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Barb Bucknell,
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We thank the Office of the Privacy Commissioner and Industry Canada for the opportunity to comment on your proposals for transparency reporting guidelines. We are supportive of a constructive dialogue regarding the value and importance of transparency reporting.

However, we believe a set of guiding principles for what reports should achieve would be of greater benefit to the reporting ecosystem. A set of guidelines may, in practice, come to be interpreted as technical reporting standards.

When Google launched its Transparency Report in 2009, we did so to shine a light on government attempts to access to user information. By publishing data on government requests, we hoped to provide our users with information about the frequency and breadth of these requests and, importantly, how we work everyday to safeguard their information.

At the time, we were the first company to do anything like this. As you have learned through your inquiry process, many other companies have followed our lead and have developed their own transparency reports.

Our Transparency Report has evolved over time, thanks to the passion of Googlers who have led internal efforts to produce the best report possible, and from our users and others who provided useful suggestions.

From the initial disclosure of government data requests we have added: government requests for content removals; European privacy removals; major traffic disruptions to our products and services due to government interference; and data on malware detection and email encryption.

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We've been able to iterate and improve the report because there are very few external limitations on what we may report and how we report it.

Where limitations are imposed, they stick out among the other data in the Transparency Report. For example, the United States government limits how companies may share information about certain kinds of legal requests, such as requests made pursuant to the Foreign Intelligence Surveillance Act. We are permitted to report only in bands of 1000 requests (e.g., 0-999, 1000-1999, etc.) for content and for non-content. These limitations constrain how meaningful the data actually are.

Notably, Google had to fight the US administration to be allowed to disclose even within this range. We did so because it was the right thing to do for our users. We continue to work toward reform that will enable us to provide even more transparency. We have no similar limits on reporting of statistics relating to requests in criminal cases, and there has been no hint of any adverse impact on any investigation.

One of the most productive steps a government can take to foster robust transparency reports is to make sure that such restrictions are reduced to an absolute minimum, so that companies are free to find the best ways to educate the public, policy makers and others.

The companies that do publish transparency reports also know that it takes a good deal of attention and resources to do it right. These are resources that some companies may not be able to afford. As a result, smaller companies simply may not be in a position to publish a transparency report of the same caliber as larger companies.

We are constantly looking at ways to provide more information to the public. For example, we plan for our upcoming release of data—which will cover the second half of 2014—to disclose information on the preservation requests we receive from countries around the world. We will also break out legal requests from non-US countries to provide data on emergency disclosures.

But the landscape of international legal process is so complex that it is a significant challenge to develop one-to-one correlations for different types of requests in every country in the world. So to set global requirements based on the Canadian legal framework—or the US framework, or the French framework—would result in incomplete and potentially even inaccurate data. On the other hand, high level principles could effectively guide the development of new and future reports without creating difficult-to-reach requirements.

Similarly, different types of businesses will have different types of transparency data to make available. For example, it may be appropriate for a connectivity provider to report about data

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requests for subscriber information and name checks, but that requirement would not make sense in the context of a service like Google or Twitter, where individuals are free to create accounts that are not attached to real-world identities.

Importantly, company-issued transparency reports would be well complemented by full and transparent disclosures by governments—around the world—of their requests for information. Many companies in our industry have signed on to a Global Government Surveillance Reform campaign to encourage the US government to take steps in this direction (<https://www.reformgovernmentsurveillance.com/>).

We urge you to continue to allow transparency reports to grow and evolve organically, as they have done since ours first launched.

Thank you,

Colin McKay
Head, Public Policy and Government Relations
Google Canada

Note: Finally, we wish to note that in the OPC matrix comparing the transparency reporting structures of various commercial organizations, the box for “total requests fulfilled/complied with” is unchecked alongside Google’s name. However, we do report the percentage of requests for which we produce some data each country in our Transparency Report.