

The Telecommunications Industry Dialogue One Year Later

One year ago, the Telecommunications Industry Dialogue on Freedom of Expression and Privacy was officially [launched](#) with the publication of a set of [Guiding Principles](#) that address the issues of freedom of expression and privacy as they relate to the telecommunications sector. The launch formalized a series of meetings held by companies since 2011, when the UN Human Rights Council endorsed the [Guiding Principles on Business and Human Rights](#). Companies participating in the Industry Dialogue – Alcatel-Lucent, AT&T, Millicom, Nokia Solutions and Networks, Orange, Telefonica, Telenor Group, TeliaSonera, and Vodafone Group – provide telecommunications services and equipment to consumers, businesses, and governments worldwide.

Telecommunications companies have faced challenges related to freedom of expression and privacy in cases that highlight the complexities of respecting customers' rights while complying with local law in their countries of operation and while protecting the safety of their local employees and affiliates. As companies participating in the Industry Dialogue sought to implement the UN Guiding Principles into their operations and to engage in dialogue with various stakeholders, they adopted a set of Principles that explore the interaction and boundaries between a government's duty to protect human rights and the corporate responsibility of telecommunications companies to respect human rights. The ID entered into a two-year collaboration with the multi-stakeholder Global Network Initiative (GNI) aimed at finding a shared and practical approach to promoting freedom of expression and privacy rights around the world.

By participating in the ID, companies share best practices and tools that prepare them for dealing with law enforcement demands that may impact individuals' rights to freedom of expression and privacy. According to ID Chair Yves Nissim, "The work done in common with the ID members during the past year has allowed every single company engaged in the ID to move forward internally on the issues of freedom of speech and privacy. The sharing of best practices has been an immense source of inspiration for us as we implement more effective human rights processes. Furthermore, the constant engagement of the ID members in stakeholder outreach, in discussions with the GNI, and at different learning fora and conferences has given rise to an independent voice for telecommunications operators and vendors in the areas of freedom of speech and privacy. The 10 Principles of the ID are definitely the foundation for the collaboration between ID members."

How the Industry Dialogue works

The Chair of the Industry Dialogue leads its work during the six-month period for which he or she is elected. [Yves Nissim](#) of Orange was elected as Chair in September of 2013, and Patrik Hiselius of TeliaSonera served as Chair from March to September of 2013. In July of 2013, Lisl Brunner was hired as the Facilitator for the Industry Dialogue, to be based at GNI headquarters in Washington, D.C.

The work is carried out through weekly conference calls joined by all participants, bi-weekly calls with the GNI, and working groups dedicated to communications, stakeholder outreach, and the development of tools for companies (including best practices related to grievance mechanisms and due diligence processes). The working groups generally carry out their work through monthly conference calls. The Industry Dialogue holds in-person meetings on a quarterly basis, and it uses these opportunities to share best practices and to discuss joint initiatives and policy matters. During 2013, the ID held four face-to-face meetings, two of which were joint meetings with the GNI. In October of 2013, the ID launched its [Web site](#), a platform for communicating with stakeholders about its activities and events.

As part of their two-year collaboration, the GNI and the ID hold periodic learning calls and public discussions. One learning call featured expert presentations on the subject of communications surveillance, and GNI and ID participants had the opportunity to ask questions and discuss the issues that were raised. Ongoing discussions between the two groups focus on comparing the respective sets of principles and different approaches to accountability mechanisms. The GNI and the ID have also organized joint panel discussions at events such as the Freedom Online Coalition meeting and the Internet Governance Forum, and the Industry Dialogue provided feedback during the preparation of the GNI report, [*Opening the Lines: A Call for Transparency from Governments and Telecommunications Companies*](#).

Progress made during the first year

Because the Guiding Principles form the basis for the Industry Dialogue, our progress is best measured in reference to their terms. Participating companies are heavily focused on implementing and embedding these Principles in their operations, and during the course of 2014, most will be reporting on their progress as part of their annual sustainability reporting. Updates on these reports will be published on the ID Web site between April and August of 2014. In the meantime, here are a few examples of steps that companies have taken to implement the Principles.

During the course of regular ID conversations and quarterly meetings, companies such as Alcatel-Lucent have shared their experiences in drafting and updating [policies](#) that seek to embed respect for human rights in company operations (Principle 1). Companies have shared tools for due diligence and lessons learned from carrying out human rights impact assessments that enable them to identify, mitigate and manage risks to freedom of expression and privacy (Principle 2). For example, Telenor Group has explained some of the considerations that have shaped its approach to doing business in [Myanmar](#).

ID companies have discussed case studies that outline their responses to challenges in particular situations and markets, sparking fruitful debates about the actions that companies can take when they face government requests that may impact users' rights (Principles 3 and 4). In implementing Principle 4, participating companies have pushed back against questionable government practices and have sought support from UN and other supranational bodies in advocating for policy changes in certain markets. To provide an example, Orange has filed a [legal action](#) against the U.S. National Security Agency in order to determine whether that agency intercepted data that the company transported via a submarine cable.

