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June 14, 2013

## An Open Letter to Companies Implicated in the PRISM Program:

As former Secretary of State Hillary Clinton noted in her landmark speech on internet freedom, for new technology companies, user trust is crucial: people need to know that you're acting as responsible stewards of their personal information. The NSA PRISM program raises serious concerns about the extent to which you can be responsible stewards of private information.

Legal restrictions and U.S. government policies prevent you from discussing in detail your interaction with PRISM. However, there are steps you should take to assure Americans that you're respecting their right to privacy.

### **Continue to Press the Government to Permit Disclosure**

As Google indicated in its June 11 letter to Attorney General Holder and FBI Director Mueller, the tech companies involved in the PRISM program are bound by nondisclosure obligations regarding the number of FISA national security requests they received, the number of accounts covered by these requests, and the scope of these requests. Google and Microsoft have publicly requested permission to disclose this information as part of their regular reports on government requests. Facebook, Twitter, and Yahoo! have also expressed support for greater transparency. (Of these companies, Twitter - which apparently is not involved in PRISM - successfully challenged a gag order, shedding some light on such requests.) We applaud calls by Google, Microsoft, and Facebook for permission to disclose this type of information. We urge the government to act within its discretion to provide such permission for the purpose of assuring Americans that their personal data is safe from indiscriminate surveillance. We also encourage you to work with Congress to expand the level of public disclosure.

### **Determine What Information You Can Legally Disclose**

Companies have, in fact, already disclosed relevant information by saying what they did *not* allow. Google, Microsoft, Yahoo, Facebook, AOL, Apple and Paltalk have all said that they did not provide the government direct access to their servers. Google has also revealed logistical details about how it turns over information to the government. Several companies have also indicated that they do not comply with every request.

Can you provide greater clarity about your general approach to this issue and any statements you have made on this point? We encourage companies to determine what, if any, additional information can be provided.

### **Publicly Explain Your Efforts to Safeguard People's Data and Right to Privacy**

Under the U.N. Guiding Principles on Business and Human Rights, companies are required to identify the impact of their actions on human rights, take steps to mitigate threats to human rights, provide effective remedy when rights are violated, and report publicly on their efforts. The members of the Global Network Initiative have made additional commitments: to ensure that government requests for information are legal, narrowly interpreted, and implemented to minimize impact on users.

While non-disclosure restrictions may inhibit you from talking about your response to specific government programs and specific requests, what general information. Google has also revealed logistical details about how it turns over information to the government. Several companies have also indicated that they do not comply with every request. Can you provide greater clarity about your general approach to this issue and any statements you have made on this point? We encourage companies to determine what, if any, additional information can be provided.

- What steps do you take to assess and minimize the potential risks to users?
- How are decisions made about when to challenge requests, and to what extent does the law limit your ability to do so?
- What processes do you have to determine the legality of government requests?
- Do you monitor the handing of these requests to gauge the cumulative impacts on users' privacy rights?
- If so, do you adjust policies and procedures accordingly?

Your users deserve to know more about the policies that guide your response to national security based government requests for information about them, and recent news about the NSA PRISM program has heightened the need for you to demonstrate that you're safeguarding their privacy. At stake is not only a fundamental right but your reputations as companies committed to protecting it.

We look forward to your response.

Sincerely,

Elisa Massimino  
President and CEO  
Human Rights First

CC: Google

Apple  
AOL  
Facebook  
Microsoft  
Pal Talk  
Skype  
Yahoo  
Youtube