

The Growing Trend of African Governments' Requests for User Information and Content Removal From Internet and Telecom Companies



CIPESA Policy Brief July 2017

The relationship between communications service providers, users and governments with regards to data protection, requests of user information and content take downs is increasingly taking centre stage in discussions around free, open and secure use of digital technologies.

In February 2017, Millicom issued its second [Law Enforcement Disclosure Report](#). Millicom's report is one of many by private companies aimed at promoting transparency and accountability, through periodically publishing reports detailing information on government requests for user data, content removals, and compliance with those requests.

Google is credited with being the first internet company to publish a [transparency report](#) back in 2009, followed by [Twitter](#) in 2012. [Facebook](#) and [Yahoo](#) have published reports since 2013. Vodafone and Orange were among the first telecommunications companies to publish transparency reports, both in 2014.

These reports have become vital to understanding censorship, surveillance and more importantly the commitment of service providers to protecting the privacy of their users and promoting freedom of expression online. Based on the reports alone, it remains unclear what the true extent of governments' surveillance of citizens' communications and censorship of content across the world is. Nonetheless, the reports indicate a growing trend among countries, including African governments, of requests for subscribers' data and content removal.

On the [social media front](#), from five African countries being listed by Facebook among those that requested users' details in the first half of 2013, the number on the continent has grown to 18 as at the end of 2016. Meanwhile, requests to remove content from Google have also grown from only Libya in 2010 and 2011, to four African countries in 2016 alone. Twitter, which only received one user information request from South Sudan in 2012, has since gone on to receive requests from an additional four countries on the continent. The countries which have consistently made requests for user information to Google, Facebook and Twitter include South Africa, Nigeria, Sudan, Kenya and Egypt.

In telecommunications, figures are scanty as only four companies operating in Africa issue transparency reports – one of which, MTN, does not disclose any statistics while Vodafone's [extent of disclosure](#) is limited due to legal provisions in some of its countries of operation that prohibit publishing of such information. Even then, user data requests from five African governments to Millicom have increased from 5,000 in 2015 to nearly 7,000 in 2016. Requests to Orange from the 20 African countries where it had operations as at the end of 2016 have tripled in the past three years – from 22,930¹ in 2014 to 67,718² in 2016.

In this brief, we provide a summary of the user data and content removal requests which governments in Africa have made to select internet and telecommunications companies in recent years.

¹ Figure represents sum of nine African countries (Botswana, Cameroon, Ivory Coast, Egypt, Kenya, Mali, Niger, DRC and Senegal) included in the 2014 report. Requests for Egypt, Kenya and Senegal are not published hence the sum is derived from only six African countries where Orange operates.

² Figure represents sum of 12 African countries (Botswana, Cameroon, Ivory Coast, DRC, Egypt, Guinea Conakry, Madagascar, Mali, Morocco, Niger, Senegal and Tunisia) included in the 2016 report. The figures for Morocco and Egypt are not published, hence the sum is for only 10 countries in Africa where Orange operates.

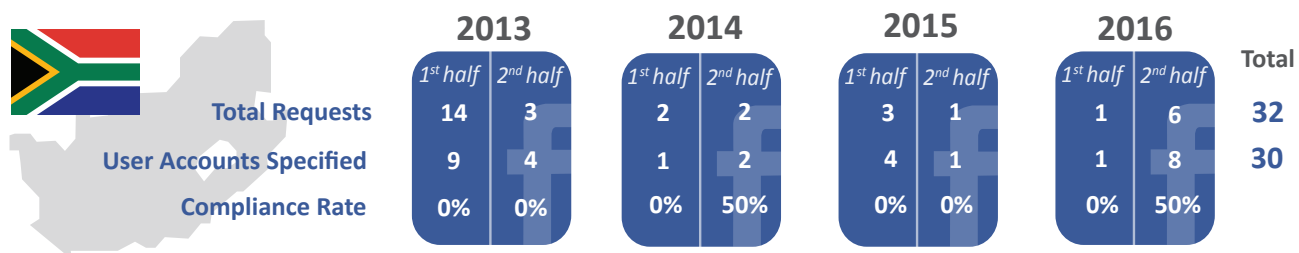


facebook

The highest aggregated number of user information requests made to Facebook from Africa have so far been from the governments of South Africa (32), Egypt (31) and Sudan (24). The government of Nigeria has specified the highest number of user accounts in its user information requests to Facebook – 113, followed by Tunisia (51) and Egypt (43).

