

May 24, 2016

Chairman Chuck Grassley  
Senate Judiciary Committee  
United States Senate

Ranking Member Patrick Leahy  
Senate Judiciary Committee  
United States Senate

Dear Chairman Grassley and Ranking Member Leahy,

We, the undersigned civil society organizations, companies and trade associations, write to express our support for the Email Privacy Act (H.R. 699) which was recently passed by the House of Representatives by a vote of 419-0. 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 bill passed by the House 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. It represents a carefully negotiated compromise which preserves existing exceptions to the warrant requirement, provides a new ability for civil agencies to obtain access to previously public commercial content, and maintains the government's ability to preserve records and obtain emails from employees of corporations. We are particularly pleased that the bill 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, or contain unnecessary and overbroad mandatory emergency exceptions.

For these reasons, we support H.R.699 and urge the Committee to pass it immediately and without any amendments that would weaken the protections afforded by the bill.

Sincerely,

ACT | The App Association  
Adobe  
Amazon

American Association of Law Libraries  
American Civil Liberties Union  
American Library Association  
Apple  
Application Developers Alliance  
Association of Research Libraries  
Automattic Inc  
Brennan Center for Justice at NYU Law School  
BSA | The Software Alliance  
Center for Democracy & Technology  
Center for Financial Privacy and Human Rights  
Cisco Systems  
CloudFlare  
CompTIA  
Computer & Communications Industry Association  
The Constitution Project  
Consumer Action  
Consumer Technology Association  
Council for Citizens Against Government Waste  
Data Foundry, Inc.  
Deluxe Corporation  
Direct Marketing Association  
Distributed Computing Industry Association (DCIA)  
Dropbox  
Electronic Frontier Foundation  
Engine  
Entertainment Software Association (ESA)  
Evernote  
Facebook  
Federation of Genealogical Societies  
Foursquare  
FreedomWorks  
Golden Frog, GmbH  
Google  
Hackers/Founders  
Hewlett Packard Enterprise  
HP Inc.  
IBM  
Instacart  
Institute for Policy Innovation  
Intel Corporation  
Internet Association  
Internet Infrastructure Coalition / I2Coalition  
Information Technology Industry Council  
Information Technology and Innovation Foundation  
LinkedIn

Microsoft  
National Association of Criminal Defense Lawyers  
Niskanen Center  
New America's Open Technology Institute  
Newspaper Association of America  
NetChoice  
Less Government  
R Street Institute  
Reform Government Surveillance  
Snapchat  
Software & Information Industry Association  
Sonic  
Taxpayers Protection Alliance  
TechFreedom  
TechNet  
Twitter  
Venture Politics  
U.S. Chamber of Commerce  
Yahoo