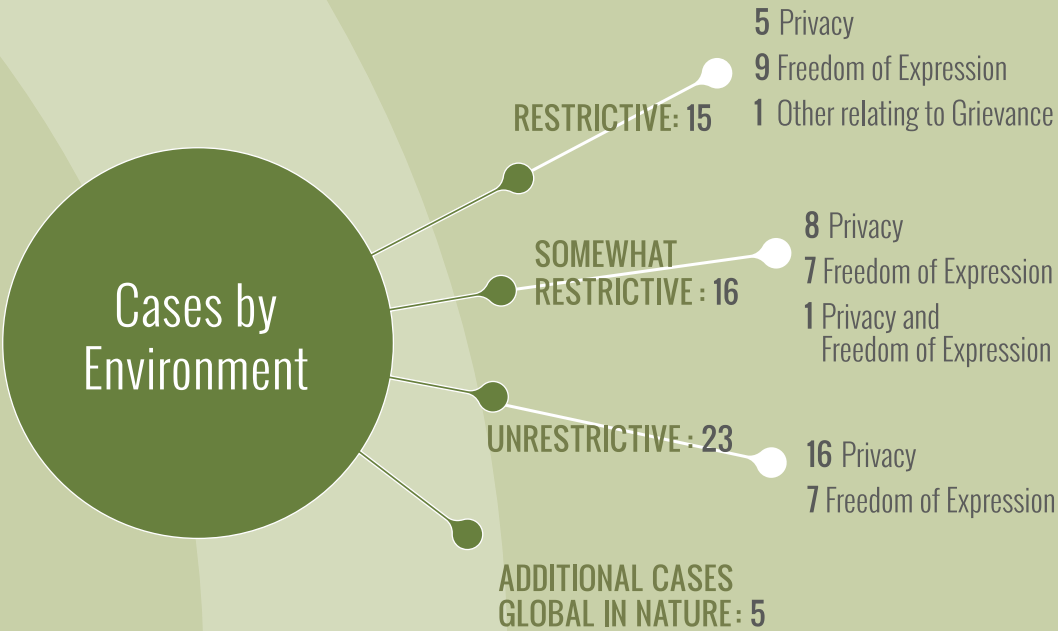


2.5.2 CASES BY GEOGRAPHY

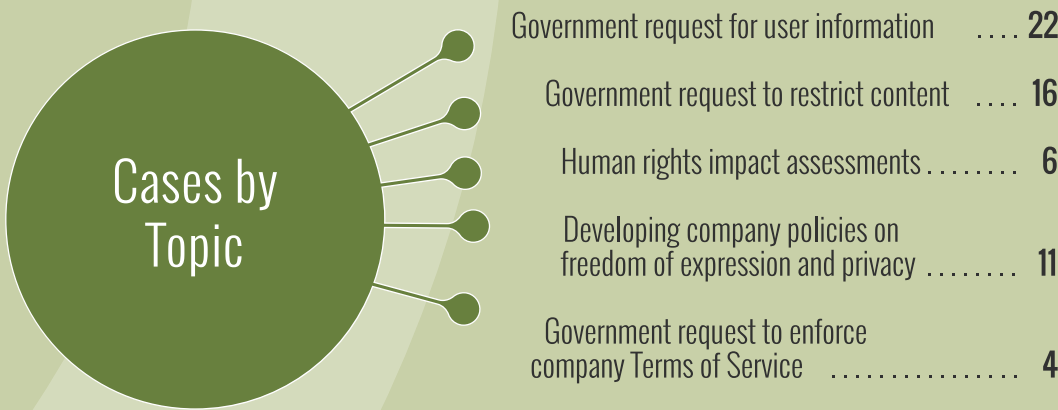


2.5.3 CASES BY OPERATING ENVIRONMENT

The Case Guidance provided by GNI non-company members highlighted threats to free expression and privacy across different operating environments. These operating environments are classified as Restrictive, Somewhat Restrictive, and Unrestrictive. The assessors and companies used this guidance as part of the case selection process.



2.5.4 CASES BY TOPIC



2.5.5 CASES BY RESULT

The GNI Principles and Implementation Guidelines require companies to narrowly interpret government requests and to ensure that applicable legal procedures are followed. Case reviews conducted in the current assessments indicate that this approach is being applied. In a number of cases it has resulted in the denial of all or part of these government requests:

- In six of the of 25 freedom of expression cases, the company sought clarification or modification of the request, and based on the requestor's response, decided not to take action to remove or restrict access to content covered in a request.
- In five of the 25 freedom of expression cases, the company determined the request stated a valid legal basis and removed or restricted access to the content as requested.
- In nine of the 28 privacy cases, strict interpretation of jurisdiction contributed to the denial of a request and referral of governments to established legal procedures (such as Mutual Legal Assistance Treaties).
- In four of the 28 privacy cases, the company provided user data to the authorities in response to valid legal process.
- In four of the 28 privacy cases, the company interpreted the request for user data narrowly and provided a subset of the information that was requested.

2.5.6 SELECT CASE EXAMPLES

This section provides a summary of select cases from the five independent assessor reports in the 2015/2016 assessment cycle. For more information on why we use aggregation and anonymization see Transparency and Confidentiality.

REQUEST FOR USER DATA FROM IRAN

A company received a written request from a public-domain e-mail address in Iran asking for content and non-content data. The company informed the requestor to resubmit the request from a valid government e-mail address. The company later received a second request from the same person, this time using a valid Iranian government address. The request was reviewed pursuant to the company's policies and the company determined that it was not valid legal process and was not classified as an emergency request. The company denied the request and explained to the requestor that Mutual Legal Assistance Treaty (MLAT) procedures could be pursued should the requestor wish to obtain this data. The company also provided information on the proper legal process to be followed for requesting and potentially obtaining user data through MLAT procedures.

