



1200 M Street NW Suite 602  
Washington, DC 20036

1 August 2014

Dear Ms. Hawtin and Ms. Vushe:

The Telecommunications Industry Dialogue welcomes the initiative to prepare an African Declaration for Internet Rights and Freedoms and takes this opportunity to provide its comments to the draft Declaration.

The Telecommunications Industry Dialogue is a group of telecommunications operators and vendors who jointly address freedom of expression and privacy in the telecommunications sector in the context of the UN Guiding Principles on Business and Human Rights. The companies that are currently participating in the Industry Dialogue are Alcatel-Lucent, AT&T, Millicom, Nokia, Orange, Telefonica, Telenor Group, TeliaSonera, and Vodafone Group. These companies have a global footprint, providing telecommunications services and equipment to consumers, businesses, and governments in nearly 100 countries worldwide, including several countries in Africa. In March of 2013, the Industry Dialogue adopted a set of Guiding Principles which 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. It also entered into a two-year collaboration with the multi-stakeholder Global Network Initiative aimed at finding a shared and practical approach to promoting freedom of expression and privacy around the world.

We offer a few comments that relate to the objectives of our dialogue.

First, we note that the preamble to the draft Declaration recognizes "the responsibility of Information and Communications Technology (ICT) companies to respect and protect the human rights of their users as consistent with the United Nations Guiding Principles on Business and Human Rights." According to the UN Guiding Principles, while States have the duty to respect and protect human rights, business enterprises have the responsibility to respect human rights. The Industry Dialogue Guiding Principles set out a number of measures that companies can take to minimize negative impacts on customers' rights, including creating policies and processes to evaluate and handle government requests that may have an impact on users' freedom of expression and privacy, conducting human rights impact assessments and using due diligence processes to identify and mitigate risks to these rights, and examining options for implementing relevant grievance mechanisms, among other commitments. This is how we seek to internalize the "Protect, Respect and Remedy" Framework, as you call on companies to do.

Second, with regard to the statement calling for transparency in ICT company privacy policies, the Industry Dialogue would emphasize that companies are required to comply with local law governing the collection, use, disclosure and retention of communications data. The Industry Dialogue is following the international debate on the storage and retention of communications data, and it welcomes the broad review of issues such as the proportionality of data retention requirements.



Third, in the section on intermediary liability, the Industry Dialogue observes that while “notice and take-down” provisions may not be appropriate in every circumstance, these provisions can serve as an essential tool for dealing with content related to child abuse.

Finally, we note that the Declaration recommends that business enterprises publish transparency reports rather than government authorities. It is the Industry Dialogue’s position that the primary responsibility for reporting on the number and nature of requests for data rests with governments. Meaningful transparency and openness are fundamental tenets of our principles, and companies participating in the Industry Dialogue are exploring ways to make their operations more transparent, but individual telecommunications operators will necessarily only have a partial view of government/law enforcement requests received. Thus, we support governments making public to the extent permissible the practices that govern the interception of communications and access to any communications-related data, as well as the use, impact and effectiveness of such practices.

Thank you for the opportunity to submit our comments.

Sincerely,

A handwritten signature in blue ink, appearing to read 'Lisl Brunner'.

Lisl Brunner  
Facilitator for the Telecommunications Industry Dialogue