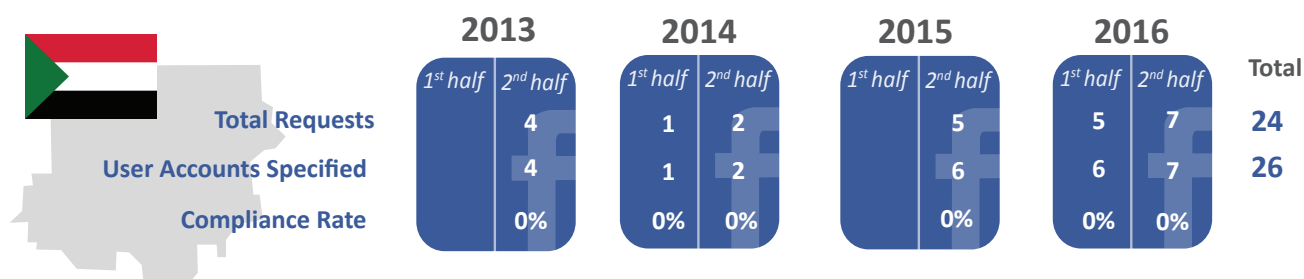
Meanwhile, the governments of Algeria, Botswana, Burkina Faso, Cameroon, Egypt, Ivory Coast, Nigeria, Senegal, South Africa, Sudan, Tunisia and Uganda have also made content preservation requests to Facebook.³ Botswana has made the highest number of such requests (13, relating to 34 user accounts) followed by Sudan with 11 requests relating to 13 user accounts and Nigeria with five requests related to six user accounts. With the exception of Egypt, the other seven countries only made one content preservation request each. Ghana is the only country in Africa which has made content restriction requests to Facebook – three in 2016 but it is not stated whether these requests were granted.⁴

In 2016 alone, South Africa made eight requests to the social media platform – five user information requests related to legal processes, two emergency user information requests and one content preservation request. Facebook complied with 50% of South Africa's six user information requests relating to eight accounts in the second half of 2016. A similar compliance rate was recorded back in the second half of 2014, for two information requests relating to two accounts. The highest number of user information requests by the South African government in a six-month period were made in the first half of 2013 – a total of 14 requests relating to nine user accounts.



South Africa user information requests to Facebook 2013-2016

For its part, Sudan made 12 user information requests on legal grounds and 11 preservation requests in 2016. Facebook did not comply with any, as is the case with the 12 requests made between January 2013 and December 2015.



Sudan user information requests to Facebook 2013-2015

³ According to Facebook, account records deemed to be in connection with official criminal investigations are preserved for 90 days pending receipt of formal legal process. A national law enforcement agent authorised to gather evidence may request user records through the Facebook Law Enforcement Online Request System in accordance with their terms of service and applicable US law, specifically the federal Stored Communications Act ("SCA"), 18 U.S.C. Sections 2701-2712 that requires submission of a subpoena, court order, search warrant or national security letter. If the said account has been disabled or deleted by the user, Facebook will, to the extent possible, restore access to allow collection of the account's content. After 90 days this content is deleted.

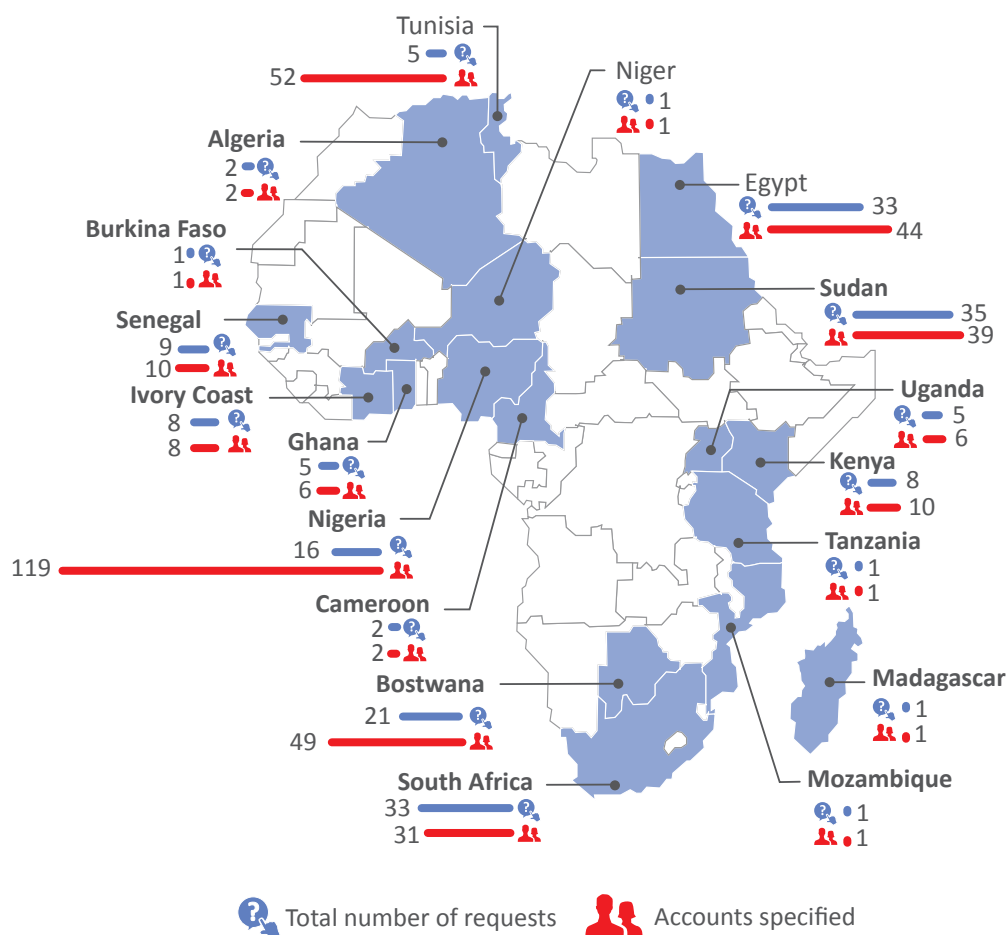
⁴ Facebook describes content restrictions as requests by government to restrict access to content which may be in violation of national law. If the company finds that the content in question is illegal, it is made unavailable only in the relevant country or territory.