REQUEST FOR CONTENT REMOVAL FROM THE UNITED KINGDOM

A company received a written request from a U.K. law enforcement agency to remove nine images that allegedly promoted and glorified terrorism. Pursuant to company policy, the request was reviewed and it was determined that one image should be removed because it violated the company's community guidelines. The company did not remove the other eight images because in context they appeared to expose and condemn violent extremism and did not violate the company's terms or guidelines.

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REQUEST FOR RESTRICTION OF CONTENT IN RUSSIA

A Russian government agency requested a company to remove an ISIS recruitment newsletter which had been posted by a user. In accordance with company policy, the legal department reviewed the content first to determine whether it violated the company Terms of Service. A decision was made that the content incited violence and terrorism in violation of company terms, and the content was removed.

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REQUEST FOR USER DATA IN THE UNITED STATES

A company received a search warrant for non-content data of a user that included non-disclosure language from a local Chief of Police. The request alleged, among other things, that an individual (possibly a dissatisfied employee of the police department) had requested that the Chief be fired and asked the public to come forward, online, with information about corruption in the police. The affidavit alleged that the conduct in question violated the relevant State's cyber-stalking law. The company contacted the Chief and asked for permission to notify the account holder in accordance with its policy and for clarification as to how the warrant was supported by the First and Fourth Amendments of the U.S. Constitution. The case was escalated the company and to outside counsel who involved the local District Attorney and the Town Attorney. When the company suggested that it was willing to litigate the case, it received no further communications from the Chief of Police, District Attorney or Town Attorney.

REQUEST FOR USER DATA IN ASIA

A company received a request from a police department in Asia asking for data associated with an email account. The company rejected the request because it was not directed at the correct legal entity.

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REQUEST TO REMOVE CONTENT IN BRAZIL

A company received two requests to remove content that was allegedly defamatory. The first request came from a former state employee who sought removal of a copy of a court decision in which he was convicted of offenses related to corruption. Company staff determined that it did not violate company policy and was not defamatory on its face, and the company refused to remove the material. The user sued the company, and the courts ruled in favor of the company. The second, unrelated request was received in the form of a valid court order, and the company complied by removing the defamatory material.

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REQUEST IN ASIA

An Asian government issued a legal request seeking the removal of content that was purportedly insulting to religious groups and intended to cause social unrest. The legal request also sought the personal data of the user who posted the content. The company decided to restrict visibility of the content for users in the requesting country because the company found that the content violated local law. However, because its staff determined that the request for personal data could impact the user's privacy and freedom of expression, the company notified the authorities that the personal data being sought could only be provided if legal process was received through a mutual legal assistance or letter rogatory process. The government did not follow up and the requested data was not provided.

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REQUEST FOR USER DATA IN SOUTH AMERICA

The company received a request for non-content data of a user in the the context of criminal proceedings. The request was not presented in a valid format, as it was missing a judge's signature, nor did it have a proper stamp. In accordance with company process, staff notified the authorities of the defects in the request. When these defected were remedied, the company produced the non-content data in its possession.

IMPLEMENTING THE GNI PRINCIPLES AT A NEWLY ACQUIRED COMPANY

GNI companies have committed to follow the Principles and Implementation Guidelines in all circumstances where they have operational control, and to use best efforts, where they do not, to ensure that business partners, investments, suppliers, distributors and other relevant parties follow the Principles. Understanding what this means in practice was a challenge identified in the 2013 assessment. In this assessment period, one company discussed how it worked to integrate the GNI Principles and Implementation Guidelines at an acquired company that continues to be independently operated. The GNI member company worked with the acquired company post-acquisition to evaluate the acquired company's systems, policies and procedures against the GNI Principles and Implementation Guidelines. The GNI representatives within the member company established regular meetings with representatives of the acquired company who handle public policy, law enforcement response, and trust and safety matters. In these meetings, the GNI Principles and Guidelines are regularly discussed. The GNI member company also provided its assessors and the GNI Board with case examples related to government requests received by the acquired company that demonstrated how the acquired company's policies and procedures are applied in practice.

2.6 KEY CHALLENGES

In the following section we describe some important issues of challenge for company implementation of the GNI Principles that have been identified by GNI's multi-stakeholder Board arising from our assessment process.

The first set (2.6.1) are those that have remained in focus since the 2013/14 Independent Assessments were carried out. The second (2.6.2) are those challenges identified as part of the 2015/16 assessment process.

2.6.1 KEY CHALLENGES IDENTIFIED IN THE 2013/14 ASSESSMENT

Challenges identified by the GNI Board from the 2013/14 assessment are:

I. NATIONAL SECURITY REQUESTS

Legal prohibitions on the disclosure of information relating to national security requests, or even the existence of the request itself, present a significant on-going obstacle to companies' ability to be transparent regarding such requests.

Since the previous cycle of assessments, GNI companies have taken important steps to improve transparency about national security requests, particularly in the United States. All five assessed companies filed successful legal challenges with the U.S. government seeking the right to share more information with the public about national security requests for user data. GNI and its member companies advocated for the passage of the USA FREEDOM Act, which allows companies to be more specific in their disclosures of national security requests and ends the use of indefinite non-disclosure provisions for National Security Letters. GNI companies also continue to advocate for legislative reforms to increase transparency and to protect freedom of expression and privacy around the world. For example, GNI companies submitted evidence for the Parliamentary scrutiny process for the United Kingdom's Investigatory Powers Bill, and also advocate globally through organizations such as the Asia Internet Coalition.

The GNI will continue to advocate for greater transparency around laws and practices related to this issue. We will be engaging with governments, international organizations and other stakeholders, including around the U.N. Special Procedures and with the Freedom Online Coalition.

