DEFINING DIRECT ACCESS

GLOBAL NETWORK INITIATIVE

Governments have expanded the tactics and capabilities they use to obtain data. A prevalent trend involves legal and technical arrangements that allow authorities to access data streams directly — that is, without having to request it from, or even notify, the service providers that collect and/or transmit the data as part of their services. The Global Network Initiative (GNI) is increasingly concerned that these arrangements — which we refer to generally as "direct access" — may constitute and enable infringements on the right to privacy and other fundamental rights.

How is direct access different from traditional law enforcement requests for data and interception? Direct access arrangements:

Are usually not subject to the legal procedures that mediate and provide oversight of law enforcement requests.

Tend to be carried out using a wide range of tools beyond standardized lawful interception solutions.

In some cases, are not publicly acknowledged or reported, as critical aspects are often confidential.

Usually extract data in bulk, while law enforcement requests tend to be target-based.

Direct access arrangements can be no-tech, low-tech, or high-tech.

For example, direct access can be achieved manually by mandating that network operators accept government officials' access to certain facilities. In other scenarios, direct access is achieved by mandating that operators route their networks through government installations or install certain technology. In addition, some governments may compromise information technology networks without the operators knowledge.

By taking service providers "out of the loop", these different arrangements remove a potential source of scrutiny, transparency, and accountability for government surveillance activities.

This significantly increases the risk that such activities will result in arbitrary or unlawful interference with the privacy rights of users of providers' services. GNI calls on governments, when considering means to access user data, to uphold their commitments under international human rights law, to use only targeted measures proportionate to a justifiable need, and to refrain from implementing or broadening direct access approaches. **Read more**.

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