Ranking Digital Rights - Research Guide
for
Internet & Telecommunications Company Case Studies

(updated June 29, 2013)

This guide is a supplement to two other main documents on which the Ranking Digital Rights 2013 Case Study research will be based:

1. Scope of Work document - This is adjusted for each research team's schedule, number and type of companies studied, etc., but the methodology for each team is the same.

2. Phase 1 Criteria Research Draft - Version for use by all case study teams will be finalized by the Project Lead in late June.

Please read those two documents first, and refer to them while reading this guide.

As outlined in the Scope of Work document, the work of each research team has two components:

1) Information Collection through desk research and company interviews, the results of which will be entered into a spreadsheet for internal use only by the Project Lead and other key members of the research team. This information will be used to refine and adjust the ranking methodology but will not be published.

2) Analytical Narrative Report, identifying the researchers' or research team's conclusions about which elements of the criteria can possibly be followed by Internet companies in that particular country, given today's legal and political context. A version of the report will be published pending the authors' consent.

Information Collection Phase:

Each research team will be provided with an Excel spreadsheet organized into three different sub-sheets: One for each of the three issue areas in the Draft Criteria. Each line will contain one criteria question, followed by several fields:

1. Yes: include documentation/information to support the "yes" answer
2. No: include documentation/information to support the "no" answer
3. Partial: include documentation/information to explain the "partial" answer
4. N/A: include documentation/information to explain why this question is not in any way applicable to that company
5. Why: Company Specific Reasons

6. Why: Legal or Political Reasons
7. Interviewee(s) (name and contact info)
8. Desk Research Process Notes
9. Interview Process Notes
10. Other notes/observations/concerns

The Draft Criteria contains three different kinds of questions:

1. Questions answerable "yes" or "no" through desk research

2. Questions requiring a company interview or questionnaire to determine "yes" or "no" (colored blue)

3. Questions that may be answerable through desk research in some cases but which will require interview with company in other cases. (green)

<u>Desk research – process and sources:</u>

<u>Process</u>**:** For each company covered in a case study, all desk research pertaining to that company must be completed before the interview begins with a representative of that company. This desk research will obtain the following information:

- Definitive answers to "Yes" and "No" for all criteria questions not highlighted in blue or green, plus links to sources and/or notes pointing to supplementary scanned PDFs which will be provided as an appendix to the spreadsheet.

- Determine which questions are not applicable to a given company based on its existing business and services, entering the relevant supporting information into the N/A field of the spreadsheet. Note: In order to make this determination the researcher must have a complete list of all products and services provided by that company.

- Preliminary answers to questions highlighted in blue and green, to be confirmed by company interviews.

- Preliminary answers to "Why" (in cases where the criteria answer is "No") for criteria questions can be recorded in the desk research phase particularly in two types of cases: a) the research team has strong reason to believe that the reason is legal or political; b) cases in which the company's published statements already provide a clear answer to the "Why" question. (More details about sources below). **Preliminary "Why" answers recorded during desk research must be confirmed by company interviews.**

- Name, job title, and contact information of company representative(s) to be interviewed.

- Further notes about difficulties encountered during the desk research process or other observations that will be useful for refining/improving the case study research process in future.

<u>Sources</u>**:** Sources used by all research teams in filling out the different fields of the spreadsheet should be as follows:

- **"Yes," "No," "Partial," and "N/A" fields –** In filling out these two fields in the spreadsheet, researchers should use *primary company sources only*, such as:

    - Official company website
    - Blog posts on the official company blog written by company staff members
    - Official published company documents
    - Published interviews and speeches by high-level company executives (CEO, COO, Chairman of the Board, President, or similar) – note that this means full transcripts or excerpts published by the company, not quotes in secondary sources such as newspapers or news websites, or off-the-cuff remarks made on panels or life television, etc.

    In all cases, in the relevant field, researchers should include a link to the relevant web page, blog post, or online company document that the researcher used to determine the answer. In cases where supporting documentation is published in printed form but not online, a scanned copy of the relevant pages should be included when completed spreadsheets are submitted to the Project Lead. **NOTE:** For this part of the desk research, researchers should cite **primary company sources only** and *not* secondary sources such as news reports or academic articles.