II. HUMAN RIGHTS IMPACT ASSESSMENTS FOR NEW ACQUISITIONS AND BUSINESS RELATIONSHIPS

This current cycle of assessments has illustrated to the GNI Board that member companies are taking, or are continuing to take steps to integrate the GNI Principles into all of their operations. Integrating the conduct of HRIAs in decision-making processes is an element of "Responsible Company Decision Making" in the Implementation Guidelines, and this remains a key focus of the GNI Board. The Board particularly noted the importance of conducting HRIAs to identify how companies' product changes, acquisitions, and business relationships may impact the rights to freedom of expression and

privacy of users. The GNI has made HRIAs a key part of its learning program and will continue to do so in the future, in order to continue to identify and encourage the use of best practices for companies in this area.

III. GOVERNMENT REQUESTS AND COMPANY TERMS OF SERVICE

The previous cycle of assessment identified government requests to companies to enforce their own Terms of Service as a potential challenge for protecting user rights. It was noted that decisions about whether content referred by governments to a company violates a company's Terms of Service should be subject to appropriate internal review to ensure the company's compliance with its commitments to the GNI Principles. This has been an area of focus for shared learning within the GNI that was enriched and informed by the findings from the assessments.

In the 2015/16 assessment cycle GNI Board members expressed concern at the levels of transparency to users when companies respond to government authorities reporting violations of company Terms of Service to request the review or removal of content. Of particular note in the current climate are requests by law enforcement and other agencies for companies to remove "extremist" or "terrorist" content via reports of Terms of Service violations or outside of regular legal processes.

2.6.2. KEY CHALLENGES IDENTIFIED IN THE 2015/16 ASSESSMENT

In the 2015/16 assessment cycle, two further areas of concern were identified: the acute frustration by government and law enforcement agencies with securing evidence from outside their jurisdictions through the current cross border data request regimes, and the significant escalation of the global debate around the role of ICT platforms and the regulation of "extremist" or "terrorist" content.

I. CROSS BORDER DATA REQUESTS

In regards to cross-border law enforcement requests, the Board noted that the cases examined showed that in appropriate instances, GNI member companies reject government requests for users' content data that are not submitted according to the terms of the relevant

legal processes, including the appropriate mutual legal assistance treaty (MLAT). The Board also noted the growing concern that the current system – which requires all content requests to U.S. domiciled companies be processed by the U.S. Justice Department – is under ever-increasing stress. Long wait times and procedural delays associated with the MLAT process are leading to increasing pressure on companies from governments with legitimate needs for evidence related to crimes committed in their jurisdictions. As a result, governments are increasingly developing policies, laws and regulations that require data localization, assume greater surveillance powers, unilaterally assert jurisdiction beyond borders, or undermine encryption.

For the past two years, the GNI has prioritized advocating for reforms to the MLA regime, and published a [report](#) in January 2015 with a series of recommendations for a more efficient and streamlined process. The GNI will continue to advocate for reforms to the current MLAT system. Most recently, the GNI Board declared its support for developing a new international cross-border data framework that will allow some governments to make data requests to companies, provided that robust international standards protecting human rights are demonstrated by these countries, and that the requests themselves also meet these international standards.

II. EXTREMIST CONTENT ONLINE

Several of the cases examined as part of this assessment concerned government requests to restrict content, block search results, or provide user data associated with “extremist” or “terrorist” content online. The GNI notes that there remains no internationally agreed definition of “extremist” or “terrorist” content, and the scope of content that might be deemed illegal will vary depending on national laws.

The GNI Board examined company practices and policies for responding to these requests and learned that when law enforcement authorities request the restriction of this material, the most common approach by the companies has been to first evaluate the content to determine whether it violates the companies’ Terms of Service. If it does not, members of the legal team then assess whether the content violates the laws of the country requesting its restriction. The GNI Board learned that the majority of the assessed companies log requests from government authorities in their transparency reports, regardless of whether they are presented as official law

enforcement requests or requests to enforce Terms of Service. If government authorities anonymously request the enforcement of Terms of Service, however, via in-product, user-facing reporting tools, companies may be unable to identify the request as coming from a government agency, and therefore, be unable to collect data and report on those requests.

The GNI Board discussed the benefits and drawbacks of company policies that would encourage authorities to identify themselves when making such requests. When requests to restrict “extremist” content are received and identified as coming from a law enforcement agency, the Board found that companies often use, when appropriate, escalation procedures (whereby the request is sent to senior staff to evaluate and resolve). On several occasions, escalations resulted in companies pushing back against overbroad government requests.

In July of 2015, the GNI launched a policy dialogue to identify and explore key issues, challenges and questions for Extremist Content and the ICT sector. This policy dialogue is ongoing, and has included a series of roundtable discussions. The roundtables, held in London, Washington D.C. and Brussels under the Chatham House Rule, have brought together government officials and law enforcement agencies with companies, human rights and press freedom groups, academics and socially responsible investors – including GNI members and select other non-GNI member organizations and individuals.

2.7 GNI BOARD REVIEW AND DETERMINATION

After a detailed review of the confidential assessment reports and discussions with the companies and assessors, the multi-stakeholder GNI Board met and voted on the companies’ compliance with the GNI Principles and Implementation Guidelines.

For the review of the current cycle of assessments described in this report, the GNI Board met in Washington DC on March 10, 2016. The Board determined that Facebook, LinkedIn, Microsoft, and Yahoo are compliant with the GNI Principles. At a subsequent GNI Board meeting on May 23, 2016 the GNI Board determined that Google is compliant with the GNI Principles.

A finding of compliance indicates that the GNI Board believes the company has committed to the GNI Principles by adopting and

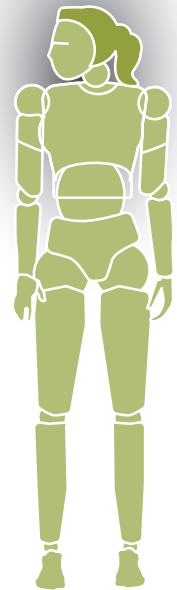
maintaining policies and procedures to implement them. It also indicates that, based on the cases reviewed, the company is making good faith efforts to implement and apply the Principles, and to improve this implementation over time.

