

January 30, 2017

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 Email Privacy Act (H.R. 387). 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." It represents true bipartisan, commonsense reform on privacy and was endorsed unanimously by the House of Representatives in the 114<sup>th</sup> Congress.

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, which is identical to what was reported from committee last year, does not achieve all of the reforms for which we had hoped. Indeed, it removes key provisions of the bill that was originally proposed in the 114<sup>th</sup> Congress, 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. 387 and urge the Committee to move the bill forward without any amendments that would weaken the protections afforded by the bill.

Sincerely,

Adobe  
Amazon  
American Association of Law Libraries  
American Civil Liberties Union  
American Library Association  
Americans for Tax Reform

AOL  
Association of Research Libraries  
Brennan Center for Justice  
BSA | The Software Alliance  
Center for Democracy & Technology  
Cisco Systems  
Competitive Enterprise Institute  
CompTIA  
Computer & Communications Industry Association  
Consumer Action  
Consumer Technology Association  
The Constitution Project  
Council for Citizens Against Government Waste  
Data Foundry  
Data & Marketing Association  
Demand Progress  
Digital Liberty  
Discovery Institute  
Distributed Computing Industry Association  
Dropbox  
DuckDuckGo  
Electronic Frontier Foundation  
Engine  
Evernote  
Facebook  
Federation of Genealogical Societies  
FreedomWorks  
Future of Privacy Forum  
Golden Frog  
Google  
IBM  
I2Coalition  
Information Technology and Innovation Foundation  
Information Technology Industry Council  
Institute for Policy Innovation  
Internet Association  
The Jeffersonian Project  
Microsoft  
National Association of Criminal Defense Lawyers  
NetChoice  
New America's Open Technology Institute  
News Media Alliance  
Niskanen Center  
R Street Institute  
Reform Government Surveillance  
Snap Inc.

Software & Information Industry Association  
Spotify  
Taxpayers Protection Alliance  
TechFreedom  
TechNet  
Twitter  
U.S. Chamber of Commerce  
Workday  
Verizon  
Yahoo

Michael W. Carroll, American University Washington College of Law\*

\* For identification only.