

Statement of

The Honorable Patrick Leahy

United States Senator
Vermont
June 30, 2005

Opening Statement Of Senator Patrick Leahy
Executive Business Meeting
Committee On The Judiciary
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Yesterday, the Chairman and I introduced a measure that grew out of the important hearings before this Committee earlier this year on the serious breaches of personal data from credit cards accounts and other sources. I commend Chairman Specter for his leadership on this problem. He was as alarmed as I was about this emerging problem, and we both believe in addressing it head on. We worked closely together over many months to draft constructive and effective solutions to the problems of lax security and lack of accountability that threaten our economy, our privacy and our homeland security.

Americans everywhere are wondering, "Why do all these companies have my personal information? What are they doing with it? Why aren't they protecting it better?" And they are right to wonder. It is time for Congress to get in sync with the data market and to show the American people that we are aware of these threats and will protect the privacy and security of their personal information.

This is a good bill -- the right bill. We offer remedies to help individuals not only after they have been harmed, but we also offer safeguards to prevent that harm from happening in the first place. The American people are anxious to see Congress address the roots of the problem. Reforms like these are long overdue.

The key features of our legislation include:

- ? Increasing criminal penalties for identity theft involving electronic personal data by (1) increasing penalties for computer fraud when such fraud involves personal data, (2) adding fraud involving unauthorized access to personal information as a predicate offense for RICO and (3) making it a crime to intentionally or willfully conceal a security breach involving personal data;
- ? Allowing individuals access to, and the opportunity to correct, any personal information held by data brokers;
- ? Requiring entities that maintain personal data to establish internal policies that protect such data and vet third-parties they hire to process that data;
- ? Requiring entities that maintain personal data to give notice to individuals and law enforcement when they experience a breach involving sensitive personal data;
- ? Limiting the buying, selling or displaying of a Social Security number without consent from the individual whose number it is;
- ? Prohibiting companies from requiring individuals to use Social Security numbers as their account numbers and limiting when companies can force individuals to turn over those numbers in order to obtain goods or services;
- ? Barring government agencies from posting public records that contain Social Security numbers on the Internet; and
- ? Requiring the government to establish rules protecting privacy and security when it uses data broker information, to conduct audits of government contracts with data brokers and impose penalties on government contractors that fail to meet data privacy and security requirements.

I know that Senator Feinstein and others are also serious about these problems and appreciate their outstanding leadership in these matters. I look forward to this Committee making progress on these issues. They are important to Americans and they are important to our economy. I do not want to see Americans lose confidence in electronic

commerce, harkening back to the days when such a lack of confidence in banks sent citizens stuffing cash in their mattresses. I thank the Chairman for devoting his attention to these problems and concerns and hope we can work together to report legislation that will be effective and helpful.

Today, we hope to adopt in a bipartisan manner rules to govern our Committee proceedings. Anyone who has observed our work over the years is aware that this Committee is called upon to handle many of the most contentious matters that come before the Senate. That has not changed. But anyone who is a close observer of the Committee has witnessed a change in tone during the last six months and has seen us restore a good measure of civility to our proceedings. Much of the credit goes to our Chairman.

I am encouraged that we have been able to establish a good working relationship and environment. The senior Senator from Pennsylvania has served on the Committee for more than 24 years. He is our friend. Now, he is also our Chairman. While we do not always agree, we share a mutual respect for each other, for the Senate and for this Committee.

He has sought changes in the Committees' rules and we in the minority have sought to accommodate his interests in efficiency without sacrificing our rights and responsibilities. I greatly appreciate his restoration of our traditional Rule IV. That rule was instituted at the behest of Republican Senators more than 25 years ago. Until recently, it had served as intended and without interruption as a mechanism providing for consultation and bipartisanship. It is now back in effect.

We have sought to encourage greater consultation on hearings and Committee business in these rules. I would hope that the majority would work with the minority not to provide the least possible notice but to provide the greatest possible opportunity to work together.

The most difficult rule change for the minority to accept is one lowering our traditional quorum requirement of at least half of the Committee. We have been accommodating in so doing and the Chairman has worked with us to find a formulation that we both hope will work.

While we respect the rules, what will matter most in the days ahead is whether we respect each other. No set of rules can protect against overreaching or abuse. This Committee can become a model for the Senate. Let that be one that inspires rather than inflames.