The majority of requests by the Egyptian government to Facebook date back to 2013-2015, with only one user information request made on legal grounds and two preservation requests made during 2016. Facebook reported a 25% compliance with the four user information requests made by Egypt in the second half of 2015 and a 20% compliance with the five user information requests made in the first half of 2014. All other requests were rejected.

During 2016, Facebook fully complied with emergency user information requests from the governments of Mozambique and Niger. A similar 100% compliance has in the past been recorded for one user information request made by the government of Ivory Coast in the second half of 2013, as well as one user information request by the governments of Tunisia and Nigeria during the first and second half of 2015 respectively. These requests by Tunisia and Nigeria related to 48 and 96 user accounts respectively.

Facebook indicates a 20% compliance rate for five user information requests made by the government of Kenya for six user accounts during the first half of 2015. Other than for the requests by the Sudanese government, zero compliance has been recorded for all requests made by the governments of Algeria, Botswana, Cameroon, Ghana, Madagascar, Senegal, Tunisia, Tanzania and Uganda.

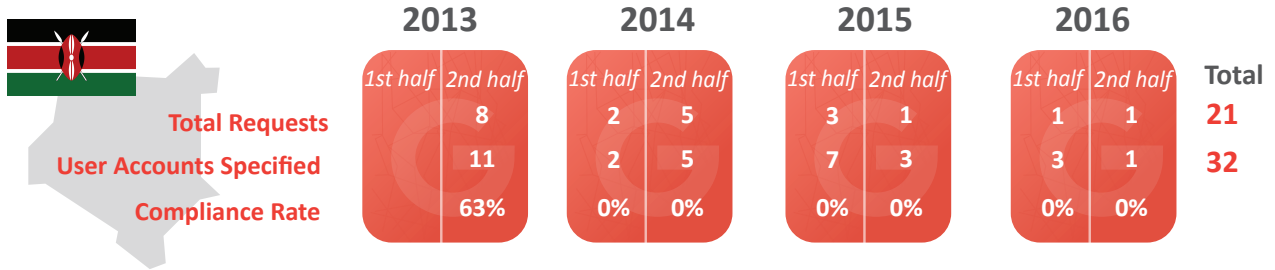


Facebook aggregated requests (user information and preservation) from African governments 2013-2016

It is worth noting that the number of requests to Facebook by African governments is small when compared to the United States of America (USA) which made nearly 50,000 user information requests relating to over 80,000 user accounts, and 69,437 preservation requests in 2016. Facebook's compliance rate with USA's requests last year was over 80%.

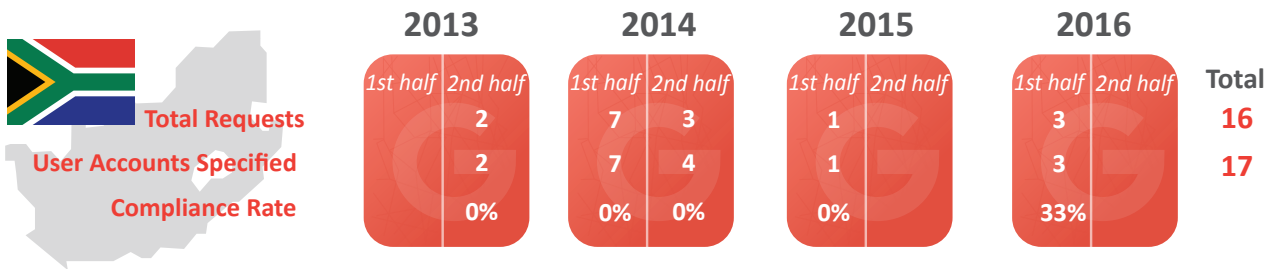


Since 2013, Google has received user information requests from 10 African countries – Algeria, Ivory Coast, Egypt, Ghana, Kenya, Namibia, Nigeria, Senegal, the Seychelles and South Africa. Over three years, Kenya made the highest number of user information requests to Google – 21 relating to 32 user accounts – followed by South Africa and Nigeria. Aside from eight requests made by the Kenya government during the second half of 2013 relating to 11 user accounts, of which Google complied with 63%, all the other requests were rejected.