    Original language sources are acceptable and expected. In cases where English translations are available researchers should include links to both versions in the spreadsheet.

- "Why" - In cases where the answer to the criteria question is "No," and if "Why" can be answered in preliminary fashion through desk research (as described in the "Process" section above), researchers should provide at least one of the following types of *primary and/or secondary* sources and supporting documentation either in the form of a web link where the document is online or PDF scan of relevant pages in cases where the document is not online (original language sources are fine):

    - Primary company sources used to answer "yes" and "no" questions
    - Text of relevant laws

- Published news reports
- Published academic papers
- Blog posts by known experts with a track record of research work on related subjects (pending discussion with and approval by Project Lead)
- Published reports by advocacy organizations
- Blog posts by established NGO's with credible research operations (pending discussion with and approval by Project Lead)

Company Interviews:

Interviews are necessary for all companies in order to complete the "Why" field on the spreadsheet. (**Note**: "Why" only needs to be answered when the answer to the criteria question is "No.")

- **Selecting interviewees:** This process will inevitably vary by country depending on the nature of each country's legal/political regime as well as differences in corporate structure in different countries. Final selection of interviewees should be made in consultation with the Project Lead.

  Naturally, the goal is to interview the individual or individuals in the company whose job/s qualify them to answer the questions posed by the criteria questions. In some companies, particularly those that participate in corporate social responsibility initiatives like the Global Network Initiative or the Telecommunications Industry Dialogue through which companies make commitments on free expression and privacy, it may be possible to identify one individual in the company capable of answering all the questions (the Project Lead can assist with contacts in those cases). However in the case of most companies, it may be necessary to speak to more than one officer in the company in order to answer all of the criteria questions. Departments or divisions containing executives capable of answering the criteria questions may include:

  - Corporate Social Responsibility department or division
  - Chief Privacy Officer and his or her staff
  - Policy department or division
  - Freedom of Expression department or division (Google, for instance, has employees who work exclusively on privacy issues and other employees who work exclusively on free expression issues, with another group covering transparency about both)
  - Legal department
  - Editorial department

  It is possible that a company will designate one point of contact for the researcher to interview, and if there are questions that person cannot answer they will check with other colleagues then get back to the researcher in a follow-up conversation or e-mail exchange. This is acceptable.

It is also possible that the researcher may need to conduct separate conversations with 2-3 company representatives in order to obtain answers to all of the criteria questions and the follow-up "Why" questions. These interviews may be arranged separately or together at one time, according to interviewee schedule and preference.

NOTE: In certain countries political and legal sensitivities make it unrealistic to conduct more than one interview per company without adverse consequences for the interviewees, researchers, and/or ability of the team to successfully complete the case study. Case studies to which this situation applies will be identified by mutual agreement between Project Lead and the specific research team. The more limited interview scope of these case studies will be noted in the final narrative report.

In all cases, research teams should inform the Project Lead of their selected interviewees, and reach mutual agreement about their appropriateness in the broader context of all case study research, before proceeding with any interviews.

- **Interview format**: Depending on the country where the research is being conducted, we will take two slightly different approaches:

    a. In some countries, no substantive difference in an interviewee's answers can reasonably be anticipated between an in-person interview or telephone interview. Such cases are to be identified through mutual agreement between each research team and the Project Lead. In such cases an in-person interview is preferable when the interviewer and interviewee reside in the same city or when the research team's budget allows for interviewer travel. Telephone or Skype interviews are acceptable when travel costs or other logistical hurdles are prohibitive, pending agreement with the Project Lead.

    b. In other countries, the substance of an interviewee's answers – or possibly even their willingness to conduct the interview – are reasonably expected by the research team to differ substantially depending on whether the interview is conducted in person or via phone/Skype. Such cases are to be identified through mutual agreement between each research team and the Project Lead. In such cases, interviews should be conducted in person only.