The Board noted at its March 10 meeting that Google was unable to submit its report for GNI Board consideration in the timeframe originally specified by the Board, due to reasons that were explained and accepted by the Board. Google provided a new timeline in which its report would be submitted and its compliance with the GNI Principles determined. The Board accepted this timeline and decided to report on the compliance of all participating companies at the same time.

FACEBOOK

The GNI Board conducted its first independent assessment of Facebook and determined that the company is compliant with the GNI Principles.

The Board noted that Facebook has set up an organizational structure and has defined clear responsibilities for the implementation of the GNI Principles within the organization, including for WhatsApp and Instagram. Facebook has established policies and procedures to implement the GNI Principles into daily operations.



The Board noted that senior Facebook management and the company's Board of Directors receive updates regarding human rights issues on a regular basis, and as needed when specific situations arise. Four teams coordinate the implementation of the GNI Principles in company operations: Public Policy, Legal (including the Law Enforcement Response Team), Community Operations, and the Privacy Program. All new Facebook staff members receive training related to freedom of expression and privacy during their orientation, and external experts provide additional training for various teams on a periodic basis as needed. The company has a formal whistleblowing mechanism, and employees are also encouraged to raise concerns and provide feedback about company policy and actions informally, which they regularly do.

In regards to human rights impact due diligence, Facebook employs a process by which product changes are assessed for potential privacy and freedom of expression issues (and other issues of concern to the people who use Facebook products). The assessment process examined how this process operated with respect to the launch of a number of products and feature updates. Human rights due diligence may also take place when changes occur in the political environment of countries in which Facebook has a presence.

Facebook's policies for handling government requests for user data are made public on its website. The GNI Board noted that escalation procedures (whereby cases are referred to appropriate senior staff) are in place, and the company presented evidence that they are used when situations affecting the free expression and privacy rights of Facebook users arise. In early 2015, for example, French police requested that Facebook provide non-content data of a user who had posted content that the authorities had identified as glorifying terrorism. Given the sensitivity of the situation, the company escalated the request to senior members of two departments and consulted outside counsel. The company determined that the request impacted the user's freedom of expression rights, and it informed the authorities that the data would only be provided in accordance with the mutual legal assistance or letter rogatory process. The French authorities did not contact the company again about this matter.

The cases reviewed by the assessors in this assessment and considered by the GNI Board illustrate that Facebook regularly faces complex situations in which government requests impact the freedom of expression and privacy rights of its users around the globe. The Board noted that the company provided evidence that they have policies and procedures in place in response to these challenges, and that the company has committed to continually assessing these policies and procedures in order to respect the GNI Principles.

The Board also noted Facebook's engagement on public policy issues with governments around the world and in the media. This includes Facebook being an active member of the Reform Government Surveillance coalition, formed in 2013 to advocate for surveillance reform and greater government transparency in the United States and abroad.

Since 2013, Facebook has issued a Government Requests Report every six months that includes statistics about law enforcement requests for user data (including national security-related requests for user data in the United States) and, as of 2014, the number of pieces of content restricted in response to local legal restrictions. This transparency report also describes the company's process for responding to law enforcement requests and provides some details as to the type of requests for content restriction that it receives.

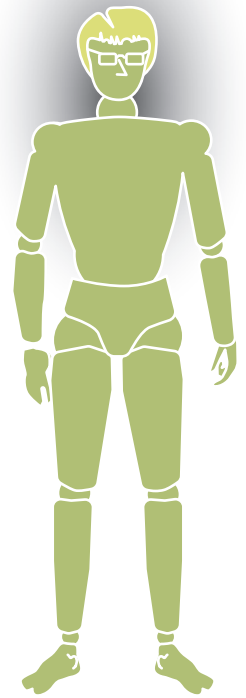
GOOGLE

The GNI Board conducted its second independent assessment of Google and determined that the company is compliant with the GNI Principles.

The Board noted that freedom of expression and privacy continue to be taken seriously within Google. This was illustrated by how the company deals with emerging human rights challenges, including the 2014 European Court of Justice ruling on the so-called “Right to be Forgotten”. In the aftermath of the *Costeja* decision, for example, Google undertook a series of activities to ensure its implementation of the ruling sufficiently took into account the balance of privacy and access to information demanded by the ruling. In July 2014, Google announced an Advisory Council to hold public meetings across Europe to examine the issues raised by the “Right to be Forgotten” in more depth, and it launched related statistics in its Transparency report.

Implementation of the GNI Principles is overseen at the senior management level, with event driven reporting to the Google Board as necessary. All employees below senior level are trained in privacy, while freedom of expression training is provided to employees where necessary for their roles. Google’s restructuring under a new parent company, Alphabet, took place after the assessment period. The Board was informed that the GNI values are strongly embedded in Google’s company culture, and the company acknowledged that the recent restructuring provides an opportunity to evaluate how best to ensure that this continues, and that there are appropriate internal arrangements for senior oversight of the company’s human rights commitments in the new corporate framework.

The Board was informed that Google continues to conduct HRIAs to assess potential threats to freedom of expression and privacy. Google indicated that the description of what the company does prior to offering localized services for YouTube provides an overview of how the company approaches HRIAs when entering a new



market. The company explained that YouTube currently offers localized services in 88 countries. Prior to localizing in a new market, the company approach is to first examine the government's record with respect to freedom of expression and privacy by consulting reports prepared by NGOs and analyzing the laws that are relevant for freedom of expression and privacy in that country. YouTube staff work with external legal counsel to conduct the analysis, and when risks are identified, the General Counsel, YouTube CEO and Google senior management are involved in discussions and decision-making. YouTube's process for conducting these HRIAs is regularly updated and refined. YouTube staff also conducts outreach to local content creators to ensure that they understand YouTube's Community Guidelines, and that they are aware of strategies for minimizing their personal risk online.

Google is continuously evolving how information on inputs and outputs of HRIAs for entry into new markets is shared among different departments, and Google will consider how improvements can be made to this area in the future.

