

Strasbourg, 20 November 2015

T-CY (2015)23

Cybercrime Convention Committee (T-CY) / Cloud Evidence Working Group

HEARING
Criminal justice access to electronic evidence in the cloud

**Monday, 30 November 2015, 11h00 - 17h00, Room 1, Palais de l'Europe
Council of Europe, Strasbourg, France**

Note: Chatham House rules apply

AGENDA (draft)

11h00	Opening remarks
11h15	Background and purpose of the hearing
11h30	Cooperation with criminal justice: overview of provider policies <ul style="list-style-type: none">▪ Short presentations by representatives of providers▪ Comments by T-CY members and observers
12h15	Discussion of Question 1: Domestic production orders for subscriber information when "offering a service on the territory" of a Party <ul style="list-style-type: none">▪ Provider views▪ Criminal justice views
13h30	Break
14h00	Discussion of Question 1 cont'd
14h30	Discussion of Question 2: Direct cooperation between criminal justice authorities (such as police, prosecutors or courts) and foreign service providers <ul style="list-style-type: none">▪ Provider views▪ Criminal justice views
16h00	Options/solutions
17h00	Hearing ends
19h30	Social dinner

Questions to be addressed

Question 1: Domestic production orders for subscriber information when “offering a service on the territory” of a Party

Considering Article 18 paragraph 1.b. of the Budapest Convention and its explanatory report (see appendix):

- a. When do you, as a service provider¹, consider that you are offering a service on the territory of a State?
- b. Thus, when do you consider that you are subject to a domestic production order for subscriber information in the country where you are offering a service?
- c. What are the criteria, conditions or circumstances that make you accept or decline such a request?

Question 2: Direct cooperation between criminal justice authorities (such as police, prosecutors or courts) and foreign service providers

Transparency reports published by many service providers indicate that service providers often respond to request for data that they receive directly from criminal justice authorities. Thus:

- a. What are your policies and practices, criteria, and conditions for responding directly to a request for (a) subscriber, (b) traffic, and (c) content data from a foreign police agency, prosecution service or court?
- b. What are your policies and practices regarding criminal or non-criminal emergency requests?
- c. Do you have written guidelines for cooperation with criminal justice? If so, please make them available (please indicate whether the document should be kept restricted or confidential).
- d. Do you require permission from the authorities of your country before responding to a request from foreign criminal justice authorities?
- e. What are your policies and practices regarding informing the customer of a criminal justice request? What are your requirements for not informing the customer?

Question 3: Would you have comments on other question raised in the [Discussion Paper](#) prepared by the Cloud Evidence Group?

¹ The Budapest Convention applies a broad concept covering all types of service providers:

Article 1 – Definitions

For the purposes of this Convention:

c "service provider" means:

- i any public or private entity that provides to users of its service the ability to communicate by means of a computer system, and
- ii any other entity that processes or stores computer data on behalf of such communication service or users of such service.