- **Explaining the project to companies:** In contacting companies and potential interviewees, researchers should follow these guidelines:

1. **Who you are:** Tell them your name and the institution of your research team.

2. **Purpose of the project:** Explain that [your institution or department or center or you as an individual researcher, or the professor who you work for, depending on the specific circumstances of each case study's arrangements with the Project Lead] is/are participating in an international research project whose purpose is to identify the practical implications for ICT sector companies of the "UN Guiding Principles on Business and Human Rights". These principles, endorsed by the UN Human Rights Council in 2011, place primary responsibility on *governments* to *protect* human rights, while placing a clear responsibility on *companies* to *respect* human rights. (If they are unfamiliar with the UN Guiding Principles, offer to send them a link where they can download the document in one of several languages, or send them directly a PDF of the document itself in the relevant language.[1] Another resource to share is the new European Commission guidance to the ICT sector on implementing the UN Guding Priniples[2]). The researcher can also share the URL for the project's public website: http://rankingdigitalrights.org,

3. **Focus of the project:** This project focuses on two specific rights included in the Universal Declaration of Human Rights that are particularly relevant to digital, globally networked technologies: free expression and privacy. In response to questions about why we are only focusing on these two rights, explain that other organizations are conducting research on other human rights including labor rights, economic rights, child protection, and so forth. Research shows that different types of rights involve different types of challenges for companies as well as for governments. These two particular rights are especially difficult for companies to uphold in many legal and political contexts, which is why this project focuses exclusively on them.

4. **Explanation of the country- and company- focused case study research that you are participating in:** The project's long term goal is to create a globally relevant methodology for assessing and comparing company efforts to respect those two rights of their users and customers. In order do that, however, research including interviews with companies must first be conducted. Therefore, in 2013 we are conducting case study research in selected countries, including interviews with representatives of several companies in

[1] http://www.business-humanrights.org/SpecialRepPortal/Home/Protect-Respect-Remedy-Framework/GuidingPrinciples

[2] http://ec.europa.eu/enterprise/policies/sustainable-business/corporate-social-responsibility/human-rights/index_en.htm

each country. This background research will not be used to rank companies, but will be essential so that our international team of researchers can determine what policies and practices companies should reasonably be expected to implement in the context of legal and political realities. Only then can we proceed to develop a broader system for evaluating company policies and practices that will be both fair and credible.

5. **Who is involved:** This international research project currently involves researchers at universities and research institutes in North and South America, Europe, and Asia.

   - If the interviewee asks for a full list of project partners, the researcher can provide a list of all of the partners listed on the project's website.

   - If the interviewee wants to know who is funding the project, the researcher should first explain who is funding his or her own participation (i.e., Internews for the "BRIC" case study teams, University of Pennsylvania/Annenberg Foundation COMPASS fellowship for the U.S. Case study, etc.). The researcher can also say that this is a pilot project with a small budget which does not presently include any government or corporate funding. The salary of the Project Lead and some additional resources for meetings and student research assistance are provided by the University of Pennsylvania, the MacArthur Foundation, and the Open Society Foundations.

6. **How the interview will be conducted:** Explain that the interview will be based on a draft set of possible criteria that could potentially be applied to evaluate a company's policies and practices related to freedom of expression and privacy. If the interviewee or company representative wants to see a copy of the draft criteria in advance, send them a PDF of the *FINALIZED* version which will also be published in early July on the project website. Prior to the interview, the researcher will have conducted desk research to determine the answer to all questions that can be answered based on publicly available information. The researcher will ask three types of questions:

   - To confirm the information gathered through desk research;

   - To determine answers to questions on which there is no publicly available information;

- Regarding questions to which the answer is "no", the researcher will seek to find out "why" (using appropriately non-confrontational and diplomatic language). In other words: If company management did want to implement a given policy or practice, what are the main obstacles that the company would face?

7. **How the interview will be used:** The interviewee's name (or other description that could be used to identify the individual) will not be made public online or in print or any other public format without the interviewee's express permission. We expect that in most cases interviewees will prefer to remain anonymous and we will respect interviewees' requests.