The Board also noted Google's public policy engagement with governments and other stakeholders around the world and in the media. Google has, for example, consistently supported measures that enable internet services to disclose more information about the volume, scope, and type of national security demands it receives from the United States government, as well as supporting surveillance reform efforts in various countries across the world. This includes Google being an active member of the Reform Government Surveillance coalition, formed in 2013 to advocate for surveillance reform and greater government transparency in the United States.

Since 2010, Google has published a Transparency Report, and in subsequent years has expanded the data and context disclosed in the report. In 2013, for example, Google was the first company to disclose information about National Security Letters. In this assessment period, Google began including governments that made less than 30 requests during a six-month period (in addition to those that made 30+ requests over six months). Google also included new disclosures around emergency disclosure requests and preservation requests, and a new section on encryption of its Gmail service. In December 2015, following the enactment of the USA FREEDOM Act

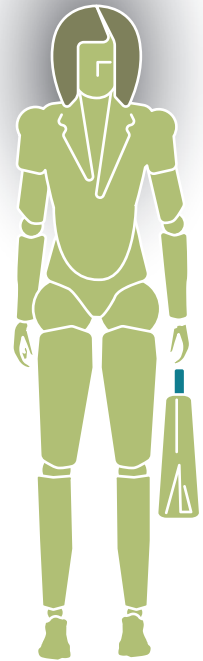
that enabled reporting of aggregate statistics about the volume and scope of national security demands received under the FISA, Google published the latest FISA statistics pursuant to the new rules.

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LINKEDIN

The GNI Board conducted its first independent assessment of LinkedIn and determined that the company is compliant with the GNI Principles.

As part of its deliberations, the GNI Board noted that LinkedIn has taken important steps to implement its commitment to the GNI Principles. LinkedIn's Board of Directors receives regular briefings on freedom of expression and privacy issues that arise in the company's operations, and Board members participate in making major business decisions that have implications for these rights. The team that oversees the implementation of the GNI Principles includes LinkedIn's General Counsel, the Head of Global Compliance and Ethics, and the Head of Global Public Policy and Government Affairs.



The company has policies and procedures in place for responding to government requests that impact privacy and freedom of expression and the cases examined as part of the assessment process illustrated how escalation procedures operate. The company is committed to evolving these policies and procedures in the coming period and continuing to build existing internal systems. Company employees receive training on privacy and freedom of expression, as well as how to evaluate government requests and escalate them within the LinkedIn corporate structure for the prompt attention of appropriate senior staff.

The GNI Board noted the company's human rights due diligence activities prior to its entry into China and in other challenging jurisdictions, as well as the mitigation measures that were adopted after risks were identified. The assessor and the GNI Board noted that the company's approach to human rights impact assessment has evolved as it has gained experience and as the company has actively consulted with civil society organizations and experts, including with respect to China. The company also performs due

diligence with regard to potential vendors. The GNI Board noted that the company is committed to continue to develop its use of HRIAs.

The GNI Board also noted that, whenever permitted by law, LinkedIn informs its members when content is restricted, or when personal data is provided pursuant to a request from law enforcement authorities. The company explained how its products and policies are designed to protect member privacy, including, for example, training programs, privacy and security assessments for new products and features, privacy and security tools and settings for LinkedIn members, and guardrails governing how and where sensitive member data can be stored. The cases evaluated in this assessment illustrated to the GNI Board how these policies are used in response to challenging requests by governments.

LinkedIn is working individually and collectively, through GNI and other initiatives, to promote freedom of expression and privacy. This includes LinkedIn being an active member of the Reform Government Surveillance coalition formed in 2013 to advocate for surveillance reform and greater government transparency in the United States.

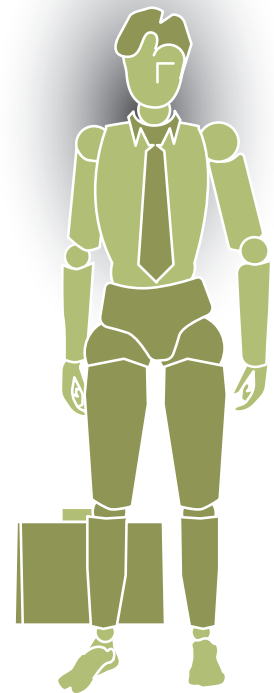
Since 2013, LinkedIn has issued a Transparency Report every six months that includes statistics on government requests for user data worldwide, and national security-related requests in the United States. The report also describes the company's policy for responding to government requests for member data worldwide.

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MICROSOFT

The GNI Board conducted its second independent assessment of Microsoft and determined that the company is compliant with the GNI Principles.

The Board noted that the Microsoft's Board of Directors receives briefings on the GNI and GNI implementation. Day-to-day oversight of matters related to the GNI are the responsibility of the Vice President and Deputy General Counsel, who escalate matters as needed to the President and Chief Legal Officer. Training in the GNI Principles is undertaken at all levels of the company including local staff around the world, and staff at headquarters in the United States.



The GNI Board noted that Microsoft continues to maintain policies, procedures, and systems that expressly implement the GNI Principles across the company. The cases evaluated by the assessors and the GNI Board provided evidence that these policies and procedures are followed when governments request the personal information of users or the restriction of content.

In regards to human rights impact due diligence, the GNI Board noted ways in which Microsoft has assessed the impact of its partnerships and operations in jurisdictions around the world and has taken measures to mitigate the risk of negative impacts on the rights to freedom of expression and privacy.

The Board noted the company's increased commitment to filing legal challenges against requests for data that could set negative precedents for user privacy. For example, in December of 2013, Microsoft received a search and seizure warrant from a U.S. federal court seeking content and non-content data from the email account of a user. When the company determined that the pertinent data was stored on a server outside the United States, it used the internal escalation process to determine how to respond. Senior management decided to challenge the warrant in court and raise the legal question

as to whether law enforcement may “invoke the Electronic Communications Privacy Act (ECPA) to conscript providers to search and seize private emails in a foreign country”. The company has appealed adverse decisions, and the case is pending before the U.S. Court of Appeals for the Second Circuit.

