

Telecommunications

Industry

Dialogue

2015  
Annual  
Report



TELECOMMUNICATIONS  
INDUSTRY DIALOGUE



# Table of Contents

- I. Introduction..... 1
- II. Our Work in 2015 ..... 2
- III. The Telecommunications Industry Dialogue and the Global Network Initiative ..... 3
- IV. Shared Learning ..... 4
- V. Activities and Engagement as a Group ..... 8
- VI. Looking Ahead..... 10





The Industry Dialogue meets in April 2015

## I. Introduction

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 (ID) are AT&T, Millicom, Nokia,<sup>1</sup> Orange, Telefónica, Telenor Group, Telia Company,<sup>2</sup> and Vodafone Group. Together, these companies have a global footprint, providing ICT services and equipment to consumers, businesses, and governments in over 100 countries worldwide.

The foundation for the Industry Dialogue is 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. Based on the UN Guiding Principles on Business and Human Rights, they set out a number of measures that companies can take to minimize negative impacts on freedom of expression and privacy, including creating policies and processes to evaluate and handle government requests that may have an impact on these rights, 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. The Principles are available in **eight languages**.

Through their participation in the Industry Dialogue, companies share best practices and tools for implementing the Guiding Principles in their company operations. The Industry Dialogue engages in constructive dialogue with stakeholders aimed at seeking globally applicable solutions to better respect freedom of expression and privacy.

In March 2013, the Industry Dialogue signed 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 around the world. The GNI houses the work of the Industry Dialogue and provides a common platform to exchange best practices, learning and tools.

The Industry Dialogue's **2015 report of activities** focused on actions that participating companies had taken to implement the ID Guiding Principles. This year, we highlight some of the lessons learned over three years of sharing good practices on embedding respect for freedom of expression and privacy in company operations.

<sup>1</sup> From January 14, 2016, Nokia and Alcatel-Lucent combined operations under the Nokia brand. See Nokia, **Nokia celebrates first day of combined operations with Alcatel-Lucent**, January 14, 2016.

<sup>2</sup> In April 2016, TeliaSonera became Telia Company.



## II. Our Work in 2015

The Industry Dialogue is governed by a Board, consisting of one representative per company with a rotating position of Chair elected from its members. Christine Diamente (@cdiamente) of Alcatel-Lucent served as Chair from April until October 2015. Jeffrey Dygert of AT&T served as Chair from October 2015 until April 2016. Sidsela Nyebak of Telenor Group took over as Chair in April and is the current Chair. The Industry Dialogue has a dedicated Facilitator who is based at the GNI, and Lisl Brunner serves in this role.

The Industry Dialogue holds weekly conference calls open to all participating companies, bi-weekly calls with the GNI, and working groups have been dedicated to communications, stakeholder outreach, and the development of policy tools for companies. The Industry Dialogue holds in-person meetings on a quarterly basis hosted in turn by each member, and it uses these opportunities to share best practices and to discuss joint initiatives and policy matters as well as hold stakeholder meetings. Face-to-face meetings were hosted by Alcatel-Lucent in Paris in April 2015, by Nokia in London in July, by Millicom in London in October, and by AT&T in New York in January 2016. The GNI joined a portion of all of these meetings in order to discuss the way forward for the two initiatives.

### Legal Frameworks Resource

In June 2015, the Industry Dialogue launched an [online resource](#) that describes some of the most important powers available to government agencies and authorities seeking to access customer communications or restrict the content of communications in 44 countries in which our operators are present. This resource contains information previously published by Vodafone Group and Telenor Group, as well as reports on five new countries: Colombia, Jordan, Kazakhstan, Pakistan, and Russia. The resource is available under a Creative Commons license, so that civil society organizations, researchers, and others may build on it.

The Industry Dialogue has discussed this resource and some of the trends that it reveals with experts and representatives of civil society in London in July 2015 and in New York in January 2016. The ID also organized panel discussions highlighting some of the challenges and the good policy practices described in the resource at the [Freedom Online Conference](#) in Mongolia in 2015 and at [RightsCon](#) in San Francisco in March 2016.

