

April 26, 2016

Dear Representative,

We, the undersigned civil society organizations, companies and trade associations, write to express our support for the Email Privacy Act (H.R. 699). 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 reported from committee 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 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.

For these reasons, we support H.R.699 and urge its immediate passage without any amendments that would weaken the protections afforded by the bill.

Sincerely,

Adobe
ACT | The App Association
Amazon
American Civil Liberties Union
American Library Association
American Association of Law Libraries
Americans for Tax Reform
Application Developers Alliance
Association of Research Libraries
Automattic Inc.
Brennan Center for Justice
BSA | The Software Alliance

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

Reform Government Surveillance
Software & Information Industry Association
Sonic
Taxpayers Protection Alliance
TechFreedom
TechNet
Twitter
U.S. Chamber of Commerce
Venture Politics
Yahoo

Michael W. Carroll, American University Washington College of Law*
James X. Dempsey, University of California, Berkeley*
Paul Rosenzweig, Visiting Fellow at the Heritage Foundation*

* For identification only.