The GNI Board also noted Microsoft’s engagement with governments, policy makers and the media on a range of issues related to privacy and free expression. This includes Microsoft being an active member of the Reform Government Surveillance coalition, formed in 2013 to advocate for surveillance reform and greater government transparency in the United States.

Since 2013, Microsoft has published transparency reports every six months that provide statistical information on legal demands for customer data from law enforcement agencies around the world. In early 2014, following a lawsuit against the U.S. government, Microsoft secured permission to publish some information about governmental demands for customer data through legal orders issued pursuant to U.S. national security laws, such as the FISA. In 2015 those transparency reports and a new “Content Removal Requests Report” were consolidated in the new Microsoft Transparency Hub. The first Content Removal Requests Report in October 2015 included data on government requests, requests from copyright owners to Bing, and requests from European residents to filter search results about them on Bing for queries that include their names under the European Court of Justice’s 2014 “Right to Be Forgotten” ruling. The Microsoft Transparency Hub also describes the company’s procedures for responding to government requests.

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YAHOO

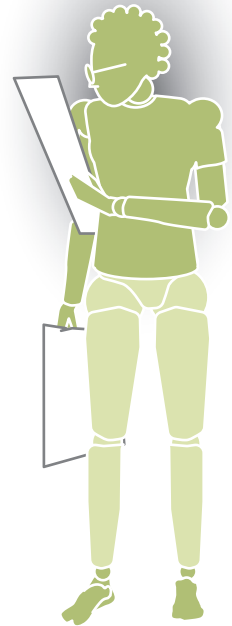
The GNI Board conducted its second independent assessment of Yahoo and determined that the company is compliant with the GNI Principles.

Yahoo's Business & Human Rights Program (BHRP) leads Yahoo's efforts to make responsible decisions in the areas of freedom of expression and privacy, and to implement the GNI Principles and Implementation Guidelines.

Yahoo's Board receives updates prepared by the BHRP on issues related to global human rights risks and opportunities through periodic reports from Yahoo's General Counsel. All Yahoo employees receive information on the BHRP and the issues it covers through mandatory annual trainings. The BHRP also conducts tailored trainings with specific teams, including with senior executives, on relevant privacy and free expression issues.

The GNI Board noted that Yahoo continues to maintain policies, procedures, and systems to implement the GNI Principles. The cases reviewed by the assessors and considered by the GNI Board in this assessment provided evidence that these policies and procedures are followed in practice in Yahoo's process for responding to law enforcement requests for user data and content removal. These cases showed how Yahoo uses escalation procedures when appropriate and included instances where Yahoo required clarification of requests or demonstrated its willingness to challenge certain requests in court.

The GNI Board noted that Yahoo's BHRP performs HRIAs in relation to new and existing Yahoo products, services, markets and acquisitions, and that these HRIAs are regularly reviewed and updated. As a result of this process, Yahoo has taken measures to mitigate the risk of negative impacts on the rights to freedom of expression and privacy. Information about Yahoo's HRIA process is made publicly available on the [BHRP website](#).



The GNI Board noted that Yahoo has continued to pursue legal challenges to petition for greater transparency for its users. For example, in 2007, the U.S. Government amended a key law to demand user information from online services. Yahoo had refused to comply with what it viewed as unconstitutional and overbroad surveillance, and challenged the U.S. Government's authority before the FISC in secret, classified proceedings. While Yahoo's challenge did not succeed, Yahoo requested the declassification release of once-secret documents related to this challenge. These efforts resulted in the release of over 1,500 pages of documents in September 2014. Yahoo filed a subsequent motion requesting the FISC to lift its stay and to order the government to complete the declassification review of further materials. As of April 2016, the full record of Yahoo's challenge is available for public inspection.

The GNI Board also noted that Yahoo continues to engage in dialogues with governments around the world and in the media about existing and proposed legislation and policy that potentially impacts privacy and freedom of expression. For instance, Yahoo has actively engaged in the debate over surveillance reform in the U.K., including by building broad coalitions and working with the GNI on its public advocacy to encourage sustainable solutions. In addition, senior executives including Yahoo's General Counsel regularly issue public statements in relation to important public policy issues, such as the passage of the USA FREEDOM Act, the Judicial Redress Act, the Electronic Communications Privacy Act (ECPA) and the U.K. Investigatory Powers Bill. Examples of these public statements can be found on Yahoo's Global Public Policy Tumblr. Yahoo is also an active member of the Reform Government Surveillance coalition (RGS), formed in 2013 to advocate for surveillance reform and greater government transparency in the United States.

Since 2013, Yahoo has published a [Transparency Report](#) with information on government requests for user data, including national security requests for user information in the United States, to the extent allowed by U.S. law. In 2014, during this assessment period, Yahoo began reporting on government requests for content removal. In its transparency report, Yahoo provides illustrative examples of the type of requests it receives and how it responds to them. Notably, Yahoo includes in its transparency report all requests that it identifies as being from a government agency, including government requests to remove content based solely on the enforcement of Yahoo's Terms of Service or Community Guidelines. The GNI Board also noted that in March 2014, Yahoo published its [Global Principles for Responding to Government Requests](#).

As part of the 2015/16 Assessment cycle, each independent assessor was tasked with providing recommendations for the company they assessed. They were also tasked with providing recommendations to the GNI on improvements to the assessment process itself. Assessors whose companies participated in the previous round of assessments were also required to report on the follow up given to those recommendations by the relevant company.

In this report, we describe examples of recommendations made by the assessors to one or more companies in the prior assessments. We provide generalized examples of how one or more companies are making progress against those recommendations. Each assessor makes its separate recommendation(s) to the company it assesses, but it is possible that two assessors might make the same recommendation to the respective companies they assessed. Similarly, responses are intended to be illustrative examples of company responses. This report also includes examples of recommendations made in the current assessment to one or more companies.

