

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.