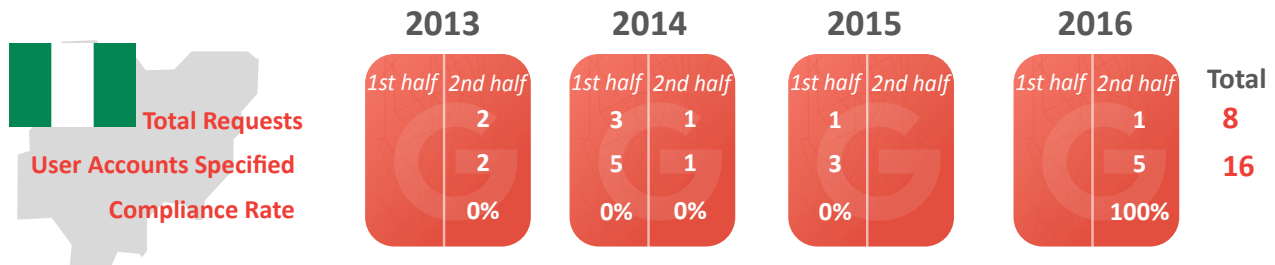
Kenya user information requests to Google 2013-2016

South Africa has made 16 user information requests to Google, relating to 17 user accounts between 2013 and 2016. Google reports 33% compliance with South Africa’s requests made in the first half of 2016.



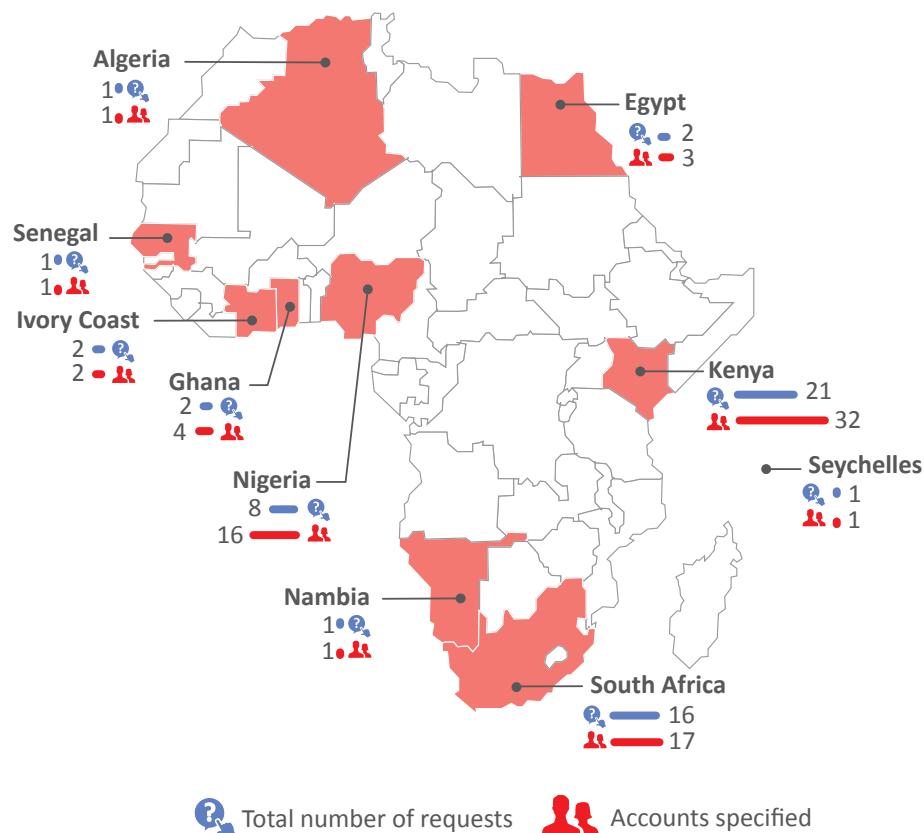
South Africa user information requests to Google 2013-2016

Nigeria is the only government in Africa to have made a user information request to Google and it was fully complied with. The emergency disclosure request was made by Nigerian authorities in the second half of 2016 and it related to five user accounts. Google had rejected all of Nigeria’s seven previous requests.



Nigeria user information requests to Google 2013-2016

Algeria, Namibia, Senegal and the Seychelles made one user information request each between 2014 and 2016. All four requests, relating to one user account each, were rejected. Ghana and Ivory Coast’s two user information requests each, made in 2013 and 2015 respectively, were also rejected.



Google aggregated user information requests from African governments 2013-2016

As with the case of Facebook, the total number of user information requests made by African countries to Google pales in comparison with requests made by the American government – over 27,000 recorded in 2016 alone with a compliance rate of 79%.