2.8.1 RECOMMENDATIONS TO COMPANIES

In the 2013/14 assessments, the assessors presented recommendations to the three previously assessed companies. The recommendations are for the company to consider. Below are some examples of recommendations made to one or more companies in 2013/14 as well as some examples to illustrate how they have chosen to act upon them.

2.8.1a 2013/14 ASSESSOR RECOMMENDATIONS
TO COMPANIES AND FOLLOW UP

Recommendation made to one or more companies in 2013/14	Examples of follow up and improvements, noted by the assessors, by one or more companies that received this recommendation
<p>RECOMMENDATION: HUMAN RIGHTS CONSIDERATIONS IN MERGERS & ACQUISITIONS</p> <p>Improve the integration of human rights considerations in due diligence process when acquiring and selling companies. Ensure that employees working on deals are specifically trained on human rights topics and the GNI Principles, and include key questions in the due diligence process, such that, given certain factors or circumstances, teams responsible for human rights impact assessments would be involved in advising on relevant issues when a deal is initiated and before it is completed.</p>	<ul style="list-style-type: none"> • Implementation of company-specific human rights training and training on the GNI Principles for employees working on mergers and acquisitions. • Incorporation of key questions into the legal due diligence processes and/or steps to ensure that the teams responsible for conducting HRIAs inside the company are involved in advising on relevant issues when a transaction is initiated and before it is completed.
<p>RECOMMENDATION: IMPROVE INTERNAL REPORTING</p> <p>Review internal reporting procedures about topics related to freedom of expression and privacy. Consider instituting a semi-annual report to management about human rights topics, which could include data compiled for public reporting and interpretation of that data, along with assessment of regulatory developments (e.g. new legislation), business decisions impacting human rights, and key company initiatives.</p>	<ul style="list-style-type: none"> • Improvement and expansion of internal company reporting mechanisms to inform management and other employees about human rights topics, including topics related to freedom of expression and privacy. These mechanisms include internal newsletters, blog posts, presentations and trainings.

Recommendation made to one or more companies in 2013/14	Examples of follow up and improvements, noted by the assessors, by one or more companies that received this recommendation
<p>RECOMMENDATION: REVIEW EXECUTIVE MANAGEMENT TRAINING</p> <p>Review company training programs to ensure particularly that new senior executives and board members receive specific training on human rights matters.</p>	<ul style="list-style-type: none"> • Implementation of training programs and other initiatives to ensure that senior executives and board members, including new board members, receive specific training on the GNI Principles and the protection of human rights generally, for example through online training modules, presentations and interactive workshops, and role-specific human rights training for senior company leadership. • Implementation of a variety of compulsory training programs on the GNI Principles and human rights issues that are suitable for all employees, as well as tailor-made programs for specific groups of employees on an as-needed basis.
<p>RECOMMENDATION: IMPROVE EXTERNAL REPORTING</p> <p>Consider including government requests for content removal or moderation in future transparency reports or more specific break downs of government content removal requests.</p>	<p>Expansion of transparency reporting with varying levels of detail. Some companies now include one or more of the following types of information:</p> <ul style="list-style-type: none"> • The number of government requests for content removal • The number of pieces of content restricted • Short descriptions of the types of requests actually received • Short description of how they responded to those requests • A general explanation about content removal requests, • A description of why governments may request content removal • A description of why and how the company will respond to such requests, and/or • How the sample of government requests included in the report can be interpreted.

2.8.1b 2015/16 ASSESSOR RECOMMENDATIONS TO COMPANIES

The following are examples of recommendations made by the independent assessors to the five GNI member companies, Facebook, Google, LinkedIn, Microsoft, and Yahoo, based on factual findings from the current assessment cycle. Some recommendations are generalized.

ASSESSOR RECOMMENDATION:
Implementation of the GNI Principles in regards to business partners and newly acquired companies.

Examples of recommendations made to one or more companies included:

- When integrating an acquired company into a company's operations, ensure that privacy policies, terms of use and other relevant policies that are communicated to users are updated, and that users are clearly informed which policies are now applicable.
- When the operations of an acquired company are not integrated, the acquired company's policies and procedures for handling government requests for user data and content restriction should be reviewed for consistency with the GNI Principles and be updated as necessary.

ASSESSOR RECOMMENDATION:
Implementing Human Rights Impact Assessments

Examples of recommendations made to one or more companies included:

- Identify ways to educate and inform employees on the varying scopes of HRIAs in internal company processes to avoid potential for confusion (HRIAs conducted by companies can differ significantly in scope, focus and duration and sometimes are not referred to by this name).
- Establish a formal, periodic review of privacy and freedom of expression issues, to ensure they are regularly incorporated into

internal company policy planning, and to track the implementation of recommendations from previous HRIAs over time.

- Consider whether to formalize or further formalize HRIA processes undertaken when acquiring new companies that offer services or products that are new to the acquiring company, as well as when selecting new business partners.

ASSESSOR RECOMMENDATION:

Improve Communications with users

Assessors found in this current cycle that the three previously assessed companies have improved their overall communications and notifications to users. Assessors found that there are still areas that could be improved among all five member companies.

Examples of recommendations made to one or more companies included:

- Provide more detail to users (with more consistency across different communications channels) on how companies handle requests for their data or government requests to restrict access to content. This includes how government requests for content takedowns are responded to.
- Examine options, where relevant, for notifying users of online services when the company will provide a government with data (content or non-content) pursuant to a lawful request, unless notification is prohibited by law.
- Provide more information on laws and regulations that impact freedom of expression outside the U.S., by country.

2.8.2 ASSESSOR RECOMMENDATIONS TO THE GNI

As part of their assessment reporting, assessors are required to develop recommendations to the GNI Board on improvements to the assessment process itself. In this section we include two sets of recommendations: Recommendations made to the GNI in the previous assessment cycle (2013/14), and how GNI has responded to those recommendations; and Recommendations made to the GNI arising from the current cycle of assessments (2015/16).