   The content of the interview will be used in two ways:

   a) Spreadsheet for internal use only: Records of interviewees' answers will be logged in an Excel spreadsheet for internal research use only. Material in the spreadsheet will be considered confidential and shared only with other members of the project's research team, and only among those who require access to the spreadsheet in order to complete their assigned research and analysis work.

      - For "Yes," "No," "Partial" and "N/A" answers to criteria questions researchers should enter the supporting information/documentation in the correct field. Additional explanations or qualifications provided by the interviewee can also be included in that field, in order to further the project team's understanding of the company's decision-making process or rationale for implementing—or not implementing—a particular policy or practice.

      - "Why" explanations will be summarized in the fields, "Why: Company Specific Reasons" or "Why: Legal or Political Reasons." A "company specific reason" might include the following types of reasons: the policy/practice is incompatible with the company's business model; the company lacks resources to implement the policy/practice; company executives did not consider this possibility, etc. A "legal or political reason" refers to cases where law or regulations in that jurisdiction prevent the company from implementing the policy or practice in question, or the country's political environment makes it too risky either for the company as a whole or as individuals within the company. If the company's explanation for a particular criteria item combines both types of reasons, then the researcher should enter the relevant information into both of the "why" fields.

b) Published case study analysis: All interviewees will be given the choice of whether they want their answers to be used with attribution or "on background." We expect that few interviewees will choose the first option and that most interviewees in most countries will choose to remain "on background". For the purposes of this project, "on background" is defined as follows:

A quote or information from an interview may be used for publication, provided the source is not identified by name or by other attributes that would uniquely identify that specific individual. In some cases, the report's author may be asked by the Project Lead to use some form of general attribution such as "senior executive in one of the companies interviewed" or "a source directly familiar with the operations of company x" in order to ensure that the analysis furthers the project's over-arching goal: improved understanding of the challenges faced by companies in respecting Internet users' rights to freedom of expression and privacy so that a fair and credible system for evaluating company policies and practices can ultimately be developed. However all final decisions about use and sourcing of information from interviews will be made in the context of the project's solemn commitment to respect and protect the anonymity of all interviewees who request it.

8. **Audience of the Case Study Analysis:** After editing and mutual agreement between researchers and the Project Lead about what final language should be used in order to protect sources, the Case Study Analysis documents produced by each Case Study Research Team will be published as PDFs on the project's website at http://rankingdigitalrights.org.

We expect that the primary audience of the Case Study Analysis reports will be academics and graduate students studying issues related to free expression, privacy, and corporate responsibility, as well as other researchers interested in or involved with the project's development in late 2013 of a methodology for comparing or ranking ICT companies on free expression and privacy criteria (see details below). It is also possible that some or all of the material from the Case Study Analysis reports will be adapted for publication as academic research papers or academic conference presentations, while maintaining respect for the anonymity conditions as outlined above.

9. **<u>Broader use of the Case Study Analysis:</u>** ***Companies will not be graded or scored against one another on the basis of the project's case study research conducted in 2013.*** The conclusions and recommendations articulated by researchers in all of the 2013 Case Study Analysis documents will be used by the project team to improve upon the Draft Criteria used in the Case Studies. The revised criteria will form the basis of a methodology for ranking Internet and telecommunications companies on free expression and privacy related policies and practices. A final draft of that methodology will be published in late 2013 or early 2014 for public comment, including by companies. (We are happy to send a copy of that draft methodology to the interviewees for their own comment as soon as it is published.)

   After final revision, the 2014 methodology will be applied by a global research team according to a different research process than the process used for the 2013 case studies. That 2014 process will most likely include desk research and company surveys (as is standard practice with many corporate ranking systems on other issues covering other industries) but may not require direct interviews. Final decisions about the 2014 methodology and process will be informed by what we learn from the 2013 case study research. It is important to note that the data gathered in 2013 will not be used toward any company evaluation, ranking, or scoring that might take place in 2014.

