

Gov't: Court should not allow disclosure

PETE YOST - Associated Press - Associated Press

A federal court should not permit five leading Internet companies to reveal how often they are ordered to turn over information about their customers in national security investigations, the government argued in papers released Wednesday.

In a filing with the Foreign Intelligence Surveillance Court, the government said that allowing the companies to release such detailed information "would be invaluable to our adversaries," providing a clear picture of where the government's surveillance efforts are directed and how its surveillance activities change over time, the court papers stated.

Companies seeking to release the information about the orders received are Google Inc., Microsoft Corp., Yahoo Inc., Facebook Inc. and LinkedIn Corp.

Yahoo responded that the government's decision to block information sharing "ultimately breeds mistrust and suspicion — both of the United States and of companies that must comply with government legal directives." Google said the company was disappointed that the Justice Department opposed "greater transparency" for the government's requests for user information. Microsoft said it was critical to have an informed debate about the right balance between personal privacy and national security. LinkedIn said disclosure of the number of U.S. national security-related requests the company received "is consistent with national security interests, the law and our commitment to transparency."

The companies say they want to make the disclosures in order to correct inaccuracies in news reports and to alleviate public speculation about the scope of the companies' cooperation with the U.S. government. The providers want to show that only a tiny fraction of their customers' accounts have been subject to legal orders.

The government said that if the companies "are permitted to make these disclosures, the harms to national security would be compounded by the fact that other companies would surely seek to make similar disclosures. As a result, our adversaries could soon be able to obtain a comprehensive picture" of surveillance activities.

"If our adversaries know which platforms the government does not surveil, they can communicate over those platforms, when, for example, planning a terrorist attack or the theft of state secrets," the government said.

Following leaks about National Security Agency surveillance last June by former NSA systems analyst Edward Snowden, the FBI allowed communications providers to report the number of orders they received from the government and the number of accounts affected by such orders.

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However, the FBI only agreed to limited disclosure of a single, aggregate number of criminal and national security-related orders to the companies from all U.S. governmental entities, plus local and state entities.

In August, Director of National Intelligence James R. Clapper said that he'll release figures every year on how many top-secret court orders are issued and how many people are targeted because of them.

In its court filing the Justice Department said Clapper's report "will not provide our adversaries with a roadmap" because the government's reporting will not be broken down by company, and the companies' reporting will aggregate criminal and non-criminal, content and non-content and federal, state and local surveillance.

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