We have learned that civil society organizations use the resource when preparing thematic reports on the right to privacy in the countries included, and consultancies have used it when carrying out human rights impact assessments for ICT companies.

According to Peter Micek, Global Policy and Legal Counsel at Access Now,

The Telecommunications Industry Dialogue's country legal frameworks present a valuable resource in a very confused area of law in need of update and reform. Surveillance and censorship powers remain murky, and the guide serves as an open reference that we use to make Universal Periodic Review recommendations, alert partners of possible digital rights threats, and inform our advocacy on network shutdowns, especially in our new [#KeepItOn](#) campaign.

### Reporting on the ID Principles

All of the ID companies have reported on their implementation of the ID Guiding Principles, and these reports are available on the [ID Web site](#). Four ID companies have also published information about specific situations constituting major events<sup>3</sup> as part of these reports or as news items on their company Web sites. Furthermore, ID operators [AT&T](#), [Millicom](#), [Orange](#), [Telenor Group](#), [Telia Company](#), and

<sup>3</sup> For the Industry Dialogue, the following are examples of situations that may constitute "major events": 1) denial or restriction of a communications service; 2) shutdown of communications networks or controlling access to these networks; 3) overbroad government access to communications content or data; 4) government-mandated communications; 5) significant changes to operational surveillance techniques; 6) significant changes to a market's legal regime; and 7) misuse (or intended misuse) of a product.

**Vodafone Group** regularly publish reports which disclose statistics on the number of law enforcement requests they have received for customer data in certain countries or regions. ID companies have dedicated several shared learning sessions to the topic of transparency, but their different operating environments mean that each company takes a different approach to producing these reports.

*“We launched the ID in March 2013 to share knowledge on how to best implement the responsibility of telecommunications companies to respect freedom of expression and privacy. We have valued the close collaboration with the GNI over the past three years, and we look forward to bringing into dialogue nearly 40 diverse organizations to share lessons, build leverage and to promote these rights globally.”*

- Patrik Hiselius, Telia Company  
Founding Chair of the Industry Dialogue

*“ID’s joining with GNI in 2017 will represent an important milestone in the ICT industry in our common quest to promote and defend freedom of expression and privacy for citizens worldwide. It represents a unique win-win multi-stakeholder model bringing the expertise and commitment of investors, civil society, academia and the private sector together in one powerful force for human rights. I am proud of the proactive and open discussions ID and GNI members held over my period as Chairperson — step by step, we created the basis for a global model that will have real leverage and impact on these important global challenges.”*

- Christine Diamente of Alcatel-Lucent,  
Chair of the Industry Dialogue

### III. The Telecommunications Industry Dialogue and the Global Network Initiative

When the Industry Dialogue was launched in 2013, it entered into a collaboration with the **Global Network Initiative** (GNI) aimed at finding a shared and practical approach to promoting freedom of expression and privacy around the world. The GNI is an international, multi-stakeholder group of companies, civil society organizations, investors, and academics who have created a collaborative approach to protect and advance freedom of expression and privacy in the ICT sector. The GNI has created a framework of Principles and Implementation Guidelines based on international human rights standards and a high-level forum to deliberate on the challenges of corporate responsibility in the ICT sector. The GNI’s accountability process uses independent assessments to ensure that participating companies are implementing the GNI Principles.

For the past three years, the ID and the GNI have collaborated at meetings, joint learning forums, and stakeholder events. Joint learning forums were held in Brussels in 2013 and in New York and California in 2014. The groups have organized public panel discussions at conferences such as the Freedom Online Conference in Mongolia in May 2015 and RightsCon in March 2016. During 2015, the two initiatives met on numerous occasions to review their respective sets of Principles and approaches to accountability with a view to determining how these might be aligned.



