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Rebecca MacKinnon – Ranking Digital Rights: How can and should ICT sector companies respect Internet users' rights to freedom of expression and privacy?

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This post was contributed by Rebecca MacKinnon, director of the Ranking Digital Rights project at the New America Foundation.

Vodafone's blockbuster Law Enforcement Disclosure report, published last week, reveals greater detail than any telecommunications company has previously shared about the extent and nature of government surveillance demands all over the world.

Vodafone is certainly not alone: the problem is rampant across the entire sector. Norway's Telenor is under pressure from Thailand's new military leaders who just seized power in a coup to help monitor and censor any content that might "lead to unrest." Human Rights Watch recently questioned the French company, Orange, about its operations in Ethiopia whose government jails bloggers for political critiques.

Censorship is also a serious and growing problem for the ICT sector. On the 25th anniversary of China's Tiananmen Square massacre on Wednesday, LinkedIn blocked mentions of the tragedy for its users in China. Last month, Twitter came under fire from free speech activists for agreeing to censor several tweets in Pakistan at the government's request. Earlier this year, *The Atlantic* reported that "the Syrian opposition is disappearing from Facebook" – and not by choice.

Clearly, the policies and practices of Internet and telecommunications companies have real impact for the free expression and privacy of people around the world. Are they living up to their responsibilities? Are they doing everything they can to respect the rights of their users?

Some companies are trying – to varying degrees, publishing "transparency reports," signing up for assessment processes through membership the Global Network Initiative, and making joint commitments as part of the Telecom Industry Dialogue. Others are doing little more than public relations window-dressing, while yet others are making little or no discernible effort to respect their users' digital rights.

Meanwhile, investors have begun to ask questions about the materiality of companies' policies and practices related to freedom of expression and privacy. One concrete example is the addition of freedom of expression and privacy criteria to recommended SEC reporting standards by the Sustainability Accounting Standards Board.

As Internet users, or as investors who care about social value as well as financial returns, what should we be asking of these companies? How do we benchmark and compare companies' policies and practices affecting free expression and privacy? What should be considered "best practice" in a world where governments are making unreasonable demands of companies, whose staff risk jail or worse in many cases for non-compliance?

The Ranking Digital Rights project is working on answers to those questions, developing a system rank the world's most powerful ICT sector companies on free expression and privacy criteria. We have just released a draft methodology on which we are now inviting public comment until July 7th. After further revision followed by a pilot study, we aim to start ranking up to 50 Internet and telecommunications companies in 2015. (We will add up to 50 more device, software, and equipment companies in 2016.)

The project is modeled after other efforts by investors, universities, NGOs and international organizations that measure companies on other human rights, social responsibility and sustainability criteria – from conflict minerals to labor practices to carbon disclosure. Many rankings efforts such as the Access to Medicines Index and the Corporate Equality Index have had real impact on corporate practices.

Thus we believe that if the methodology is well constructed, a ranking focused on the policies and practices of ICT sector companies affecting free expression and privacy can have a substantial, measurable impact on the extent to which companies respect and protect Internet users' rights.

The current draft methodology is the product of more than a year's worth of research and stakeholder consultation. The first step came with a stakeholder consultation in the Fall of 2012 to ascertain whether there was sufficient interest among

investors, advocates, and technologists to proceed with the project. After some initial funds had been secured and partnerships forged, an April 2013 workshop at the University of Pennsylvania brought together a group of researchers from around the world, technologists, experts in business and human rights, and experts on rankings. Out of that meeting came a set of draft criteria in the summer of 2013: an initial list of questions that stakeholders believe are relevant to understanding how and whether Internet and telecommunications companies are making genuine efforts to respect Internet users' freedom of expression and privacy. We then used the draft criteria as the basis for a set of case studies examining companies in the United States, Europe, Brazil, India, China, and Russia. The results of the case study in turn enabled us to make key decisions about the methodology's scope and focus, and to publish a first draft in February. We then carried out another round of consultations with companies, investors, technologists, experts on business and human rights, and experts on rankings. After absorbing their feedback and carrying out further research, we were able to publish Version 2 of the draft methodology late last month.

Public consultation on the current draft runs through July 7th, after which we will make another round of revisions and produce Version 3. That version will be used as a basis for a pilot study focusing on up to 10 of 50 companies we are likely to rank in 2015. This pilot study will enable us to improve the methodology and make final decisions about scoring and weighting for the full ranking to be implemented in 2015. It will also enable us to identify adoption and advocacy strategies for investors and civil society, so that we can ensure that the ranking is produced in a manner that is as useful to these stakeholder groups as possible.

But first, in order to make sure that our methodology is as solid and credible as possible, it is important that we get feedback on our latest draft from experts on digital privacy and freedom of expression, anybody who might want to use our data when it comes out, as well as companies who may be candidates for ranking.

If you think you might be one of those people – or if you just care about these issues and want to weigh in – please click here, read the methodology, and help us improve it.

Rebecca MacKinnon

Rebecca MacKinnon directs the Ranking Digital Rights project at the New America Foundation. Author of Consent of the Networked: The Worldwide Struggle For Internet Freedom(Basic Books, 2012), she is co-founder of the citizen media network Global Voices Online. MacKinnon was a founding Board member of the Global Network Initiative and currently serves on the Board of the Committee to Protect Journalists. In the late 90's and early 00's she was CNN's Bureau Chief and correspondent in Beijing and in Tokyo.

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