

2016

HKTRANSPARENCY Report

a living report of the Government user data and content removal requests



**JM
SC**
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Subject

The transparency of requests from Hong Kong government to internet service providers (SP) for:

- 1) user data
- 2) content removal

Background

- 10 August 2013
(two months after Edward Snowden leaks)
Officially launch of the project
- 26 September 2014
Hong Kong Transparency Report 2014 (1st report)
- August 2016
Hong Kong Transparency Report 2016 (2nd report)

Sources-Government transparency

HKTR obtained the government data from two sources:

- 1) the replies from the government to the **questions by Legislative Council members;**

Details of the requests for information disclosure made by the Government to service providers since February 2015

	(i)	(ii)	(iii)	(iv)	(v)	(vi)	(vii)	(viii)	(ix)	(x)	(xi)	(xii)	(xiii)
Government department	Name and type of service providers (Note 1)	Total number of service providers	Dates on which the requests were made	Deadlines for processing the requests (irrespective of whether such requests were acceded to or not)	Types of requests made	Number of requests made and the reasons	Total number of requests made	Number of requests made under a court order	Number of accounts involved	Amount of information requested for disclosure	Nature of information requested for disclosure	Number of requests acceded to	Number of requests not acceded to and the reasons

- 2) the replies from government departments to HKTR's inquiries on the issue according to the **Code on Access to Information**

Sources-Corporate transparency

Seven companies have revealed that they received requests from the Hong Kong government (no local companies):

- Google 2010
- Microsoft 2012
- Twitter 2013
- Yahoo 2013
- Apple 2013
- Facebook 2013
- Verizon 2014

Government requests 2011-2015

Hong Kong government sent an average of 5028 requests annually to SPs, 4845 were user data requests, accounting for 92%.

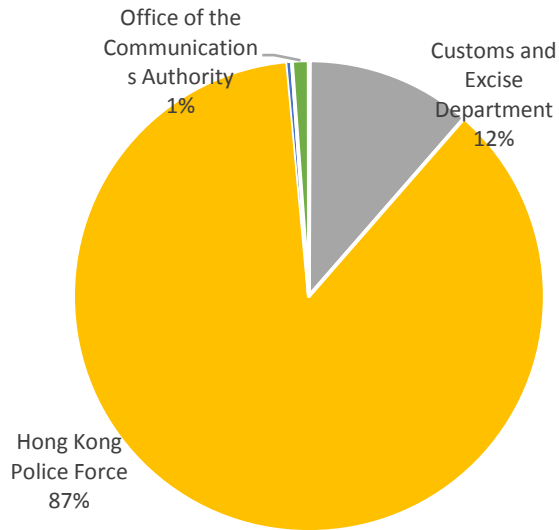


Figure II.2 User data requests 2011-2015 (proportion of government departments)

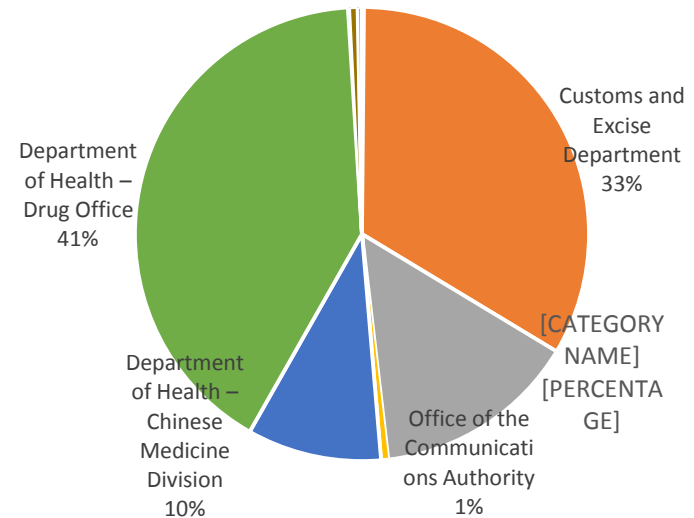


Figure III.2 Content removal requests 2011 - 2015 (proportion of government departments)

The government sent less requests

- Both the governmental and SPs' data shows the number of user data requests has decreased