During its first year, the Industry Dialogue had numerous opportunities to engage in public debates examining the role of telecommunications companies in respecting the rights to freedom of expression and privacy (Principle 7). On 13 November 2013, the ID and the GNI held a joint [Learning Forum](#), presenting an opportunity for civil society organizations, academics, investors, government officials, international organizations, and information and communications technology (ICT) companies to share their perspectives on current challenges facing freedom of expression and privacy. The approximately 100 participants represented key stakeholders and those who have followed the work of the ID and the GNI. The discussions addressed revelations in the media about massive communications surveillance by some governments, growing government pressure on telecommunications companies to re-draw the borders of the Internet by requiring the localization of data, and demands that companies provide governments with direct access to user data in certain markets.



John Kampfner, Bill Echikson, Carina Lundberg Markow, Patrik Hiselius, and Rebecca MacKinnon speak at the Joint Learning Forum.

Industry Dialogue companies have also taken part in panels at the Stockholm Internet Forum, the Freedom Online Coalition Conference in Tunisia, the OECD Forum on Responsible Business Conduct, the Internet Governance Forum, the Second Annual UN Forum on Business and Human Rights, the RightsCon summit,

and discussions hosted by the GSMA. Telefónica, in collaboration with the [European Voice](#) and [Center for Information Policy and Leadership](#), has organized debates to explore new challenges and approaches to keeping personal identity private as a means to respect privacy and freedom of expression rights, and events have featured European Commissioners as speakers. All of these events provided valuable opportunities for participating companies to interact with stakeholders from a variety of regions and sectors and to hear their feedback on actions that the ID should take to advance free expression and privacy globally.

As mentioned previously, now that a year has passed since the ID Guiding Principles were published, participating companies are beginning to report on their progress in implementing them (Principle 8). Industry Dialogue companies have held discussions with governments that advocate for laws and policies that allow for greater transparency regarding government communications surveillance practices (Principle 9). For example, TeliaSonera's local operator in Georgia has collaborated with civil society to [push for a change](#) in laws that mandate unrestricted direct access to telecommunications networks for government authorities. The ID has held collective discussions with governments participating in the [Freedom Online Coalition](#) and will continue to engage in this forum in 2014. Furthermore, the ID provided [input](#) during the drafting of *Guidance for the ICT Sector on Implementing the UN Guiding Principles on Business and Human Rights* for the European Commission and [comments](#) to the Council of Europe during its multi-stakeholder consultations on a *Guide on Human Rights for Internet Users*.

During its past two quarterly meetings, the Industry Dialogue has shared ideas about how to implement operational-level grievance mechanisms, as outlined in Principle 31 of the UN Guiding Principles on Business and Human Rights (Principle 10). Grievance mechanisms are a key component of companies' policies aimed at respecting human rights. The ID companies face the challenge of determining how grievances related to freedom of expression and privacy can be effectively separated, escalated if necessary, and resolved in a manner that responds to the particular characteristics of these rights. Discussions in this respect continue, and feedback is welcomed from stakeholders as to mechanisms that could be effective for each company's operating environment and circumstances.

An outstanding task for 2014 is to compile and make available guidance and information on the main laws, regulations and standards telecommunications companies operate under, as a way to facilitate discussion on these subjects with ID stakeholders.

A Word on Transparency

Different stakeholders have expressed a need for greater transparency in the ICT sector around the issues of government communications surveillance and actions that limit free expression. Meaningful transparency and openness are fundamental tenets of the Industry Dialogue's Principles, and the ID is exploring

ways in which companies can be more transparent about their operations. For example, AT&T has published a [transparency report](#) outlining the number and types of government demands for user data received in 2013, TeliaSonera has reported on government requests received in [Finland](#) and on the number of major requests in [Eurasia](#), and [Vodafone Group](#) has announced plans to disclose similar data where it is legally able to do so and the government does not publish figures of its own. Vodafone will provide details of the legislation restricting disclosure where relevant.

At the same time, the Industry Dialogue position is that transparency on the number and nature of government requests is primarily the responsibility of government authorities. Laws in companies' local markets often prohibit the disclosure of this information, and governments naturally have a more complete picture of communications surveillance practices than do individual companies. The ID will therefore continue to advocate for greater government transparency on the use and scope of surveillance of communications and on actions that have the effect of restricting the content of communications, in keeping with our Principles.

In closing

While this report highlights some of the progress made by the Industry Dialogue, a more complete picture will be available as the individual participants report on the implementation of the ID Guiding Principles as part of their annual sustainability reporting.

During 2014, key priorities for the Industry Dialogue include engaging in more regular and robust dialogue with a variety of stakeholders and broadening membership to other telecommunications companies. The ID will continue to share best practices, to organize and participate in public debates, and to work closely with our colleagues in the Global Network Initiative to advance freedom of expression and privacy rights in the ICT sector more effectively. We welcome your ideas and your support as we seek solutions to these challenges.



Members of the Telecommunications Industry Dialogue in Brussels.