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DE LA TECHNOLOGIE DE L'INFORMATION

Customer Name and Address Consultation



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ITAC is the voice of the Canadian information and communications technologies industry in all sectors, including telecommunication and internet services, consulting services, hardware, microelectronics, software and electronic content. ITAC's network of companies accounts for more than 70 per cent of the 579,000 jobs, \$137.6 billion in revenue, \$5.2 billion in R&D investment, \$22.6 billion in exports and \$11.5 billion in capital expenditures that the industry contributes annually to the Canadian economy.

The Information Technology Association of Canada (ITAC) is pleased to respond to Public Safety Canada's discussion paper on customer name and address (CNA) information. The association has been actively involved in government consultations on lawful access to electronic communications since 2002.

Canada's telecom industry has a long history of working cooperatively with law enforcement within Canada's legal framework for lawful access, including access to customer information. All telecommunication service providers (TSPs) have developed some capability of responding to requests from law-enforcement agencies (LEAs) on a routine basis, and generally maintain dedicated security departments whose sole purpose is to respond to such requests and to comply with court orders. These services are provided at considerable cost to the TSPs.

Personal information associated with customers and subscribers of all telecom and internet services offered in Canada is subject to the *Personal Information Protection and Electronic Documents Act* (PIPEDA), which allows TSPs to release a subscriber's personal information when compelled by law to do so. TSPs are also subject to CRTC rules regarding the protection of CNA information, although the specific rules vary among service types. In general, subscriber identifiers – aside from wireline telephone numbers – are expected to be treated as confidential and may be released only when TSPs are compelled by law to do so.

In order to comply with these rules regarding the protection of customer privacy, TSPs currently require a warrant or court order before providing LEAs with confidential customer information except in the most exigent circumstances. The discussion paper appears to suggest that Public Safety Canada is contemplating changes in the scope of CNA information and the circumstances and conditions under which TSPs would be compelled to collect certain specified CNA information and provide it LEAs. TSP obligations must be clearly set out in any new legislation or regulation, but as it is not clear to ITAC what exactly is under consideration we cannot respond in a more detailed fashion at this point.

As mentioned above, TSPs incur significant costs in responding to requests and providing lawful-access services to LEAs, and it is imperative that they be compensated for those costs. Industry concerns will only be exacerbated by a move to a "no warrant" regime – as raised in the discussion paper. The volume of requests for CNA information can be expected to increase substantially absent judicial oversight, with a corresponding substantial increase in costs to TSPs.

With respect to the specific kinds of CNA information, much of the wireline and wireless CNA information listed in the discussion paper is already available either publicly or via CRTC tariffed services. A variety of third parties provide "reverse look-up" services for Canadian telephone numbers and many of these are provided free of charge on the public internet. However, ITAC notes that the "basic identifiers" listed in the discussion paper go well beyond what most people would consider to be basic. IP addresses,

email addresses, IMSIs, ESNs, IMEIs and SIM numbers are not the “tombstone” data that is usually associated with CNA information. Nevertheless, ITAC is not aware of LEAs being unable to obtain the CNA information they require.

Any move to impose new requirements must take into account the fact that TSPs cannot always respond as quickly as may be desired. (For example, systems that provide quick response for directory assistance have not been developed for services other than wireline telephony.) Furthermore, while TSPs work diligently to respond to LEA requests, their ability to provide information is often constrained as a result of the volume of requests, the amount of detail required or other factors such as requests involving historical usage.

ITAC also notes that TSPs do not always have business reasons to collect CNA information, and so may not have in their possession the information sought by LEAs. ITAC would oppose the imposition of an obligation on TSPs to collect information that they would not be collecting for their own purposes. Significant service, business and cost issues would arise if carriers were required to collect, validate and maintain accurate CNA information simply for the purposes of lawful access.

In closing, ITAC acknowledges that lawful access and the ability to obtain CNA information are important tools for LEAs in their efforts to protect society. In its interventions on this issue, ITAC has consistently advocated for standards-based technical requirements, appropriate compensation for TSP costs and a phased-in approach to new obligations.

ITAC will not be able to support efforts to move ahead on this issue if our fundamental concerns continue to be left unaddressed – as they were in the previous legislative proposal, the *Modernization of Investigative Techniques Act*. To function properly, the Canadian lawful-access regime must recognise the realities of the telecommunication industry:

- TSPs must be compensated for the significant costs incurred responding to the requirements of LEAs.
- Any new technical requirements must be based on international standards, and provide an adequate phase-in period.
- The scope of CNA information and the circumstances under which it is to be provided by TSPs to LEAs must be explicitly identified and clarified in any new legislation or regulations.
- CNA information requirements must be applied in a technologically and competitively neutral fashion.
- TSPs must not be required to collect customer information beyond what is already collected for business purposes.

ITAC appreciates the opportunity to share these comments and looks forward to the opportunity to comment on any specific legislative or regulatory amendments that are subsequently developed for consideration, especially if they go beyond the parameters of this consultation. We will of course also be pleased to meet with Public Safety Canada officials to discuss these issues.

As these matters are of considerable importance to Canadians, ITAC suggests that all written submissions to this public consultation be made available for public review on the Public Safety Canada website.