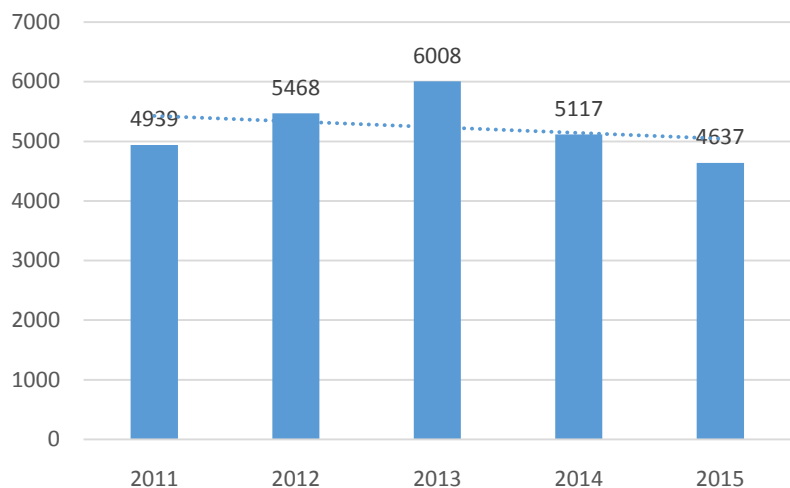


Figure IV.1 User data and content removal requests by the Hong Kong government

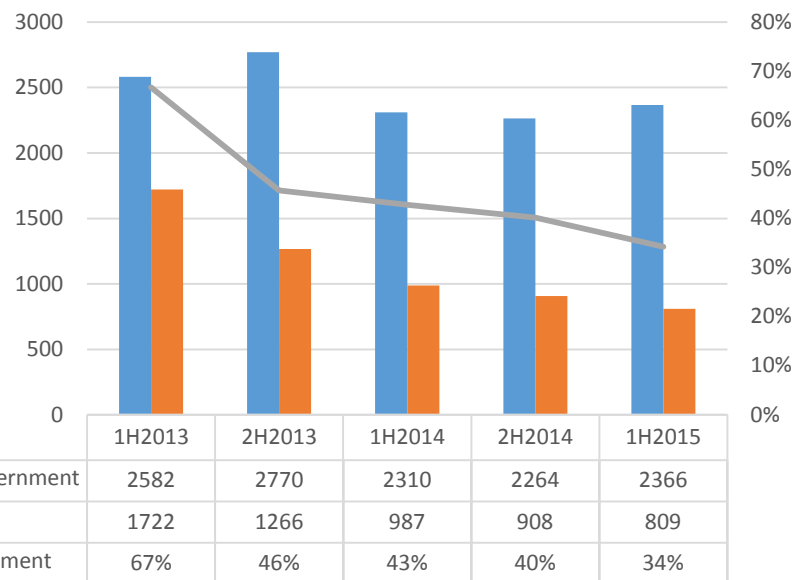


Figure II.4 Comparison of user data requests numbers released by the government and SPs

The government faced resistance from overseas SPs

- Overseas SPs rejected 40% of the user data requests from HKSAR government.

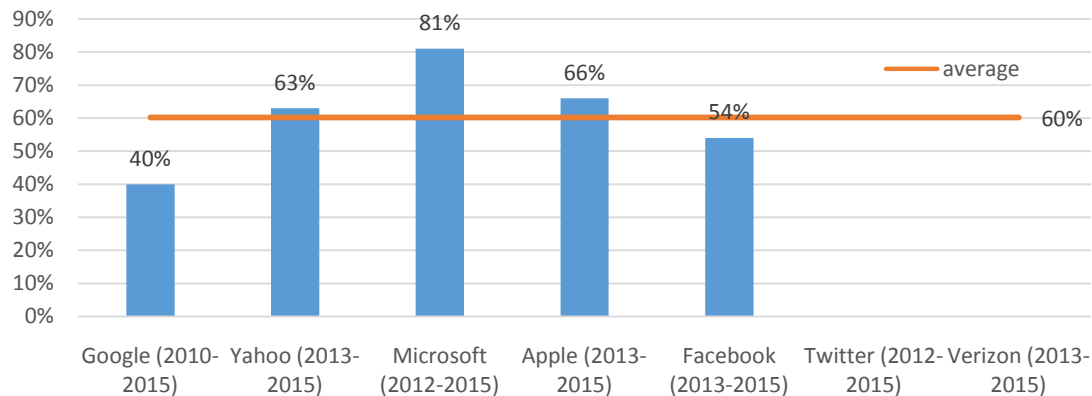


Figure II.10 Comparison of percentage of user data requests acceded (released by SPs)

The government faced resistance from overseas SPs

- A case in 2012 revealed by Google exemplified the resistance from SPs:
- Google rejected a request to remove 370 YouTube videos from the Customs and Excise Departments for copyright infringements due to the incompleteness of the government notice.
- The case reported by Google was consistent with the government release.
- After that, the content removal requests made by Customs slumped from 372 cases in 2013 to 42 in 2015.

More requests to social media

- Requests to Facebook increased by 82% in 1H2015 (after the 2014 Occupy movement).