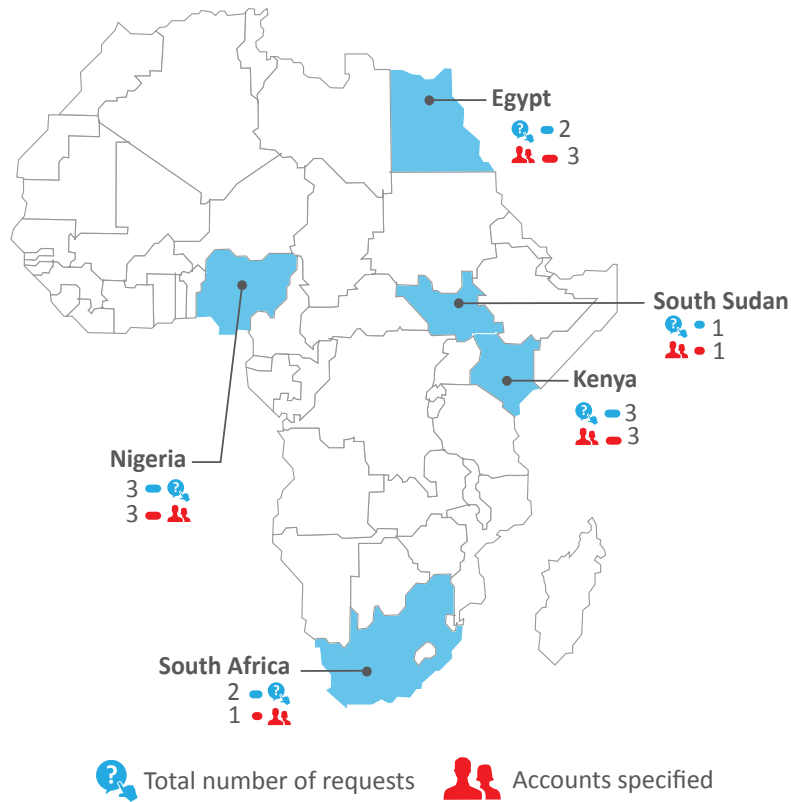
Google also received requests to remove content from its platforms. Since 2013 four African countries have lodged such requests with Google – Egypt, Kenya, Libya and South Africa.

In the first half of 2015, a court order was issued to Google on behalf of a Kenyan internet solutions firm to delist an allegedly defamatory article written by a notable social media activist and subsequently posted on his website. Google complied with the request – delisting the content from www.google.ke. In the second half of the same year, a request was received by Google from South Africa from the wife of the mayor of Johannesburg requesting a delisting from Google search which “suggested that her husband used his position to advance her economic interests”. The request was not complied with. Earlier in 2013, Google received one request from the counter-intelligence office of South Africa to remove a blog post that allegedly infringed copyright by criticising a media release that the agency had issued, Google did not comply with this request.

During 2012-2013, Google received inquiries and requests from 20 countries relating to YouTube videos that contained clips of the movie “Innocence of Muslims”. From Africa, the governments of Djibouti, Egypt and Libya requested that the videos be removed. According to Google, “due to difficult circumstances” the videos were temporarily restricted from view. It is unclear what the length of the temporary restriction was. Earlier in 2010, Libya made 147 requests to remove more than 1,000 YouTube videos. Google removed “portions” of the videos for violating YouTube’s [Community Guidelines](#) but did not remove the rest of the videos. Google does not indicate the exact number of video portions which were removed.



Over the past five years, five African governments – Egypt, Kenya, Nigeria, South Africa and South Sudan - have made user information or content removal requests to Twitter. Nigeria and Kenya have made three “emergency requests” each, of which one by Kenya in the second half of 2016 was complied with 100% and two by Nigeria (one in the second half of 2015 and the other in the first half of 2016) were also fully complied with. Egypt made two emergency user information requests to Twitter in 2014, none of which were complied with while South Africa made two content removal requests in 2016, which were also not complied with. South Sudan, the continent’s youngest nation, is the only African country that made a user information request to Twitter between July and December 2012. The request was rejected.



Twitter aggregated requests from African governments 2012-2016



Globally, Yahoo is ranked as the sixth most frequently visited website by Alexa.com. In its transparency reports, issued bi-annually since 2013, no African country is listed as having made a user data request. Across 38 countries in Asia, Europe and the Americas, Yahoo received 11,247 user data requests in the second half of 2016, a noticeable decrease from 13,771 requests during the same period of the previous year. Yahoo disclosed content⁵ for 10% of requests received in 2016 while 28% were rejected. For 53% of the requests, Yahoo disclosed “basic” subscriber information.⁶

Total content removal requests to Yahoo have grown from one from the government of Canada in 2013 to 21 during 2016 from Brazil, Hong Kong, India, Italy and the United States of America. Again, no African country is listed for this category.

⁵ According to Yahoo this is data that users create, communicate, and store on or through its services which includes words in a communication (e.g., Mail or Messenger), photos on Flickr, files uploaded, Yahoo Address Book entries, Yahoo Calendar event details, thoughts recorded in Yahoo Notepad or comments or posts on Yahoo Answers or any other Yahoo property.

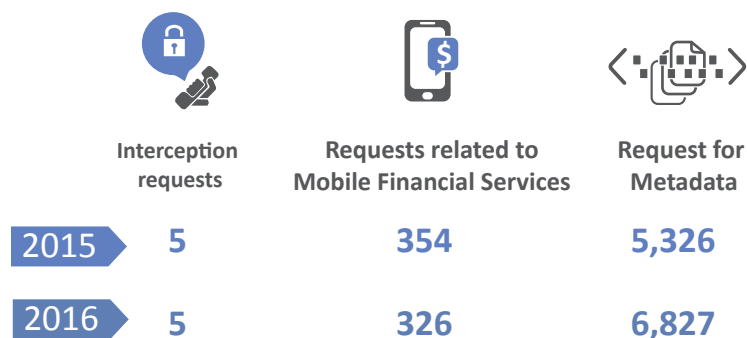
⁶ Yahoo describes basic subscriber information as information including the information captured at the time of registration, such as an alternate e-mail address, name, location, and IP address, login details, billing information, and other transactional information (e.g., “to,” “from,” and “date” fields from email headers)



Millicom

The Luxembourg-based Millicom operates in five African countries – Chad, Ghana, Rwanda, Senegal and Tanzania, all under the Tigo brand. The company previously operated in the Democratic Republic of Congo (DRC) but it sold its operations in that country to Orange in 2016. Earlier in 2015, Millicom acquired majority shares in Zanzibar Telecom (Zantel), operational in Tanzania and semi-autonomous Zanzibar.