10. **Why it is in a company's interest to participate in this case study:** Questions about whether companies are meeting their responsibilities under the UN Guiding Principles are of growing concern to regulators, lawmakers, and NGOs in many countries where large ICT companies with global aspirations are seeking to attract new users, or where venture capital investors are concentrated, or where capital markets on which your company depends are located. The European Union, for example, has just published new guidelines for ICT companies on how to implement the UN Guiding Principles. These guidelines include the right to free expression and privacy. Socially responsible investment funds are examining how to incorporate the UN Guiding Principles into investment criteria that already include environmental, social, and governance concerns. The Dow Jones Sustainability Index recently added a question about digital free expression and privacy. Several socially responsible investment firms have taken a strong interest in this project. We expect that this project will help to shape

global standards on what policies ICT companies can reasonably be expected to implement in order to meet their obligations under the Guiding Principles, specifically on free expression and privacy-related concerns.

By participating in this project your company can gain advance knowledge of emerging international standards for corporate policy and practice on free expression and privacy. We believe that international pressure and scrutiny on companies will grow stronger just as environmental and labor concerns have grown. By engaging in the interview process your company has the opportunity to ensure that as global standards emerge on company responsibility to respect free expression and privacy rights, the practical challenges that your company faces will be understood and taken into account.

- Collection and storage of information: With the interviewee's consent, his or her answers can be recorded on an electronic device by the researcher. This recording is for use as a supplement to the researcher's notes taken at the time of the interview, so that the researcher can check the recording when writing up his or her notes and summaries, and thereby avoid entering errors into the spreadsheet or narrative analysis. This recording will be maintained by the researcher for reference and record-keeping purposes at least until the project is fully completed, in case questions about specifics of the interviewee's responses are raised by the Project Lead or peer reviewers of the draft narrative analysis. Neither the recorded audio nor any interview transcript will be published in any form. Researchers are not required to produce full interview transcripts in any language; they may or may not choose to transcribe all or parts of the interviews in the process of entering information into the spreadsheet or writing the narrative analysis.

  NOTE: In countries where political sensitivities are known to be high (as identified and agreed upon in advance by the research team and Project Lead), an exception may be made if an interviewee makes a convincing argument that he or she can only participate in an interview if no recording is made. In such a case, the fact that no recording was made in one or more interviews for that case study should be noted on the internal spreadsheet and in the published analysis. Researchers must take extra care to record deliberate and detailed notes during the interview.

- Interview questions: Below are some examples of how questions should be addressed, based on the June 22 version of the Draft Criteria:

  Criteria Question G.1.1 "Does the company make a commitment to respect human rights in any of its publicly available materials? (If yes provide link/s or documentation.)

- If the researcher has determined through desk research that the answer is “yes,” prior to the interview the spreadsheet will have been filled out with supporting information/documentation in the “yes” field for this company on this question.

- The researcher will ask the interviewee to confirm whether the source provided is correct and is the most up to date version.

- If the researcher has determined prior to the interview through desk research that the answer to this question is “no,” then the researcher should first confirm that this is in fact the correct answer. Then he or she should find out “why?” (asking the question in an appropriately diplomatic and non-confrontational manner). In essence: If company management did want to implement a given policy or practice, what are the main obstacles that the company would face? For example in the case of G.1.1: “If senior management decided that the company ought to include recognition of its responsibility to respect human rights in published company materials or on the website, what would be the obstacles or challenges to doing so?”

Another example is the sequence of questions under G1.6 – Human Rights Due Diligence and Impact Assessment (highlighted blue):

G1.6.1 - Does the company have a process to identify the human rights impacts of its existing services and operations?

G1.6.2 - Does the company carry out human rights impact assessments before launching new products or services, or entering new markets?

G1.6.3 – Does the company undergo an independent third-party assessment process to verify the existence and evaluate the quality of 1.6.1 and 1.6.2?

- In this case, if the answer to G1.6.3 is “yes” and company has undergone an independent assessment process by an organization that has published the results, that fact will be publicly reported by the company and/or by the organization that carried out the assessment. Then these questions may be answerable by desk research. However, this is true for only a tiny handful of companies in the world.

