

# TekSavvy Solutions Inc.

## Quarterly Transparency Report

Reporting period: April 1, 2017 to June 30, 2017

Published April, 2018

### Introduction

The purpose of this report is to provide insight into our disclosure practices by detailing how often we receive and respond to government agencies' requests for the personal information of our end users.

This edition of our Transparency Report contains information about requests that we received between April 1, 2017 and June 30, 2017. As of the date when this report was published, at least six months have passed since we received or responded to each of those requests.

The Government of Canada has endorsed the development and issuance of transparency reports. Innovation, Science and Economic Development Canada (ISED) has subsequently developed [Transparency Reporting Guidelines](#). Although we have adopted most of those Guidelines, we have decided to deviate in respect of how we present the data.

Specifically, ISED suggested enumerating requests only when the number of requests exceed 100; anything below 100 is suggested to be represented by a range of 0-100. While that threshold may make sense for larger telecommunications companies, TekSavvy is still relatively small. We do not receive hundreds of requests from government agencies therefore enumerating requests in a manner consistent with ISED's Guidelines would not provide the level of transparency that we aim to achieve.

In this report, among other disclosures of information, TekSavvy provides information about a substantial administrative disclosure, in which TekSavvy was required by law to disclose the names of all of our customers to the Canada Revenue Agency in March, 2017. Please see page 5 for more information.

## Overview

**In total, between April 1, 2017 and June 30, 2017, TekSavvy received 36 requests for information from government agencies. TekSavvy provided the requested information in response to 30 of those requests which represents an 83% response rate.**

In this report, the total number of requests for information from government agencies has been broken down into two main categories: by authority and by jurisdiction.

“Authority” indicates whether or not the government agency making the request has done so in accordance with the law. We have broken down the data by authority to include five different subcategories: at the initiative of the organization, informal, administrative, court ordered, and emergency (sometimes called “exigent”).

“Jurisdiction” indicates what level of government the requests came from. We have broken down the data by jurisdiction to include three subcategories: provincial (which includes municipal), federal, and non-Canadian.

The data contained in each subcategory is enumerated by the number of requests of each type we received, the number of those requests that we disclosed information in response to, and the number of requests we rejected.

Following the table below, we examine our disclosure policies and practices to provide an in-depth explanation of the data.

<b>By Authority</b>				
	<b>Type of Request</b>	<b>Number of Requests</b>	<b>Number of Disclosures</b>	<b>Number Rejected</b>
1	At the Initiative of the Organization	N/A	0	N/A
2	Informal	~4	0	All (~4)
3	Administrative	All customers	All customers	0
4	Court Ordered	25	23	1
5	Exigent or Emergency	6	6	0

<b>By Jurisdiction</b>				
	<b>Type of Request</b>	<b>Number of Requests</b>	<b>Number of Disclosures</b>	<b>Number Rejected</b>
5	Provincial Government Agencies	19	14	4
6	Federal Government Agencies	17	16	1
7	Foreign Government Agencies	0	0	0

**Total: 36**

**Total: 30**

**Total: 5**

## By Authority

### 1) Disclosures Made at the Initiative of the Organization

**During this reporting period, TekSavvy did not provide any information to government agencies at our own initiative.**

This category is used to describe any disclosures TekSavvy made proactively. We only make voluntary disclosures if TekSavvy becomes aware of a real and imminent threat being made to someone's wellbeing. These kinds of circumstances do not arise often. When they do, they typically result from one of our agents overhearing physical violence during a phone interaction with our customers.

#### **TekSavvy Policy**

**We record all of our phone conversations with our customers. These recordings are retained for a period of two years to assist in the resolution of service-related or billing disputes.**

## 2) Informal Requests

**Of the 36 requests received during this reporting period, approximately four were informal requests. TekSavvy did not provide any information in response to those requests.**

Informal requests are requests that lack legal authority. This means that the agency making the request is not doing so under any law – they are simply asking for us to voluntarily provide them with the requested information.

