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Excellencies, High Commissioner, Special Representative Ruggie, Ladies and Gentlemen:

It is a privilege and an honor to be here today representing Yahoo! to discuss the framework for business and human rights. The framework's constructive and holistic approach is revolutionary and has the potential to have a profound and sustainable impact on human rights around the world.

I have been asked to discuss the corporate duty to respect human rights, in the context of potential conflicts of law between international human rights standards and certain aspects of local laws. For Yahoo! and other Internet Communications and Technology companies, this discussion is of tremendous importance. Yesterday, the honorable Jody Kollapen rightly referred to "the invisibility of government." Indeed, the historical conversation about business and human rights is most often about weak, absent or co-opted governments and about how to persuade companies to follow local law.

At Yahoo!, our primary human rights issues arise when governments are, some might say, all too visible. They arise when governments create and enforce laws that may be binding on companies as local corporate citizens, and which may come in conflict with international human rights norms.

I will share a few thoughts, to attempt to outline the complexity of the issue. I will briefly describe the approach we are taking at Yahoo!, and then I will close by offering a few thoughts about how the Special Representative's operational guidelines might address this particular challenge.

So, to begin, a few observations:

First, the Internet and technology are powerful platforms. They allow ordinary people to do extraordinary things. Technology builds bridges between people, cultures and nations. It provides access to information that, in many communities, would not otherwise be available.

Second, the power of the Internet has attracted the notice of governments around the world. Many seek to use that power; others seek to limit that power. While the debate

has focused on the actions of a few countries in particular, I must emphasize that the state desire to control or regulate free expression and privacy in some way is virtually universal.

Third, the state interest in regulating free expression and privacy can be linked to the state's duty to protect its citizens. We see this most vividly, for example, when we consider the regulation of content such as child pornography, or when we consider investigations in which data is used to prevent or solve violent crimes.

Fourth, companies like Yahoo! are most successful when a) users trust us with their personal data and b) when access to information and expression are as free as possible. Our business goals are aligned with protecting and promoting free expression and privacy.

Fifth, in the case of access to technology, our products and our ability to provide services are aligned with the interests of citizens in opposition to governments who restrict free expression and privacy. People around the world depend on our products to connect and engage. Paradoxically, it is in places where free expression and privacy are most threatened that access to the Internet can have the most profound impact.

This is an important point because one oft-heard response to corporate responsibility concerns is "leave the country." This is a view often not shared by citizens in the affected countries, for whom the Internet and technology can be a lifeline. It is also a view that is easier to hold from the comfort of places where one's own ability to connect, communicate and engage is not threatened.

With these thoughts in mind, I affirm that companies like Yahoo! most assuredly have an important role to play in protecting and promoting the human rights of free expression and privacy.

The question is: How can companies play their role constructively in the face of these complexities? Put more plainly, what should the company decision-making process be when companies, like citizens, are subject to the laws of the countries and communities in which they operate? Indeed, engendering respect for local law is the foundation of much of corporate social responsibility practice. Companies cannot be asked on the one hand to respect the law, and on the other to break the law. As a matter of public policy and basic corporate governance principles, should companies be asked or allowed to decide for themselves which laws to respect and which to ignore?

This complexity is precisely why Yahoo! has, together with industry counterparts, NGOs, socially responsible investment firms, academics and other interested stakeholders, co-founded the Global Network Initiative. Yahoo! believes one of the most effective ways to address this complex issue is through a collective, multi-stakeholder approach. Like the Special Representative's mandate, the GNI is a ground-breaking collaborative

approach that draws on the collective wisdom of the crowd to identify concrete solutions.

Given the rapid evolution of knowledge in the ICT sector, GNI has created a learning and human rights impact assessment work stream, to give practical guidance to companies. Some of the areas addressed by GNI's Principles and Implementation Guidelines include guidance on data hosting decisions, notice provisions for users and human rights impact assessments. Through the GNI, we have also created an accountability and public reporting framework.

We recognize, however, that it is the state's duty to protect the rights of its citizens, and companies alone cannot guarantee the protection of human rights. The Special Representative's mandate, which addresses the respective roles of states as well as companies, is vitally important for citizens around the world.

To close, I have been asked to give thoughts on concrete solutions, grounded in Yahoo!'s experience as an ICT company and influenced by the specific instance of conflict between local law and international human rights norms.

I would ask that the Special Representative consider solutions that do not punish the communities and populations we all seek to empower. By this, I intend to highlight the reality that depriving people of the increasingly important platform of technology and the Internet is a flawed approach that may undermine the very rights it seeks to protect.

I would also urge the Special Representative to ensure that the operational guidelines for the framework include the following:

- Support for collaborative and multi-stakeholder approaches to solving business and human rights issues;
- Tools and guidance for companies to help them engage with affected communities;
- Guidance for NGOs who would like to work with companies to jointly create constructive solutions;
- Specific guidance for companies when they are faced with a conflict between local law and international human rights norms; and
- An understanding of the relative value of engagement in "difficult" markets or regions, particularly for industries and products that have the potential to promote the human rights that we all seek to protect.

I thank you for the opportunity to participate, and I look forward to learning from each of you.