February 10, 2015

Dr. Jim Young Kim  
President, World Bank Group  
1818 H Street NW  
Washington, DC 20433

RE: Telecommunications Industry Dialogue submission to the World Bank’s consultations on the draft Environmental and Social Framework

Dear Dr. Kim:

The Telecommunications Industry Dialogue is pleased to provide its comments to the World Bank Group in the context of the review of the Bank’s Environmental and Social Framework. Specifically, the Industry Dialogue encourages the Board and the Executive Committee on Development and Effectiveness to include requirements that both the Bank and its Borrowers evaluate the risks to and impacts on the human rights to freedom of expression and privacy as part of the environmental and social due diligence that is performed prior to financing projects involving ICT sector development.

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. 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.

Making communications infrastructure and services accessible to the greatest possible number of people furthers the goals of ending extreme poverty and fostering income growth for the bottom 40 percent of the population in every country, as articulated in the World Bank Group Strategy of 2013. Access to the Internet and communications services also facilitates the exercise of fundamental human rights, including the rights to freedom of expression, health, privacy, and access to information. Nevertheless, ICT products and services also have the potential to be misused as tools for violating fundamental rights. UNESCO and the UN Special Rapporteur for freedom of opinion and expression are among those who have documented situations in which governments have restricted content that is critical of the authorities or have misused technology to locate and
persecute human rights defenders, journalists, religious and ethnic minorities, political opponents, and others.\(^1\) If the World Bank requires that due diligence activities performed prior to financing ICT sector development projects incorporate an assessment of risks to freedom of expression and privacy, there is a far greater likelihood that ICT products and services will have a net positive impact on the pertinent country’s economic growth and social and democratic development. Such a result is also consistent with the World Bank Group Strategy’s expressed commitment to foster inclusion, which is described as embracing action to protect fundamental human rights and dignity.

The Telecommunications Industry Dialogue proposes that the World Bank Environmental and Social Policy require that the Bank evaluate the risks and impacts to the freedom of expression and privacy of a partner country’s population during the project life-cycle and establish preventive and control measures consistent with international human rights law and standards as part of its due diligence activities prior to financing a project involving ICT sector development. In terms of the duties of Borrowers, Environmental and Social Safeguard 1 should also require that freedom of expression and privacy be assessed, managed and monitored along with other environmental and social risks and impacts of projects involving ICT sector development throughout the project life-cycle. Further elaboration of this requirement could be included in the Annex to ESS1. The Bank might also consider the possibility of developing a specific Environmental and Social Standard on freedom of expression and privacy, the applicability of which could be established in the environmental and social assessment.

A risk and impact assessment of this type would require the World Bank and the Borrower to review the partner country’s legal and regulatory framework related to freedom of expression and privacy. Such an assessment would be valuable for the country on many levels, because in the experience of the Telecommunications Industry Dialogue, many countries lack a clear and transparent legal framework regarding government restriction of the content of communications and access to communications data. This presents particular challenges in some countries, in which the law does not clearly establish the form that a government request to restrict content or 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’ rights. By contributing to the mitigation of the risk that technology will be misused, the Bank also ensures that ICT projects have as positive an impact as possible on the development of its partner countries.

---

Where an assessment reveals that the legal framework relating to freedom of expression and privacy in a World Bank partner country is inconsistent with international standards, remediation of this problem could be included in the Borrower’s Environmental and Social Commitment Plan. This may also create opportunities for the World Bank to provide technical assistance and capacity-building that promotes the adoption of laws and institutions that adhere to international standards and ensure greater protection for human rights.

Thank you for the opportunity to participate in the consultation.

Sincerely,

Milka Pietikainen, Chair of the Industry Dialogue
Millicom, S.A.

Lisl Brunner
Facilitator for the Telecommunications Industry Dialogue