



September 13, 2017

Support the International Communications Privacy Act, H.R. 3718

On behalf of our activist community, please contact your representative and urge him or her to support the International Communications Privacy Act, H.R. 3718, introduced by Rep. Doug Collins (R-Ga.). The bill would establish guidelines for how law enforcement officials can access information that is stored in countries other than the United States.

The International Communications Privacy Act (ICPA) is a welcome update to our privacy laws for electronic communications, which are woefully out of date. The bill helps protect the privacy of individuals online, while providing updated guidelines for law enforcement officials seeking access to data stored abroad.

ICPA updates the Electronic Communications Privacy Act (ECPA), which was originally written in 1986, more than 30 years ago, well before the widespread use of email, data storage, and cloud computing. The bill includes updates that bring the law into the 21st century. The changes included in ICPA establish a transparent process for law enforcement officials when requesting information about U.S. citizens regardless of where the data is stored.

The legislation also reforms the current Mutual Legal Assistance Treaty process that allows law enforcement officials to seek information across borders. The process also will be made more transparent through a new publication by the Department of Justice that will include information on the number of MLAT requests made by the Department of Justice, and the number of MLAT requests to the Department of Justice from foreign governments, as well as the time it takes to process these requests both by the U.S. and by foreign governments.

By its nature, the Internet is borderless, and the emergence of cloud computing has raised thorny legal questions about access to data that is stored across the globe. Both law enforcement officials and the courts have struggled to apply outdated laws to current technological standards and practices, leading many to call for a modernized version of the law. In a recent case concerning access to data stored abroad, Judge Gerard E. Lynch urged Congress to act in his concurring opinion:

“I believe even more strongly that the statute [ECPA] should be revised, with a view to maintaining and strengthening the Act’s privacy protections, rationalizing and modernizing the provisions permitting law enforcement access to stored electronic communications and other data where compelling interests warrant it, and clarifying the international reach of those provisions after carefully balancing the needs of law enforcement (particularly in investigations addressing the most serious kinds of transnational crime) against the interests of other sovereign nations.”

ICPA does just that. The importance of the Fourth Amendment is without question and our laws must be updated to ensure that we also enjoy fourth amendment protections in the digital world. This bill would establish due process for accessing information and data in a borderless world. For these reasons, I urge you to contact your representatives and urge them to support the International Communications Privacy Act, H.R. 3718.

Sincerely,

A handwritten signature in black ink, appearing to read 'A. Brandon', with a stylized flourish at the end.

Adam Brandon
President, FreedomWorks