On February 1, 2016, the Industry Dialogue and the GNI **announced** that seven ID members were joining forces with the GNI. Millicom, Nokia, Orange, Telefónica, Telenor Group, Telia Company, and Vodafone Group will have official observer status for one year, which includes hands-on participation in GNI committees and policy work, the sharing of best practices on conducting human rights due diligence, and working together on a review of the GNI Implementation Guidelines to cover the range of companies in the ICT sector. During this period, the GNI will also observe and take part in ID Board meetings and events. The agreed aim is that at the completion of the observer year in March 2017, these seven companies become full members of the GNI.

According to Patrik Hiselius of Telia Company, founding Chair of the Industry Dialogue,

We launched the ID in March 2013 to share knowledge on how to best implement the responsibility of telecommunications companies to respect freedom of expression and privacy. We have valued the close collaboration with the GNI over the past three years, and we look forward to bringing into dialogue nearly 40 diverse organizations to share lessons, build leverage and to promote these rights globally.

According to Christine Diamente of Alcatel-Lucent, Chair of the Industry Dialogue,

ID's joining with GNI in 2017 will represent an important milestone in the ICT industry in our common quest to promote and defend freedom of expression and privacy for citizens worldwide. It represents a unique win-win multi-stakeholder model bringing the expertise and commitment of investors, civil society, academia and the private sector together in one powerful force for human rights. I am proud of the proactive and open discussions ID and GNI members held over my period as Chairperson — step by step, we created the basis for a global model that will have real leverage and impact on these important global challenges.

## IV. Shared Learning

One of the greatest values for companies participating in the Telecommunications Industry Dialogue has been the opportunity to share good practices in conducting human rights due diligence and responding to government demands that impact the freedom of expression and privacy rights of users. During each quarterly face-to-face meeting, the Industry Dialogue devotes time to shared learning on a particular subject, and three external ICT companies have joined as guests during the past year. Weekly ID calls also present opportunities to discuss immediate challenges that face participating companies and the ways in which they respond.

According to ID Chair Jeffrey Dygert of AT&T,

Since the beginning, the Industry Dialogue has focused on challenges that its members face, typically as a result of government action, in respecting users' freedom of expression and privacy. We have focused particularly on questions related to grievance and remedy, human rights impact assessments and major events affecting freedom of expression. It is a valuable cooperation for all of the companies involved and has enabled the ID members to be better informed and more deliberate in their respect for users' rights.

Over the past year, shared learning sessions have focused on how telecommunications equipment vendors approach risks related to privacy, ways in which companies can increase transparency with their customers, tools for responding to government requests to restrict content and to suspend communications services, and specific situations that posed challenges to ID companies in the areas of human rights due diligence and content restriction. While these sessions are not designed to produce public outputs, some of the topics explored and lessons learned are described below.

## A. Grievance and Remedy

ID Guiding Principle 10 indicates that companies will “[e]xamine, as a group, options for implementing relevant grievance mechanisms, as outlined in Principle 31 of the UN Guiding Principles for Business and Human Rights.” Since its inception in 2013, the Industry Dialogue has devoted four learning sessions to the subject of grievance mechanisms and remedy. The group has examined research and reports on this topic by organizations such as **Shift, the Institute for Human Rights and Business**, CSR Europe, **Access Now**, and the **International Federation for Human Rights (FIDH)**. Additionally, in February 2015, the OECD’s Responsible Business Conduct Unit held a learning call with the Industry Dialogue, and its experts described the specific instances procedure and answered questions from participating companies.

Our learning sessions have revealed that every Industry Dialogue company has a mechanism by which employees and customers can submit complaints. Escalation procedures are generally in place to ensure that representatives of the legal, compliance, and sustainability teams are notified about certain complaints and can participate in resolving them. Some company forms for filing complaints specifically provide the option of raising human rights issues, and ID Board members may be notified when such complaints are filed. Some companies also provide the names and contact details of staff members responsible for corporate social responsibility on their Web sites.

ID companies seldom receive formal complaints related to freedom of expression and privacy. When such a demand does come, the Principles provide that companies can seek to minimize the impact on customers’ rights, for example, reviewing the demand with the relevant authority to seek clarification or modification, seeking judicial review where available, and engaging with other stakeholders in support of freedom of expression and privacy. ID Principle 8 also indicates that companies will report externally on major events as appropriate.