The most common kind of informal request received by TekSavvy during the relevant period were jurisdiction requests. A jurisdiction request is a document prepared by a law enforcement agent that is intended to gather information about the location of an end user. Jurisdiction requests are not court orders and because we are not required to disclose information in the absence of a court order, our policy is not to disclose information in response to jurisdiction requests.

Note that it is difficult for us to know the exact number of informal requests received during the relevant period. We say that we received “approximately” that many informal requests because these requests sometimes also come in the form of a phone call or email which are comparatively difficult for TekSavvy’s Data Protection Office to log and track.

### **TekSavvy Policy**

**While Canada’s private sector privacy law (PIPEDA) may allow organizations to voluntarily disclose the personal information of its subscribers in certain circumstances, TekSavvy only makes voluntary disclosures in emergency circumstances.**

**After disclosure of a subscriber’s personal information has been made to a government agency, we notify the individual of the disclosure unless, of course, we are prohibited from doing so by law.**

### 3) Administrative Requests

#### **On March 24, 2017, as part of a mandatory GST/HST audit, and with certain conditions, TekSavvy disclosed the names of all of our customers to the Canada Revenue Agency.**

This category describes any requests for TekSavvy subscriber information made by government agencies exercising their administrative powers. Administrative powers are, broadly speaking, powers that are created by law and exercised by government agencies or government officials, ranging from tax audits to the issuance of licences and permits.

On January 31, 2017, the Canada Revenue Agency (CRA) exercised its legislative authority under sections 286 to 288 of the *Excise Tax Act* (the ETA) to audit TekSavvy's business. The purpose of the audit was to ensure that TekSavvy met its GST and HST reporting obligations under the ETA. In addition to the tax documentation that CRA required TekSavvy to disclose, in order to trace sales through the audit trail within the books and records of the business the CRA required us to disclose the names of all of our customers.

The CRA assured TekSavvy that requiring the disclosure of this information was necessary in order to perform a CRA GST audit, and was consistent with the CRA's regular practice. In response to TekSavvy's concerns about this disclosure of personal information to a government institution, the CRA further undertook, as is their regular practice, not to use the disclosed information within the CRA for a purpose other than that GST audit; not to disclose the information to any other government entity or third party; and to destroy the information upon the completion of the audit.

TekSavvy disclosed to the CRA the names of all of its customers on March 24, 2017, further noting that the information disclosed for administrative purposes could not be used for criminal investigations, consistent with current law. TekSavvy did not voluntarily disclose the information to the CRA; rather, the CRA exercised powers under the *Excise Tax Act* to compel TekSavvy to disclose the information, and TekSavvy sought assurances that the information would be used for only the stated purpose, and that it would not be disclosed or retained.

That disclosure occurred seven days before the reporting period for this Transparency Report (April to June, 2017), and ought to have been disclosed in our Transparency Report for Q1 2017 (January to March, 2017). When we published that earlier report, we did not have sufficient information about this disclosure to be as transparent as we would have liked. As a result, we are now reporting on that March 24 disclosure in this Q2 2017 Transparency Report.

4) **Court Ordered Requests**

**Of the requests received during this reporting period,  
25 were court ordered requests.**

**TekSavvy provided the requested information in response to 23 of those requests.**

This category describes any requests for information from government agencies made pursuant to a court order. The most common kind of court orders received by TekSavvy during the relevant period were “Production Orders” pursuant to section 487.014 of the *Criminal Code*.

The disclosure percentage in this particular subcategory is very high at 92% because TekSavvy is legally required to comply with court orders. This is true insofar as the court order is compliant with the relevant legislation and is not overreaching or overbroad.

In the event that we are served with a court order that omits required information, is formatted incorrectly, is overreaching, or overbroad, we make our best attempts to work with the agency requesting the information to reach a mutual understanding and appropriately address any issues. During the relevant period, we rejected only one Production Order because it omitted necessary information.

The discrepancy between the number of court ordered requests we received, the number of disclosures made in response to those requests and the number of rejected requests can be attributed to orders that sought information TekSavvy did not have. In those circumstances, we simply advise the agency that made the request that we do not have the relevant information.

