

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 and Digital Liberty  
Application Developers Alliance  
Association of Research Libraries  
BSA | The Software Alliance

Center for Democracy & Technology  
Center for Financial Privacy and Human Rights  
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 (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  
Reform Government Surveillance  
Snapchat  
Software & Information Industry Association  
TechFreedom  
TechNet  
Twitter  
Venture Politics

Yahoo

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\* For identification only.