

April 22, 2013

The Honorable Patrick J. Leahy
Chairman
Senate Judiciary Committee

The Honorable Charles Grassley
Ranking Member
Senate Judiciary Committee

Dear Chairman Leahy and Ranking Member Grassley,

We, the undersigned companies and organizations, are writing to express our support for Chairman Leahy's and Sen. Lee's ECPA Amendments Act, S. 607, which the Committee will consider shortly. The bill would update the Electronic Communications Privacy Act (ECPA) to provide stronger protection to sensitive personal and proprietary communications stored in "the cloud." We urge all Members of the Committee to support the bill.

ECPA, which sets standards for government access to private communications, is critically important to businesses, government investigators and ordinary citizens. Though the law was forward-looking when enacted in 1986, technology has advanced dramatically and ECPA has been outpaced. Courts have issued inconsistent interpretations of the law, creating uncertainty for service providers, for law enforcement agencies, and for the hundreds of millions of Americans who use the Internet in their personal and professional lives. Moreover, the Sixth Circuit Court of Appeals has held that a provision of ECPA allowing the government to obtain a person's email without a warrant is unconstitutional.

The ECPA Amendments Act would update ECPA in one key respect, making it clear that, except in emergencies, or under other existing exceptions, the government must obtain a warrant in order to compel a service provider to disclose the content of emails, texts or other private material stored by the service provider on behalf of its users.

This standard would create a more level playing field for technology. It would cure the constitutional defect identified by the Sixth Circuit. It would allow law enforcement officials to obtain electronic communications in all appropriate cases while protecting Americans' constitutional rights. It would provide clarity and certainty to law enforcement agencies at all levels and to American businesses developing innovative new services and competing in a global marketplace. It would implement a core principle supported by Digital Due Process, www.digitaldueprocess.org, a broad coalition of companies, privacy groups, think tanks, and academics.

For all these reasons, we strongly urge all members of the Senate Judiciary Committee to support the ECPA Amendments Act, S. 607.

Sincerely,

Adobe
Amazon
American Association of Law Libraries
American Booksellers Foundation for Free Expression
American Civil Liberties Union
American Library Association

Americans for Tax Reform
AOL
Application Developers Alliance
Association for Competitive Technology
Association of Research Libraries
Automatic Inc.
Bill of Rights Defense Committee
Blacknight
Bleko
Brennan Center for Justice
BSA | The Software Alliance
Center for Democracy & Technology
Center for Financial Privacy and Human Rights
Center for National Security Studies
Cheval Capital
Competitive Enterprise Institute
Computer & Communications Industry Association
Consumer Data Industry Association
The Constitution Project
Council for Citizens Against Government Waste
cPanel
Data Foundry
DemandProgress
Direct Marketing Association
Discovery Institute
Distributed Computing Industry Association
Digital Liberty
Dropbox
eBay
EDUCAUSE
Electronic Frontier Foundation
Facebook
Firehost
FreedomWorks
Foursquare
GANDI.net
GitHub
Golden Frog
Google
Hackers & Founders
Hedgehog Hosting
Hewlett-Packard Company
Information Technology & Innovation Foundation
The Internet Association
Internet Infrastructure Coalition
Koston Consulting
LaborVoices
Lean Startup Circle

LiveJournal
Lesser Government
Lookout Mobile Security
Media Temple, Inc.
Microsoft
Misk.com
Mozilla
National Association of Criminal Defense Lawyers
Newspaper Association of America
Open Society Policy Center
Oracle
Personal
R Street Institute
Records Preservation and Access Committee
Rackspace
Reddit
Reed Elsevier Inc.
salesforce.com
Servint
A Small Orange
Software & Information Industry Association
SpamExperts
SpiderOak
Superb Internet
Symantec
TechAmerica
TechFreedom
TechNet
TechStars
Tumblr
Twitter
UK2Group
U.S. Chamber of Commerce
Wired Tree
World Wide Web Hosting
Yahoo!

cc: Members of the Senate Judiciary Committee