Without specifying which African countries it received requests from, Millicom states that the increase in the number of metadata requests⁷ from 5,000 in 2015 to nearly 7,000 in 2016 “is mostly attributed to security efforts on the continent”. It does not explain what these security efforts are. The number of interception requests⁸ received by Millicom from African governments was the same for both years five, while those related to Mobile Financial Services⁹ decreased by 28 from 354 to 326. Millicom does, however, acknowledge that its 2015 and 2016 request figures are not directly comparable as the figures recorded in 2015 include requests made by the government of DRC, while 2016 excludes this data but includes requests made to Zantel. In its transparency reports, Millicom does not publish data regarding compliance to any of the requests received.



Millicom aggregated requests from African governments 2015-2016



In its 2016 Annual Sustainability Report, MTN reaffirmed its support for human rights including access to information, freedom of expression, privacy and security of its users’ communications and information. However, the telecommunications company, one of the largest service providers in Africa with a presence in 19 countries,¹⁰ provides no information about how it handles requests from governments and private parties for user information or surveillance support. Similarly, MTN provides little information about its processes for handling such requests. The South Africa based company also does not disclose any data about the number of requests it receives or complies with, which places it a rank lower than the likes of Millicom, Vodafone, and Orange when it comes to transparency about its policies relating to users’ freedom of expression and privacy.

⁷ Millicom’s definition of Metadata is call data records or Internet Protocol (IP) addresses, past call, Short Message Service (SMS), email traffic, Internet traffic information, or documents from cloud services, or requests for location information (base station or GPS information)

⁸ According to Millicom interception refers to lawful interception of voice, SMS, fax and data traffic in real time, i.e. live surveillance

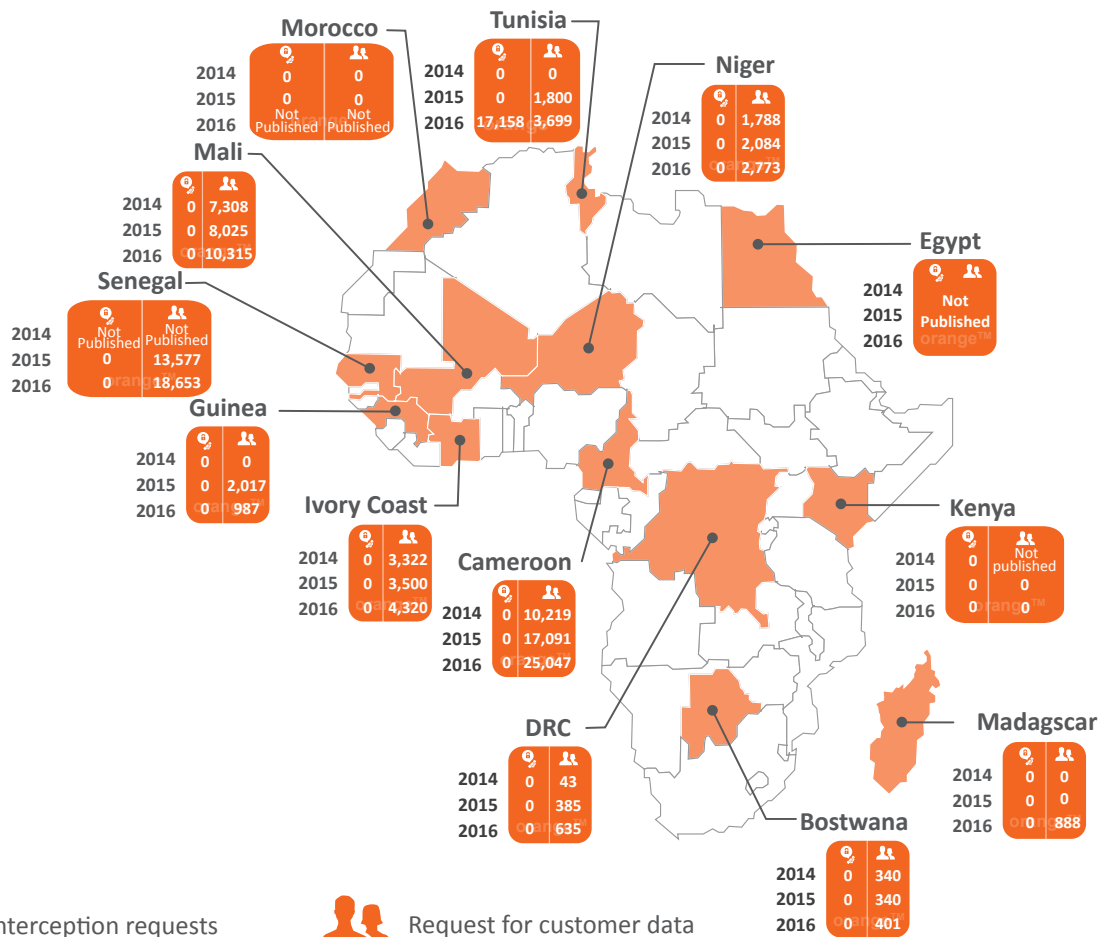
⁹ Information relating to Mobile Financial Services (MFS), such as confirming an individual is an MFS customer, transaction data and other account activity. These requests do not always relate to financial crime.

