

Statement of

The Honorable Patrick Leahy

United States Senator
Vermont
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Statement Of Senator Patrick Leahy (D-Vt.),
Chairman, Senate Committee On The Judiciary
Hearing On
"The Electronic Communications Privacy Act:
Government Perspectives on Privacy In The Digital Age"
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Today, the Committee holds a timely and important hearing on the Federal Government's use of the Electronic Communications Privacy Act (ECPA) -- one of the Nation's premier digital privacy laws. The Electronic Communications Privacy Act has been a bridge between legitimate law enforcement needs and the privacy rights of Americans. When the Committee held its first hearing on ECPA reform last September, I said that while there is general agreement that ECPA has become outdated by vast technological advances and changing law enforcement missions since the law's initial enactment, the question of how best to update this law has no simple answer.

Congress is considering many different approaches to ECPA reform, but a few core principles should guide our work. Meaningful ECPA reform must carefully balance privacy rights, public safety and security. Reforms must also encourage American innovation and instill confidence in American consumers, law enforcement and the business community.

For many years, ECPA has provided vital tools to law enforcement to investigate crime and to keep us safe. At the same time, this law has been crucial to safeguarding Americans' digital privacy rights. With the explosion of cloud computing, social networking sites and other new technologies, determining how best to bring this privacy law into the Digital Age will be one of Congress's greatest challenges.

While still a useful tool for our Government, today, ECPA is a law that is hampered by conflicting standards that cause confusion for law enforcement, the business community and American consumers alike. For example, the content of a single e-mail could be subject to as many as four different levels of privacy protections under ECPA, depending on where it is stored, and when it is sent. There are also no clear standards under that law for how and under what circumstances the Government can access cell phone or other mobile location information when investigating crime or national security matters.

Today's hearing is an opportunity for this Committee to examine how these and other shortcomings impact the Government's ability to fight crime and protect national security. We

will also examine the Government's views about various proposals being considered by Congress to update this privacy law.

I am pleased that we will hear from the General Counsel of the Department of Commerce, who has unique insights into the impact of ECPA on American innovation. I am also pleased that we will also get the views of the Department of Justice, which relies upon ECPA to carry out its vital law enforcement and national security duties.

I thank both of our witnesses for appearing today. I look forward to a good discussion.

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