January 15, 2015

MEP Elena Valenciano  
Chair, Sub-Committee on Human Rights of the European Parliament

MEP Bernd Lange  
Chair, Committee on International Trade of the European Parliament

Dear Ms. Valenciano and Mr. Lange:

Thank you for the opportunity to provide a written submission as background material for Members of the European Parliament in advance of the public hearing on Human Rights and Technologies: the impact of digital surveillance and intrusion systems on human rights in third countries, to be held on 21 January 2015.

Background on the Telecommunications Industry Dialogue

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, 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.

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. The Principles set out a number of measures that companies can take to minimize negative impacts on customer privacy, 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. In 2014, all companies issued public reports outlining how they have implemented these Principles into their business operations, and links to these reports are available on our Web site.

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 to collectively seek globally applicable solutions to best protect and
respect freedom of expression and privacy. Furthermore, the Industry Dialogue has 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.

Embedding respect for privacy

Respect for our customers’ privacy and maintaining the trust of our users are matters of paramount importance to companies in the Telecommunications Industry Dialogue. In the experience of our participating companies, many countries lack a clear and transparent legal framework regarding government interception of communications and/or access to communications related data. Provisions for adequate, independent oversight of this power are also often absent. This presents particular challenges in markets where the law does not clearly establish the form that a government request for user data should take. Where the rule of law is weak and corruption is prevalent, the problem may be compounded, reducing the options available to companies as they seek to balance the need to comply with local law with their responsibility to respect customers’ privacy.

It is the position of the Industry Dialogue that all government powers to intercept communications and/or access to communications-related data should be founded on a clear and transparent legal framework that accommodates advances in technology and is in accordance with the rule of law and international human rights standards. This framework should provide for adequate and independent judicial or government oversight. The pertinent laws and regulations, as well as the manner in which they are interpreted and applied, should be publicly available and subject to debate that includes all interested stakeholders.

In terms of actions that companies can take to help ensure that the communications technologies they provide are not used to infringe human rights, telecommunications vendors participating in the Industry Dialogue have created human rights due diligence processes to identify situations in which the potential for misuse of a product is high. For example, as part of Nokia’s due diligence process, employees make a detailed analysis and risk assessment of products and markets to determine cases in which technology may be misused in a way that infringes human rights, drawing on the services of external experts. The results are integrated into a tool which flags planned sales of products with potential for misuse to countries that present a high degree of risk of misusing such a product. When a red flag arises, the company examines whether steps may be taken to eliminate or to mitigate the risk. If this is not possible, the company may decline an offer where mitigation is not possible and risks remain high. The company’s Human Rights Policy and commitment to its due diligence process are also incorporated into annual training for all Nokia employees.

Alcatel-Lucent has also designed a strategy, under the supervision of the Chief Compliance Officer and Executive Leadership, which includes commercial due diligence screening, incorporating legal and/or human rights clauses in agreements with resellers, human rights training of employees, and ensuring implementation of these measures across the supply chain. These activities carry out the commitment stated in the company’s Global Human Rights Policy.
In conclusion

The Industry Dialogue has been following international debates on the increased use of surveillance technology by some states in ways that may interfere with the right to privacy as set out in international human rights standards. The Industry Dialogue welcomes the initiative of the European Parliament to explore this issue in greater depth. We would be pleased to provide further information that would support the European Parliament’s work in this regard or to participate in future hearings or other spaces for dialogue.

Once again, thank you for the opportunity to provide this submission.

Sincerely,

Milka Pietikainen
Chair, Telecommunications Industry Dialogue
Millicom, S.A.

Lisl Brunner
Facilitator for the Telecommunications Industry Dialogue