¹⁰ Botswana, Benin, Cameroon, Congo-Brazzaville, Guinea-Bissau, Guinea-Conakry, Ghana, Ivory Coast, Kenya, Liberia, Namibia, Nigeria, Rwanda, South Africa, Sudan, South Sudan, Swaziland, Uganda and Zambia.



As at the end of 2016, Orange operated in 20 countries in Africa¹¹ and in 2013, the mobile operator signed a charter committing to the protection of its customers' data and guaranteeing respect for their privacy. Since 2014, the mobile company has published its transparency report on freedom and privacy protection annually, detailing requests for interception and subscriber data. In 2014 and 2015, the company could not disclose the number of requests for interception received from Egypt and Senegal due to "local laws or local context" preventing the publication of this information. For the same period, the French company did not receive any interception requests from any of the other African countries it operates in. Last year, the government of Tunisia became the first African country for which Orange provided the number of requests for interceptions in its transparency report and these stood at 17,158.

In 2014, the recorded number of subscriber information requests from African governments to Orange totalled 23,020, with the majority originating from the governments of Cameroon and Mali. This number doubled the following year to 48,819 with Cameroon and Senegal recording the highest number of subscriber information requests. Cameroon again topped other African countries in 2016, making over 25,000 requests for subscriber data out of a total 67,718 requests made by African states. Of the countries included in Orange's transparency reports, the government of DRC has made the least number of subscriber information requests since 2014, followed by Botswana.



Orange aggregated requests from African governments 2015-2016¹²

¹¹ Botswana, Burkina Faso, Cameroon, Ivory Coast, Egypt, Equatorial Guinea, Guinea-Bissau, Guinea-Conakry, Liberia, Madagascar, Mali, Morocco, Mauritius, Niger, Central African Republic, Democratic Republic of the Congo, Senegal, Sierra Leone and Tunisia

¹² According to Orange, for countries where information has not been published, it means that the local laws or local context in that particular country prevent the information from being divulged. Where zero is denoted, the company notes that it could be as a result of the policies and laws in that country or authorities may have direct access to the content of communication despite the method/technique used to get it. However, it could also be as a result of no requests received by Orange.



Vodafone

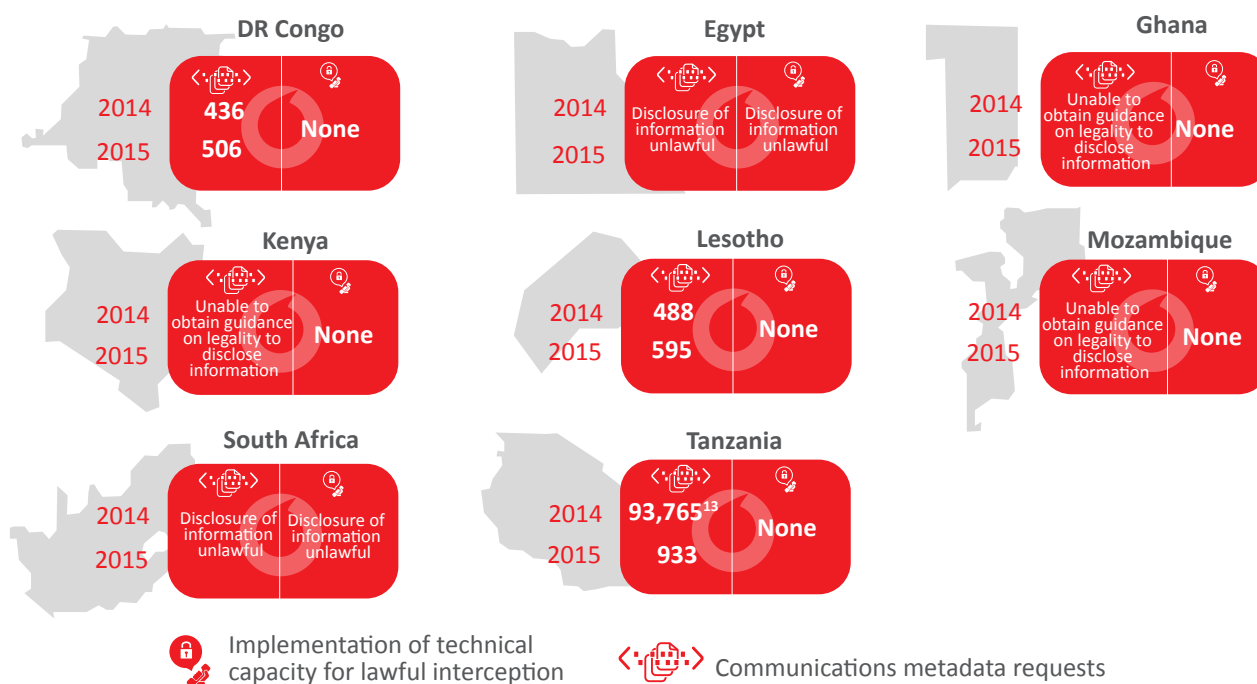
Of the eight African countries in which Vodafone operates, the company's Law Enforcement Disclosure Report of 2015 reveals that Tanzania made the highest number of metadata requests – 933, although, this number is not comparable to 2014 where Tanzania recorded 98,765 requests. However, according to Vodafone, Tanzania's number of requests in 2014 (98,765) was mis-stated due to an administrative error in extracting the data. The company is yet to update their report with the correct figure.

