

15 January 2013

IndustriALL comments on draft ICT Sector Guidance

A. Introduction

1. Purpose of Guidance for the ICT Sector

I am concerned about the statement in the second paragraph that ‘stakeholders saw a need for a more holistic view of the sector’. My recollection of the last meeting in Brussels was that both the Roundtable participants and the Sector Advisory Group members expressed a strong preference for the ‘upstream’ and ‘downstream’ parts of the sector to be separated out for the purpose of the guidance. One of the problems of combining them is that many of the general comments made in the paper are not applicable to production and labour rights, yet this is not specified. Was there significant stakeholder feedback outside of the Roundtable and the Sector Advisory Group arguing for everything to be combined? If so, it would be good if this could be shared with the Advisory Group.

2. Sector-Specific Context

A reference should be made to e-waste and recycling.

It is not clear what is included in ‘provision’ of infrastructure. Does this include manufacturing? How are the supply chains for this infrastructure to be dealt with? According to the logic of the ‘holistic’ approach, this should be the case, in which case it fits better in manufacturing than in services.

C. Policy Commitment

3. Possible Approaches

The paper lists examples of sector-specific guidance that ICT companies currently reference, but makes no comment on the extent to which these reflect the standards contained in the Guiding Principles. For example, the language on freedom of association and collective bargaining in the EICC Code of Conduct is below the standard of the relevant ILO Conventions. The paper states ‘Whatever approach is taken, companies must then pay attention to how they embed those standards across their business’, implying that companies are free to choose whatever standards they like, regardless of whether they are equivalent to those contained in the Guiding Principles. This is clearly not the case, so this needs to be changed. It is better expressed on p.15, where it is stated that company or industry codes ‘should always align with internationally-recognised human rights standards’. The EICC code should not be referenced as an example, unless it is also clearly stated that it does not line up with these standards.

Global Framework Agreements should be referenced here as a means for companies to express their policy commitment.

A paragraph break needs to be inserted in the paragraph on p.12 which starts ‘Consulting with external stakeholders’ with a new paragraph starting with ‘In addition, companies may also consider establishing a stakeholder advisory group’, otherwise the impression is given

that trade unions, which are listed as potential members of such a group, fall under the heading of ‘external stakeholders’.

On p.14, the part dealing with how the human rights function is organised should also emphasise implementation. It is not only about perceptions and ownership, but about how the policies are actually implemented.

D. Due Diligence

Box 3: Meaningful Stakeholder Engagement and Consultation

Workers’ complaint about the lack of respect of freedom of association by ICT companies is defined only as a problem of lack of ‘voice’. Freedom of association is an enabling right which is the vehicle for ensuring that the other human rights of workers are respected. It is therefore better to characterise this as a lack of rights, rather than as a lack of voice.

Even more problematic is the reference in the second dot point in this box to trade unions as ‘third parties’. While factually incorrect (workers are represented through their trade union in the same way that a company is represented through its management), such a statement gives legitimacy to the anti-union bias which is pervasive in the industry, whereby companies undermine and denigrate trade unions to workers by characterising them as third parties.

p.29 Box 8: Temporary and Migrant Workers

Again, the reference at the end to the EICC code of conduct does not make clear that this code does not include the internationally-recognised standards on freedom of association and collective bargaining, and is therefore of limited value to temporary and migrant workers who are frequently denied these very rights.

p.38 The word ‘external’ needs to be deleted from the heading of point c) as the text deals with both internal and external stakeholders.

The reference to Global Framework Agreements under the first dot point could be supported by an explanatory footnote or reference since many do not yet have a familiarity with these instruments.

E. Remediation

2. Key Considerations

Reinstatement could also be listed as a potential remedy in the first paragraph, since dismissal for union activity is a common problem in the industry.