ID companies will continue to accept complaints related to freedom of expression and privacy through their existing mechanisms. They will generally seek to ensure that these are consistent with the effectiveness criteria established in UN Guiding Principle 31 and that actions that serve as reparations are informed by international human rights instruments.<sup>4</sup> At the same time, it may be constructive to approach grievance and remedy in the ICT sector in broader terms. The Industry Dialogue has identified a few good practices in this regard:

1. Telecommunications companies should ensure that they have a procedure for handling both complaints and major events that involve human rights.
2. When a major event requires the shutdown of a communications service or restriction of content, companies should attempt to minimize the duration or scope of the request and restore access to the service or content as soon as possible where this is feasible, as a means of restitution (this is generally in the company’s commercial interest as well).
3. Companies should aim to be transparent with the public about major events that impact the freedom of expression and privacy of their customers and users, as outlined in ID Principle 8. Currently, ID companies achieve this through their annual reporting on corporate social responsibility, law enforcement disclosure reports, news releases about specific events, communications with customers (e.g. via customer care representatives or other channels for customer communication), and dialogue with stakeholders who may represent the interests of affected users, such as civil society organizations or media outlets. These actions may constitute a means of satisfaction.
4. Companies can incorporate the lessons learned from challenging situations into company policies and procedures, training material for employees, and policy advocacy with governments. These steps may equate guarantees of non-repetition.

<sup>4</sup> Reparations in human rights law are generally governed by the principles of restitution, compensation, rehabilitation, satisfaction, and guarantees of non-repetition, as outlined in, e.g., Basic Principles and Guidelines on the Right to a Remedy and Reparation for Victims of Gross Violations of International Human Rights Law and Serious Violations of International Humanitarian Law, adopted by General Assembly Resolution 60/147 of 16 December 2005.





Some civil society organizations have called on telecommunications operators to provide compensation to customers affected by the shutdown of communications services or government demands for user data. For operators, this presents serious challenges for several reasons. First, limitations on customer freedom of expression and privacy typically result from government demands under applicable domestic laws. Companies must abide by the laws of the jurisdictions where they operate; they may not pick and choose which laws to follow. Refusal to comply with laws would have serious consequences for telecommunications operators and for their employees in a country, and may raise other concerns relating to the duty of corporations to respect local law. In recognition of this, the ID Principles suggest that companies attempt to modify or challenge problematic demands and work with governments to make their laws more protective of freedom of expression and privacy.

Second, in the context of communications service shutdowns, telecommunications operators lose revenue when they must suspend services in response to government demands. Governments do not compensate operators for these losses. An approach that would require companies to incur a further penalty when service shutdowns occur would likely discourage responsible companies from conducting business in challenging markets. Finally, as a practical matter, in some of the markets where shutdowns frequently occur, the majority of customers have prepaid contracts, adding an extra layer of complexity to any reparations regime.

These points have emerged from our discussions on grievance and remedy thus far. We welcome the opportunity to explore this topic further with those engaged in research and advocacy on the subject.

*“Since the beginning, the Industry Dialogue has focused on challenges that its members face, typically as a result of government action, in respecting users’ freedom of expression and privacy. We have focused particularly on questions related to grievance and remedy, human rights impact assessments and major events affecting freedom of expression. It is a valuable cooperation for all of the companies involved and has enabled the ID members to be better informed and more deliberate in their respect for users’ rights.”*

- Jeffrey Dygert, AT&T  
Chair of the Industry Dialogue

## B. Human Rights Impact Assessments

ID learning sessions on human rights impact assessments have involved presentations on material produced by experts on this topic and on participating companies’ processes and practices. The group has consulted resources prepared by the **International Finance Corporation**, **Shift and the Institute for Human Rights and Business**, **BSR**, and **Professor Michael Samway** of Georgetown University regarding the dimensions that assessments should take into account, as well as the triggers for conducting assessments. On several occasions, Nokia has made presentations to ID members and external stakeholders about its Human Rights Due Diligence Process.