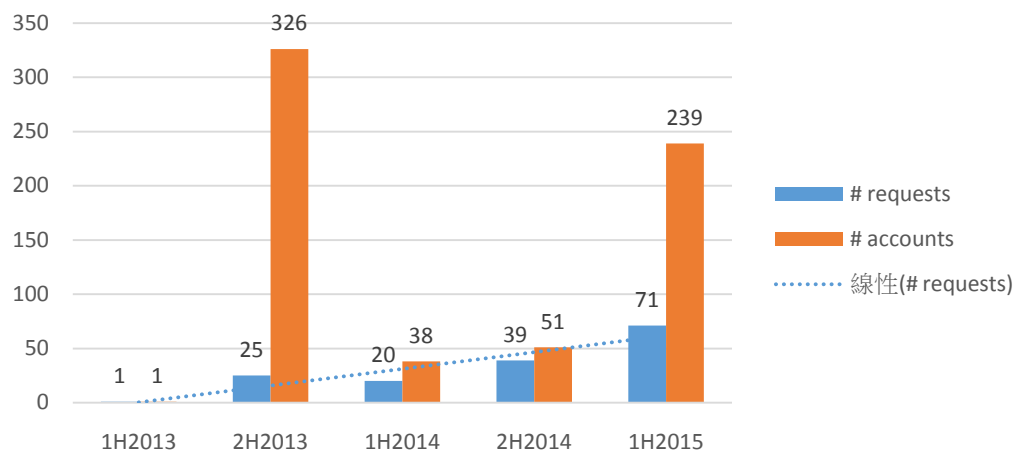


Figure IV.2 User data requests to Facebook by the Hong Kong government

- At least 16 people have been arrested for online speech since June 2014, seven of which were made on Facebook, another seven on HKGolden.

Absence of compliance rate

- The Police Force never revealed how many requests were acceded to by the SPs.
- Excluding the Police, 94% of the user data requests in 2015 were acceded to by SPs.

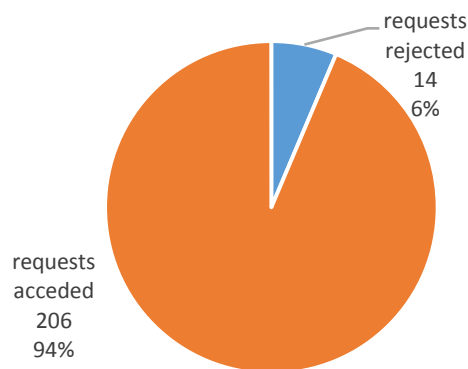


Figure II.7 Percentage of user data requests acceded 2015 (released by the government)

- The majority of the rejected requests might come from the Police.

Absence of court order

- The Police Force and Inland Revenue Department failed to reveal how many requests were sent with court orders.
- No other department obtained a court order for requests in 2015.
- A case of refusal in 2015 came to the Companies Registry in which an overseas SP said it only provided the relevant information with an order issued by the court.

No guidelines

- The government departments adopted different criteria in their requests and disclosure:
- The Inland Revenue Department explained why it withheld the compliance rate, but the Police did not.
- Local media revealed that there was a lack of uniform mechanism for the government departments to sent requests to SPs.

Improvement in transparency

- The government has provided more information about its requests, number of items in its releases increased from seven to 13.
- The biannual statistics first released in 2016 conform to the international transparency reporting standards.

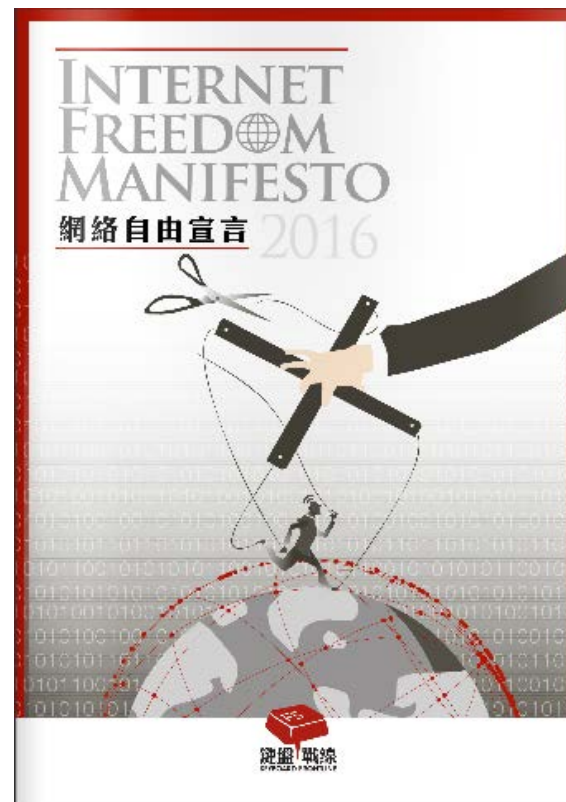
Recommendations for the government

- Set up an independent review of government request practices.
- Establish and make public the internal guidelines.
- Make regular the release of the information on government requests.

Policy & Public awareness



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