**TekSavvy Policy**

**TekSavvy only retains information that correlates a subscriber with an electronic address (IP address) for a period of 30 days after that IP address is no longer associated with that specific subscriber.**

5) **Emergency (Exigent) Requests**

**Of the requests received during this reporting period, six were requests for information in relation to exigent or emergency circumstances.**

**TekSavvy provided the requested information in response to six of those requests.**

This category includes all requests made in relation to “*an emergency that threatens the life, health or security of an individual*” as set out in subsection 7(3)(e) of PIPEDA which allows organizations such as TekSavvy to disclose a subscriber’s personal information without their knowledge or consent.

**TekSavvy Policy**

**Before disclosing information in response to an exigent or emergency request, TekSavvy requires the agency making the request to answer a series of questions intended to establish the urgency of the request and the importance of the requested information. This approach ensures compliance with subsection 7(3)(e) of PIPEDA as it requires the requesting party to demonstrate a threat to the “life, health or security of an individual” before we disclose the requested information.**

For additional information regarding how TekSavvy responds to requests made in emergency or exigent circumstances, please refer to our [Law Enforcement Guide](#).

## By Jurisdiction

### 6) Provincial & Municipal Government Agencies

**Of the requests received during this reporting period, 19 were requests for information from provincial government agencies. TekSavvy provided the requested information in response to 14 of those requests.**

The percentage of requests that resulted in disclosure in this particular subcategory is relatively low with a 74% disclosure rate. This relatively low disclosure rate can be partially attributed to the fact that three of the four jurisdiction requests that we received during the relevant period came from either a municipal or provincial government agency. As previously mentioned, we do not make disclosures in response to jurisdiction requests.

One request from a municipal or provincial government agency yielded no relevant information, so no disclosure was made.

### 7) Federal Government Agencies

**Of the requests received during this reporting period, 17 were requests for information from federal government agencies. TekSavvy provided the requested information in response to 16 of those requests.**

Federal agencies have met with TekSavvy to discuss practices on both sides that respect investigative needs while protecting subscriber privacy. As a result, their requests typically result in disclosures. As a result, the disclosure rate for this subcategory is fairly high at 94%.

One of the four jurisdiction requests that we received during the relevant period to which we did not disclose any information came from a federal government agency.

### 8) Non-Canadian Government Agencies

**During the relevant period, TekSavvy did not receive any requests for information from non-Canadian government agencies.**

#### **TekSavvy Policy**

**It is TekSavvy's policy not to disclose subscriber information unless we are required to do so. Non-Canadian government agencies do not have authority to directly require us to disclose information to them. Instead, they can work with a Canadian law enforcement agency to request or order us to disclose information.**

## Types of Information Requested

The ISED Transparency Reporting Guidelines previously referred to in this report suggest breaking down requests by types of information sought. There were 5 suggested categories: basic identifying information, tracking data, transmission data, stored data and real-time interception.

**Basic identifying information** is any personal identifier and may include data points such as a subscriber's name, service address, billing address, telephone number or email address. All of the 37 requests received during the period of April 1, 2017 to June 30, 2017 requested basic identifying information.

**Tracking data** is defined by ISED as data that relates to the location of a transaction, individual or thing. Within this meaning of tracking data, all of the requests received during the relevant period were for tracking data.

**Transmission data** may include the MAC address of a cable internet modem, the login of a DSL modem and any other modem identifiers such as the make, model, and serial number of the device. Of 25 court ordered requests for information received during the relevant period, three included requests for transmission data. None of the informal, administrative or exigent requests received during the reporting period sought transmission data.

**Stored data** is any information that is collected and then kept for any period of time. All of the requests received during the relevant period were for stored data.

**Real-time interception** occurs when communications are intercepted as they occur, typically through the means of a wiretap. To date, TekSavvy has not been asked to take part in the real-time interception of its subscribers' communications.

For an in depth explanation of what types of information TekSavvy collects and retains about its subscribers, and for more information about our privacy practices, please refer to our Privacy Policy, and our Privacy FAQs, our Law Enforcement Guide, and our response to CitizenLab's 2017 request for information about our privacy and transparency practices.