2.8.A ASSESSOR RECOMMENDATIONS TO THE GNI FROM THE 2013/14 ASSESSMENTS

ASSESSOR RECOMMENDATION:

Clarification and alignment of new Assessment Guidance and Reporting Framework

The Assessors suggested that the GNI “clarify the scope of the assessment and specifically to provide more guidance on how the process review (previously known as Phase II) relates to the case review assessment (previously known as Phase III).” They added that recommendations to address the scope of the assessment should “include focusing the assessor orientation and training session on scope and methodology, and consolidating the guidance documents provided to the assessors.”

GNI RESPONSE:

Following the completion of the first cycle of assessments, the GNI carried out a review of the assessment process as part of the broader 2014 Strategic Review. The review recommended that the GNI streamlines the process and make the assessment process more efficient and effective. Instead of taking place over three years and three phases, assessments now occur bi-annually. While previously broken up into two separate phases, the process review of company policies and systems is now reported together with the review of specific cases studies. In view of the combined phases, the GNI has also consolidated the guidance documents provided to the assessors. The revised assessment framework documents and assessor orientation and training now include specific guidance on how the process review relates to the case reviews.

ASSESSOR RECOMMENDATION:

Access to Information

Assessors recommended that the GNI address the challenge of access to information in light of an assertion of legal privilege by a company, by ensuring that the GNI assessment documents specify the minimum level of access to documentation that assessors should have.

GNI RESPONSE:

The GNI Assessment Guidance now explicitly states that all assessors must have access to adequate information in order to perform their

assessment. In addition, GNI provides examples of approaches that may be used by assessors when dealing with data access limitations, such as direct interviewing of senior management or relevant staff, contemporaneous or other written documentation of incoming requests, and outgoing communications with the government authority making the request. With respect to the case review, the new guidance requires that at a minimum, the characteristics and context of a case should be described to the assessor. To further encourage companies to share information with the assessors, the GNI has clarified that all non-public information disclosed by a company member during the assessment process shall only be made available to the GNI Board by the assessors as expressly agreed by the company in writing.

In the assessment reports shared with the GNI Board, the assessors are required to report on whether they had sufficient access to information to perform the assessment effectively. They must describe any challenges that were faced and steps taken to overcome these challenges. They are also required to include the types of documents they had access to, the number of interviews carried out, and the nature and relevance of the roles and responsibilities of the interviewees.

2.8.2B ASSESSOR RECOMMENDATIONS TO THE GNI FROM THE 2015/16 ASSESSMENTS

ASSESSOR RECOMMENDATION:

Clarification and alignment of new Assessment Guidance and Reporting Framework

In this current cycle of assessments, the GNI's revised Assessment Guidance and Reporting Framework were used for the first time. Overall, the assessors indicated that they found these resources to be helpful and provided good guidance. Assessors were tasked with identifying ways in which they could be further improved.

They recommended some additional clarifications to the assessment documents to reduce inconsistencies, as well as to further align the content and the sequence of the five main themes: "Governance", "Risk Management", "Implementation", "Follow-up and Improvement" and "Transparency."

ASSESSOR RECOMMENDATION:

Streamlining of Assessment Process

Assessors suggested that the GNI consider ways to further streamline the assessment process to make it more efficient. They indicated that this might be particularly relevant for the independent assessment of new and smaller-sized member companies in the future. Further streamlining of the process could also help to reduce the costs of the assessment in terms of internal staff time and resources. Lowering these costs was recommended in the GNI's 2014 Strategic Review, including the streamlining of the previous three phases of assessment into a single, biannual process.

ASSESSOR RECOMMENDATION:

Improving the Case selection Guidance

To help the assessors choose the most relevant cases, GNI's academic, civil society and socially responsible investor members provided the assessors with a case guidance document and briefing. After this current cycle of assessments, some assessors noted that the case guidance was extremely detailed and useful in providing background information, specific focus topics, and case selection criteria. They recommended that the GNI consider ways to further streamline the assessment process by prioritizing the topics and cases described in the case guidance so that each assessor can include an appropriate number of cases covering the requirements set out in the GNI Assessment Guidance.

PUBLIC POLICY

A consistent theme across the 2015/16 assessments is how companies' commitments to implement the GNI Principles and Guidelines can be maintained in the context of emerging global challenges. These challenges are detailed in the Key Challenges section. In this regard, assessors noted that the GNI, together with existing and potential member companies, should pursue more opportunities to leverage the GNI multi-stakeholder process to surface and develop human rights-respecting responses and solutions, and act as a platform for joint advocacy in response to these challenges.

ONGOING PRIORITY POLICY INITIATIVES FOR THE GNI INCLUDE:

- Advocating for the reform of antiquated global mutual legal assistance regimes and developing new human rights-respecting international frameworks for cross-border data requests.
- Developing principles for governments and companies to address “extremist” or “terrorist” content on ICT platforms in a way that acknowledges the legitimate national security and law enforcement obligations of governments, protects the free speech and privacy rights of users and enhances transparency and accountability.
- Advocating for reforms around the world on various regulations and legislative proposals with the potential to harm the free speech and privacy rights of users, including problematic aspects of the draft Investigatory Powers Bill in the United Kingdom, and overly broad “cybercrime” proposals and internet laws in Asia.
- Urging governments and intergovernmental organizations to take a multi-stakeholder approach when debating laws and policies that impact the freedom of expression and privacy of Internet users globally and ensuring that they are subject to public debate.

- GNI companies and non-company members have expressed growing concerns about the use of network and service shutdowns and the harms to the free speech, safety and access to vital information these disruptions cause.

REVIEW PROCESS

Following the first cycle of assessments, the GNI undertook a review of the process as part of its broader 2014 Strategic Review. After the completion of this second cycle of assessments in 2016, GNI will carry out a second review of the assessment process. This review process allows 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 the lessons learned from the company process reviews.

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