Metadata requests for DRC and Lesotho increased slightly in 2015 compared to the previous year. DRC recorded 506 metadata requests up from 436 in 2014 whereas Lesotho had 595 metadata requests compared to 488 in the previous period.

Due to laws restricting the disclosure of information related to law enforcement, Vodafone was unable to publish statistics on the other five African states where it has operations, namely Egypt, Ghana, Kenya, Mozambique and South Africa. In Egypt, local criminal laws prohibit the disclosure of national security-related information and other matters related to law enforcement. In Ghana, unclear legal restrictions on access to, transfer, and disclosure of electronic records meant that Vodafone was unable to publish information on the demands made in 2014 pending guidance from Ghanaian authorities. In 2015, Vodafone again did not receive guidance from Ghanaian authorities prior to publication of its report. "Given the uncertain legal position and the extent of potential risk to our employees associated with publication, we are therefore not in a position to disclose aggregate statistics related to communication data demands," explained the company in its 2015 report.

Vodafone was also unable to publish statistics related to the Kenyan government's requests for individual communications data due to unclear provisions in the Official Secrets Act and the National Intelligence Services Act. Unclear legal provisions in Mozambique meant that such statistics could not be published. Nonetheless, Vodafone has indicated that going forward, it "will attempt to engage with the new government, agencies and authorities on these matters."

Similarly, South Africa's Regulation on Interception of Communication and Provision of Communication-related Information Act prohibits the disclosure of the fact that any demand for lawful interception or communications data has been issued under the Act. Accordingly, Vodafone did not publish any statistics for the country.



Vodafone aggregated requests from African governments 2014 - 2015

¹³ According to Vodafone, this figure was incorrect, but the company did not update their report with the correct number.



In Europe, for two consecutive years, Italy made the highest number of metadata requests to Vodafone with 866,578 in 2015 and 605,601 in 2015. France recorded the lowest with only three for both years.

Does More Transparency Equal Free Online Spaces for Users in Africa?

A growing number of telecommunication and internet service providers deserve to be commended in their transparency efforts and commitments to safeguard the information of users towards the realisation of the rights to privacy and freedom of expression online. However, their efforts are thwarted by the increase in government strategies to stifle the same rights through shutdowns, use and abuse of courts of law, surveillance and blockages, among others. These tactics curtail the efforts of intermediaries and infringe on the rights of users especially in repressive states that are keen to silence critical and dissenting voices by citizens, activists and human rights defenders.

More efforts still need to be done when it comes to the level of detail contained in the transparency reports and a larger number of companies operating in Africa need to start issuing these reports. Moreover, the extent of disclosure from companies such as Millicom remains wanting, as they released aggregated statistics rather than a breakdown of each individual country data and the company's rate of compliance. Similarly, Yahoo publishes bi-annual reports but there is no recorded data from African countries included in its publication. The extent of transparency of telecommunication companies should be more detailed as the four telecommunications companies that have been reviewed in this analysis (Millicom, MTN, Orange and Vodafone) have a tendency of only releasing the numbers of metadata requests they receive from governments but do not go further to unpack the nature of these requests and their compliance rate.

The onus now remains with civil society organisations, media and activists to strengthen their efforts in promoting awareness on the importance of these reports so that both telecommunications and internet companies are held accountable to their commitments to protect users' data and privacy. More lobbying and advocacy efforts targeting governments on the continent should be strengthened especially when it comes to challenging the legality of local laws that prevent the publication of this information because even though the companies are committed to transparency and accountability for the benefit of their users, the legal environment in some of the countries they operate in tends to hinder them from doing so and negates the progress that is being made so far.

About CIPESA



CIPESA was established in 2004 under the Catalysing Access to Information and Communications Technologies in Africa (CATIA) initiative, which was mainly funded by the UK's Department for International Development (DfID). CIPESA is a leading centre for research and the analysis of information aimed to enable policy makers in East and Southern Africa understand ICT policy issues and for various stakeholders to use ICT to improve governance and livelihoods.



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