

The Honorable Harry Reid  
Senate Majority Leader

The Honorable Mitch McConnell  
Senate Minority Leader

Dear Leader Reid and Leader McConnell,

As the Senate considers cybersecurity legislation, we urge you to make in order and to support an amendment that Chairman Leahy has introduced that would update a key privacy law that is critical to business, government investigators and ordinary citizens.

Chairman Leahy's amendment #2580 addresses the Electronic Communications Privacy Act (ECPA), a law that Chairman Leahy himself wrote and guided through the Senate in 1986. ECPA was a forward-looking statute when enacted. However, technology has advanced dramatically since 1986, and ECPA has been outpaced.

As a result, ECPA is a patchwork of confusing standards that have been interpreted inconsistently by the courts, creating uncertainty for service providers, for law enforcement agencies, and for the hundreds of millions of Americans who use mobile phones and the Internet. Moreover, the Sixth Circuit Court of Appeals has held that a provision of ECPA is unconstitutional because it allows the government to compel a service provider to disclose the content of private communications without a warrant.

Chairman Leahy's amendment would make it clear that, except in emergencies, or under other existing exceptions, the government must use 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.

Chairman Leahy's amendment would create a more level playing field for technology. It would cure the constitutional defect identified by the Sixth Circuit. It would provide clarity and certainty to law enforcement agencies at all levels, to business and entrepreneurs, and to individuals who rely on online services to create, communicate and store personal and proprietary data. These protections for content are consistent with an ECPA reform principle advanced by the Digital Due Process coalition, [www.digitaldueprocess.org](http://www.digitaldueprocess.org), a broad-based coalition of companies, privacy groups, think tanks, and academics.

For Internet and communications companies competing in a global marketplace, and for citizens who have woven these technologies into their daily lives, as well as for government agencies that rely on electronic evidence, the protections for content in the Leahy amendment would represent an important step forward for privacy protection and legal clarity.

While the signatories to this letter have very diverse views on the cybersecurity legislation, and some take no position on the legislation, we urge you to make the Leahy amendment #2580 in order and to support it when offered.

Sincerely,  
Adobe  
American Booksellers Foundation for Free Expression

Americans for Tax Reform  
Association for Competitive Technology  
American Library Association  
Association of Research Libraries  
Bill of Rights Defense Committee  
Business Software Alliance  
CAUCE North America  
Center for Democracy & Technology  
Center for Financial Privacy and Human Rights  
Center for National Security Studies  
Citizens Against Government Waste  
Competitive Enterprise Institute  
Computer and Communications Industry Association  
The Constitution Project  
Data Foundry  
Distributed Computing Industry Association  
eBay  
EDUCAUSE  
Engine Advocacy  
FreedomWorks  
Liberty Coalition  
Newspaper Association of America  
Microsoft  
Neustar  
Personal  
Salesforce  
Sonic.net  
SpiderOak  
Symantec  
TechFreedom  
TechAmerica  
TRUSTe  
U.S. Policy Council of the Association for Computing Machinery

Cc:

The Honorable Patrick J. Leahy  
The Honorable Chuck Grassley