- If the company has not undergone an independent assessment, the correct answers to G1.6.1 and G1.6.2 may be either “yes” or “no,” but that answer can only be determined by asking the company directly.

Other questions (highlighted green) may or may not be possible to answer through desk research, take for example question G2.1: “Does the company engage with governments in countries where it conducts business to advocate for changes to policies and laws that clash with international human rights law? (If yes provide publicly available information about such dialogue.)”

  - It may be possible to determine the preliminary answer to this question through desk research; however the answer still needs to be confirmed by interview.

  - With this and other similar questions about engagement with governments and other stakeholders, researchers are encouraged to provide links from news reports, press releases, and online announcements on the official websites of stakeholders with whom the company claims to be engaging, in addition to official company announcements, press releases, blog posts, and other officially sanctioned company publications.

- Filling out the spreadsheet: It is possible in some cases that a company’s answers to the “Why” questions may be identical for a sequence of criteria questions or even a whole section of criteria questions. In cases where the “Why” answer to multiple criteria questions in the same sequence is identical, researchers may cut and paste the same answer or provide one single answer for the entire sequence.

  In the columns marked “Desk Research Process Notes” and “Interview Process Notes,” researchers should be sure to add observations, concerns, recommendations, and suggestions for future researchers. Even if you are not sure that the information will be useful—when in doubt, include it.

Analytical Narrative Report:

Please see the relevant team’s Scope of Work document for description of this report’s structure, which will vary slightly for different teams depending on the countries and specific types of companies studied. However all reports will contain three main components: Introduction; an Overview of the legal and political climate of the jurisdiction(s) in which the companies covered in the case study operate; core Analysis section or sections; .

The most important part of this report is the **Core Analysis** section or sections. The information in this section will be drawn entirely from the information entered into the spreadsheet per above. In most cases, case study teams should consider drafting this section first, before writing the other sections.

Overview – The purpose of this section is to frame and provide context to the Analysis section or sections for readers who are not necessarily familiar with the legal and political context of the country where the case study was conducted. This section should not be too long. As explained in the Scope of Work, this section should not require original research but rather should be an overview/summary of existing work that has already been done by others (or by the same researchers previously for other projects), which can be summarized and cited. Please use and cite sources in a manner acceptable for a peer-reviewed academic journal article in the social sciences. Sources cited in this section should be footnoted (same style that used for this guide and other project documents is ok). As mentioned in the Scope of Work this section should include two types of information:

1. Specific ways in which domestic law (and its implementation/interpretation by authorities) clashes with free expression and privacy principles. Sources for this part of the overview can include:
    - Press articles
    - Academic journal articles
    - Official company statements or blog posts expressing concern about a particular law, policy, or regulation
    - Reports and white papers for research projects such as "Mapping Digital Media", Freedom House, etc.
    - Reports published by advocacy groups including Human Rights Watch, the Committee to Protect Journalists, Article 19, Index on Censorship, Privacy International, etc.

2. A few representative examples of major incidents as reported in the press or on social media in which any of the companies covered in your study were reportedly involved with violating privacy or censoring content. Sources for this part of the overview can include:
    - Press articles
    - Blog posts by activists and free speech/privacy advocates
    - Blog posts by advocacy and citizen media organizations
    - Reports published by advocacy groups including Human Rights Watch, the Committee to Protect Journalists, Article 19, Index on Censorship, Privacy International, etc.

The Introduction and Conclusion should be self-explanatory based on their descriptions in the Scope of Work. Deadlines for each team are listed in the Scope of Work documents.

Communication with Project Lead and other teams: Researchers are encouraged to be in touch with the Project Lead and the other teams on a regular basis as questions, concerns, or problems arise. Teams are strongly urged to use the project's Basecamp system to raise questions and concerns that are likely to be shared by other research teams and which would benefit from broader discussion. Also, by raising questions and concerns through Basecamp, we will be in a better position to save and document the problems encountered during this pilot research phase, so that we can absorb and learn from them before building the methodology and rankings process.