IOE INPUT

for the High Commissioner's report on the practical application of the UNGPs to the activities of technology companies

March 2022

Technological innovation and evolution have changed our lives, working methods and the way business operates. Although this impact is not new, Covid-19 has greatly accelerated this process. During this pandemic technology and innovation have allowed for business continuity and resilience. It has helped to save jobs and to maintain productivity. Studies by the World Bank and the OECD have pointed out the potential of digitalisation, robotics, and artificial intelligence (AI) to create more jobs. Not only has technological progress positively impacted the right to fair and decent work, reduced global poverty and inequalities, it also has the potential to **uphold human rights** as it gives civil society, trade unionists and human rights defenders access to the public and the possibility to mobilise and to share information.

The **International Organisations of Employers** (IOE) appreciates the opportunity to provide input for the High Commissioner's report on the practical application of the UNGPs to the activities of technology companies in view of the continuously growing importance of the tech sector:

1. Tech companies are not a homogenous group but involve very different types of business models and face very different challenges related to human rights. Moreover, besides the well-known large players, there are many small- and medium-sized tech-companies and there is a vibrant start-up scene that is less aware of the UN Guiding Principles. **Awareness raising and capacity building will remain key areas that start-ups and SMEs can learn from the UN Guiding Principles and the principles can support them in addressing human rights challenges related to their business model.**

2. Tech companies share with other sectors many challenges, such as human rights deficits in their supply chains. In the same way as all companies, tech companies do see their human rights engagement as a key priority. However, issues particularly relevant to the tech sector are the use and misuse of technologies by end-users. Although the UNGPs draw no distinction between upstream and downstream in the value chain, so far attention has focused largely on supply chain issues and not much on human rights responsibilities extended to downstream use of products by consumers and end-users. **It will be key to deepen the understanding of downstream human rights risks and possibilities for companies to address these risks, including approaches to increase leverage through collective action.**

3. For many tech companies, **data privacy is one of the main key issues.** Digital transformations are creating a new space of vulnerability to cyber-criminality. Moreover, processing data may lead to unforeseen consequences such as discriminatory practices. Beyond data privacy, the **marketing of technology, product innovation and design,** when for instance applied to

children's rights and safety as well as other digital rights may also play a role in applying the UNGPs in the tech sector. These challenges are not limited to tech-companies. However, tech-companies are at the forefront to design and protect their services and products in a way which minimize these risks. Tech companies need to **work with other stakeholders** to better understand and define human rights considerations for example in their product development. **Taking a human rights lens to product development and innovation is a key part of the responsibility to respect human rights.**

4. States have under the first pillar of the UN Guiding Principles the duty to protect the human rights of their citizens. However, too often **governments as end-users** of tech companies' products and services are themselves involved in human rights violations and misuse of these services and products. When it comes to engagement with governments, tech companies sometimes face great challenges in having the capacity to prevent authorities from requesting data sharing and monitoring on behalf of law enforcement or anti-terror measures. Whereas these measures are often legitimate, in other cases these practices can lead to pervasive human rights abuses where human rights, political activists or human rights defenders can be subject to arbitrary measures. Such risks are aggravated in **conflict and post-conflict settings**, as well as in countries under non-democratic rule. For instance, governments may request access to platforms' data on individual users going beyond their lawful authority to do so, in breach of the human right to privacy and data protection. Similarly, internet shutdowns ordered by governments in the context of civil unrest might be instrumental for an Intentional prevention or disruption of access to information online that violates international human rights laws. **Innovative thinking is required to strengthen accountability on the sides of governments with regard to their own human rights performance and their use of digital tools and AI. The UN supervisory system must play a bigger role in this regard.**

5. Online content by end-users of social media platforms creates not only human rights risks, such in the form of hate speech, disinformation and fake news, but also dilemma situation for these platforms as the boundaries between freedom of expression with other rights and interests can be **blurred** and difficult to assess. Social media platforms should have clear and accessible policies on disinformation that are aligned with human rights and should apply reasonable efforts to address disinformation, fake news and hate speech. Beyond social media platforms, the dimension of responsible product use (i.e., risk assessment) should also be considered, particularly in the context of states with a weak rule of law and where there is a foreseeable use of technology for human rights violations (e.g., surveillance technology). However, companies need **support** in navigating these difficult issues. **Approaches are required which more clearly outline expectations from state and non-state actors on how to handle such dilemma situations.**

In December 2021, the UN Working Group on Business and Human Rights launched a roadmap for the better implementation of the UN Guiding Principles (UNGPs 10+ Roadmap). This roadmap offers opportunities to strengthening efforts in addressing human rights risks related to tech business models. Key focus areas should be the strengthening of an enabling environment for responsible business practices for tech (and non-tech) companies, the promotion of collective action, particularly related to remedy, the sharing of successful strategies with regard to end-users-related challenges, as well as continuous awareness raising and capacity building. The **OHCHR B-Tech project** has played an

important role in deepening the understanding of the application of the UN Guiding Principles by and in the tech sector. The learnings from the B-Tech project should inform the implementation of the UNGPs 10+ Roadmap and the development of regional UNGPs 10+ Roadmaps. **Business** is fully committed to supporting all relevant stakeholders to achieve the objective of the UNGPs 10+ Roadmap in this regard.

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