

April 13, 2016

Chairman Bob Goodlatte
House Judiciary Committee
United States House of Representatives

Ranking Member John Conyers
House Judiciary Committee
United States House of Representatives

Dear Chairman Goodlatte and Ranking Member Conyers,

We, the undersigned civil society organizations, companies and trade associations, write to express our support for the Manager's Substitute Amendment to the Email Privacy Act (H.R. 699). As amended, the Act updates the Electronic Communications Privacy Act (ECPA), the law that sets standards for government access to private internet communications, to reflect internet users' reasonable expectations of privacy with respect to emails, texts, notes, photos, and other sensitive information stored in "the cloud."

The bill would end ECPA's arbitrary "180-day rule," which permits email communications to be obtained without a warrant after 180 days. The Act would also reject the Department of Justice interpretation of ECPA that the act of opening an email removes it from warrant protection. These reforms would ratify the Sixth Circuit's decision in *U.S. v. Warshak*, which held that email content is protected by the Fourth Amendment and that law enforcement access requires a probable cause warrant. Moreover, the changes reflect current practices: DOJ and FBI policies already require law enforcement officials seeking content to obtain a search warrant, and many service providers will not relinquish their users' content without one.

The Manager's Substitute does not achieve all of the reforms we had hoped for. Indeed, it removes key provisions of the proposed bill, such as the section requiring notice from the government to the customer when a warrant is served, which are necessary to protect users. However, it does impose a warrant-for-content rule with limited exceptions. We are particularly pleased that the Manager's Substitute does not carve out civil agencies from the warrant requirement, which would have expanded government surveillance power and undermined the very purpose of the bill.

For these reasons, we support the bill as amended by the Manager's Substitute.

Sincerely,

ACT | The App Association
Adobe
Amazon
American Civil Liberties Union
American Library Association
Americans for Tax Reform
Application Developers Alliance
Association of Research Libraries
BSA | The Software Alliance

Center for Democracy & Technology
Center for Financial Privacy and Human Rights
Cisco
CompTIA
Computer & Communications Industry Association
The Constitution Project
Consumer Action
Consumer Technology Association
Council for Citizens Against Government Waste
Data Foundry, Inc.
Deluxe Corporation
Digital Liberty
Direct Marketing Association (DMA)
Distributed Computing Industry Association (DCIA)
Dropbox
DuckDuckGo
Electronic Frontier Foundation
Engine
Evernote
Facebook
The Federation of Genealogical Societies
Foursquare
FreedomWorks
The Future of Privacy Forum
Google
Golden Frog, GmbH
Hackers/Founders
Hewlett Packard Enterprise
HP Inc.
Information Technology Industry Council
Information Technology & Innovation Foundation
Instacart
Internet Association
Internet Infrastructure Coalition - I2Coalition
The Jeffersonian Project
LinkedIn
Microsoft
New America's Open Technology Institute
NetChoice
Newspaper Association of America
Niskanen Center
R Street
Reform Government Surveillance
Snapchat
Software & Information Industry Association
Sonic

TechFreedom
TechNet
Twitter
Venture Politics
Yahoo

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