When performing human rights impact assessments and due diligence, several ID companies use tools developed by external consultancy companies with expertise in evaluating risks in different regions of the world. Companies assess risks to freedom of expression and privacy – as well as other human rights – by consulting reports produced by civil society organizations and experts, reports in the media, and contacts that are present on the ground in local markets. Companies generally perform assessments and due diligence prior to entering a market, before forming a relationship with a new partner, when changes in the market’s laws or political environment occur, and when leaving a market to inform a ‘responsible exit’. Due diligence is performed on a periodic basis, and some companies’ procedures mandate an update of the risk assessment for each market every three years.

Companies have cited the importance of continuous training for staff regarding the use of due diligence tools and familiarity with company procedures for when risks emerge. Companies have discussed the need to regularly review due diligence tools to ensure that they continue to function properly.

When due diligence tools identify a risk, companies generally escalate decision-making to one or more designated teams within the company. Companies may mitigate risks by adapting a product or by engaging with government officials on public policy matters. Numerous reports recommend that companies engage with local stakeholders when assessing and mitigating risks in a market. ID companies recognize this as good practice, but it can also present challenges in some countries, due to government hostility toward civil society and the limited capacity of local organizations.

### **C. Major Events Affecting Freedom of Expression**

All companies participating in the Industry Dialogue have a process, formal or informal, by which situations that significantly impact freedom of expression and privacy are classified as major events and are escalated and handled within different levels in the company. The processes generally reflect the approach outlined in the ID Guiding Principles, and several companies are currently formalizing them.

Government requests to restrict content or access to communications services are generally escalated to company headquarters. Companies often establish working groups or crisis teams that may include members of the legal, security, public policy and sustainability teams, who work together to respond to the situation.

When major events occur, companies often reach out to other operators to verify that they have received a similar demand. Companies have also (when possible) reached out to local organizations, diplomatic entities, media outlets, and GNI participants in order to explore options for exercising leverage. When political tensions make a situation more complex, the possibility of publicly pushing back against government action is usually limited.



The Industry Dialogue meets in London in October 2015





On one occasion, a government demanded an immediate shutdown of communications services. The government emphasized that the operators could not disclose the origin of the request and should refer to technical problems if asked. The ID operator agreed to implement the government demand, which was within local national security powers, but it indicated that it would disclose the reason for the restriction to its customers. On the following morning, the government instructed the operators to lift the shutdown.

Companies shared the following lessons from these experiences:

1. Internal, cross-functional collaboration can help in responding to these problems when they arise. Companies generally escalate major events to the top levels of the local business operation, as well as to professionals in the legal, security, public policy and corporate social responsibility departments as well as company senior management of their headquarters when determining how to respond to these situations.
2. ID companies should, where possible, pursue longer-term dialogue with many stakeholders, including local governments, regarding the systemic problems that they face and how they might be resolved.
3. Group policies can relieve the pressure and reduce the potential risk for local staff. Collaboration between operators in a situation also relieves the pressure on each individual company.
4. ID companies should aim to be as transparent as possible with customers and the public when government demands impact freedom of expression.
5. Regional and group staff should receive detailed instructions and guidance so that they are prepared when major events occur. It is also important to ensure that local staff understands the need to follow company procedures (e.g. the interest of company stakeholders).

## V. Activities and Engagement as a Group

The Industry Dialogue focused much of its efforts in 2015 on finding a way forward with the Global Network Initiative, but members also discussed the ID's work at international conferences and public events. ID Facilitator Lisl Brunner took part in a consultation on the U.S. National Action Plan on Business and Human Rights in Washington, D.C. on April 16, 2015. On May 4 and 5, Lisl moderated a GNI-Industry Dialogue panel on **Good Policy Practices in Online Freedom** at the Freedom Online Conference in Ulaanbaatar, Mongolia. This panel coincided with the launch of the Industry Dialogue's **online resource on legal frameworks**, and it highlighted good practices contained in the laws of some of the countries featured in the resource.

