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Irene Khan
Special Rapporteur on the right to freedom of opinion and expression

Office of the United Nations High Commissioner for Human Rights

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RE: Submission on Disinformation in the Digital Age

The [Global Network Initiative](https://globalnetworkinitiative.org/) (GNI) strongly supports the mandate and the work of the UN Special Rapporteur on the right to freedom of opinion and expression and welcomes the decision by the Special Rapporteur to focus her thematic report on the issue of disinformation. GNI is a unique multistakeholder organization made up of 70-plus information and communications technology (ICT) companies, civil society organizations, investors, and academics from all over the world. We work with our [members](https://globalnetworkinitiative.org/#home-menu) to forge a common approach to protecting and advancing free expression and privacy online. Toward that end, we developed the GNI [Principles](https://globalnetworkinitiative.org/gni-principles/) on Freedom of Expression and Privacy and [Implementation Guidelines](https://globalnetworkinitiative.org/implementation-guidelines/) to inform responsible company action when facing requests or restrictions from governments around the world that could impact freedom of expression and privacy. GNI is the only [multistakeholder initiative](https://globalnetworkinitiative.org/about-gni/) with a specific focus on freedom of expression and privacy in the ICT sector.

As the Special Rapporteur [noted](https://www.ohchr.org/EN/Issues/FreedomOpinion/Pages/Report-on-disinformation.aspx) in her call for submissions, disinformation is an old problem manifesting itself in new ways. GNI and its members come to this issue with a deep awareness of the broader dynamics between States and ICT companies, drawing from the insights generated through our unique [assessment process](https://globalnetworkinitiative.org/company-assessments/), as well as our efforts to facilitate shared, often-confidential learning across our diverse members. It is also important to situate disinformation in the context of broader, relevant legal frameworks (we maintain a [repository](https://clfr.globalnetworkinitiative.org/) of over 50 reports summarizing country-level legal frameworks) and regulatory trends (we recently issued a policy brief, “[Content Regulation and Human Rights: Analysis and Recommendations,”](https://globalnetworkinitiative.org/content-regulation-policy-brief/) examining two dozen governmental content regulation initiatives), which are being reviewed and reformed in an increasing number of jurisdictions.

Perhaps the most important thing to note about disinformation is that its impacts are often diffuse and difficult to attribute. As a result, it can be difficult to identify and measure disinformation, determine the intent of its authors and amplifiers, and remedy its consequences. This also means that efforts to reduce disinformation, whether undertaken by companies, governments, or other actors, often face challenges and can create unintended consequences. In particular, efforts that rely on adjudicating “truthfulness” can have significant widespread impacts not just on the ability of individuals to express themselves, but also on efforts to access and archive information, journalistic reporting and academic inquiry, and the [freedom of opinion](http://hrlr.law.columbia.edu/hrlr/losing-the-freedom-to-be-human/). As we pointed out in our Content Regulation Policy Brief, these impacts can be exaggerated where there is pressure to conduct such adjudication on service providers who are poorly positioned to do so, in a short period of time, or under threat of significant penalties.

In addition, the scale and speed with which information spreads – especially around high-profile events or entities – appears to often lead governments to pursue supposed solutions that minimize or eliminate certain important checks and balances. As noted in our Content Regulation Policy Brief, sometimes these efforts outsource adjudication to private actors, who may not provide sufficient due process, accountability, or recourse for their decisions, while others grant unfettered discretion to government actors or agencies who may lack expertise, independence, or oversight.

In our view, efforts to address content regulation broadly, and disinformation specifically, should be undertaken carefully, subject to broad consultation and deliberation. In addition, States seeking to regulate disinformation should be explicit about their justifications and clear in their definitions in order to establish credibility, consistency, and predictability. Finally, it is critical that efforts to address disinformation are narrowly targeted and include measures that allow for the identification, mitigation, and redress of harms. In other words, disinformation presents challenges that underscores the importance of paying particular attention to all three aspects of the three-part test: legality, legitimacy, and necessity.

We appreciate the opportunity to provide input for this important thematic report. If you have any questions or would like any additional information, please let us know. We look forward to the report and to continuing to engage with you in support of your mandate.

Best Regards,

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