In October 2015, Orange, Telia Company, and Vodafone Group participated in a roundtable discussion in London organized by the GNI and the **Center for Democracy and Technology**, which focused on Extremist Content in the ICT sector. This discussion brought together representatives of civil society, academia, the ICT sector, and international organizations to discuss challenges and good practices in dealing with extremist content online.

Milka Pietikainen of Millicom and Patrik Hiselius of Telia Company participated in the **Stockholm Internet Forum** on October 21 and 22, 2015 and spoke on a panel examining how donor, development and international financial organizations can incorporate freedom of expression and privacy into their ICT sector development projects in order to better ensure that the benefits of technology are genuine for the people they impact. During the closing session, Patrik also reflected on the value that Industry Dialogue companies have found in engaging with each other and a variety of stakeholders with the aim of increasing transparency around operations. Both Patrik and Milka used the opportunity to meet with members of civil society from around the world.



Christine Diamente speaks at the Ethical Corporation's Corporate Responsibility Reporting and Communication Summit.

Yves Nissim of Orange spoke about human rights due diligence at a panel arranged by the civil society organization **Enterprises pour les Droits de L'Homme** (EDH), the **Organisation for Economic Co-operation and Development**, and the Government of Switzerland, held in conjunction with the UN Forum on Business and Human Rights in November. Christine Diamente of Alcatel-Lucent shared good practices in reporting on human rights by companies participating in the Industry Dialogue at **the Ethical Corporation** Ninth Annual Corporate Responsibility Reporting and Communications Summit. Yves also spoke on a panel dedicated to the Corporate Accountability Index of the Ranking Digital Rights project at the GNI's public **Learning Day event** at Stanford University in December 2015.

On February 29, 2016, Millicom, Nokia, Orange, and Telia Company participated in a consultation with UN Special rapporteur for freedom of opinion and expression David Kaye on Freedom of Expression and the Private Sector in the Digital Age, which aimed to inform the Special Rapporteur's reports on this subject. On March 17, Laura Okkonen of Nokia made a presentation on implementing the UN Guiding Principles on Business and Human Rights through industry collaboration at the **ICC Commission for Anti-Corruption and Corporate Responsibility** in The Hague.



Yves Nissim speaks about transparency at the GNI Learning Day at Stanford University.





The Industry Dialogue took part in **RightsCon**, a digital rights conference organized by Access Now in San Francisco, from March 30 – April 1, 2016. Chair Jeff Dygert of AT&T and Yves Nissim of Orange spoke about the ID's Legal Frameworks Resource on a panel entitled Good Policy Practices in Online Freedom. Yves also participated in panels dedicated to extremist content online and remedy in the ICT sector. Facilitator Lisl Brunner spoke on panels exploring the ID's implementation of its Principles in India, Malaysia, and Pakistan and the Manila Principles on Intermediary Liability. The conference presented ID members with another opportunity to meet with UN Special Rapporteur David Kaye and with representatives of civil society from various countries.

The Industry Dialogue held three roundtable discussions with stakeholders from civil society, international organizations, academia, and the private sector as part of ID quarterly meetings in the past year. Sixteen stakeholders joined the Industry Dialogue in Paris in April 2015, 10 took part in a discussion in London in July, and 17 joined a discussion in New York in January 2016. During these sessions, companies participating in the Industry Dialogue offered remarks on challenges that they face in implementing the ID Guiding Principles and answered questions on a variety of topics. The quarterly meeting held in New York also provided ID members with an opportunity to meet with researchers from the Ranking Digital Rights project, in which the results and methodology of the 2015 Corporate Accountability Index were discussed.

## VI. Looking Ahead

**D**uring 2016 and part of 2017, the Industry Dialogue will continue to carry on its business while pursuing further integration with the Global Network Initiative. Priorities include expanding on the legal frameworks resource and continuing to hold shared learning sessions. An upcoming learning session will examine the experience of Industry Dialogue operators with communications service shutdowns and bases for collective action with other stakeholders. Finally, members will continue to explore ways to be more transparent regarding the challenges that they face in respecting the freedom of expression and privacy rights of their customers and users.