



February 21, 2018

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Hon. Jerry Nadler  
Ranking Member, House Judiciary  
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Dear Congressional Leaders,

As state attorneys general, we write to express our support for the Clarifying Lawful Overseas Use of Data Act (“the CLOUD Act”), a bipartisan proposal to update and amend several provisions of the Stored Communications Act (“SCA”).

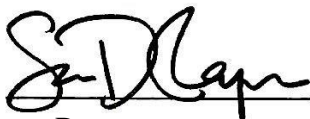
Under the SCA, a law enforcement agency may obtain a warrant to search an individual’s email or other online account if a reviewing court finds probable cause that the account contains evidence of a crime. Once issued, an SCA warrant is served on a service provider who must then collect the requested data and provide it to law enforcement. State and local law enforcement

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agencies routinely use SCA warrants to investigate all manner of local crime, from drug trafficking to murder to child sexual exploitation. Recently, however, some service providers have argued that an SCA warrant cannot be enforced when the data being sought is stored on a foreign server, even if the provider and the customer who created the data are in the United States and that data can be accessed from the United States. The providers and others have argued that requiring compliance with an SCA warrant in this situation would be an extraterritorial application of a domestic law and would raise significant privacy and international comity concerns. This dispute has spawned litigation across the country and impeded numerous law enforcement investigations.

We believe the CLOUD Act—as introduced by Senators Hatch, Coons, Graham, and Whitehouse—is an important step toward resolving this dispute. The Act both confirms law enforcement’s ability to obtain probable-cause based warrants for electronic communications stored abroad and creates a clear avenue for service providers to challenge an SCA warrant that targets a foreign person and which would require a provider to violate foreign law. The Act also creates incentives for our foreign partners to enter into bilateral agreements that will facilitate cross-border criminal investigations, while ensuring that privacy and civil liberties are respected. We believe these specific amendments to the SCA are a reasonable solution to the acute problems that have arisen with respect to the collection of foreign-stored data. We understand that this Congress is also currently considering other changes to the Electronic Communications Privacy Act (“ECPA”) and other legislation concerning government access to third party communications. Those proposals raise significant issues and should be carefully considered on their own merits. We believe passage of the CLOUD Act should remain independent of other efforts to amend ECPA. We urge you to join us in supporting the CLOUD Act.

Sincerely,



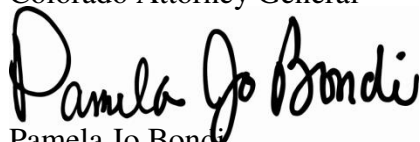
Sean Reyes  
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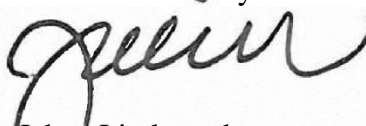
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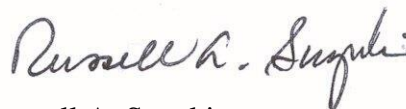
T.J. Donovan  
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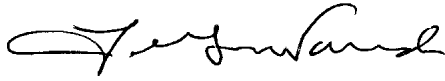
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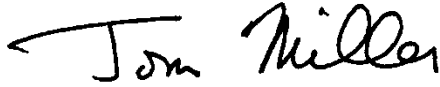
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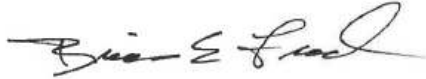
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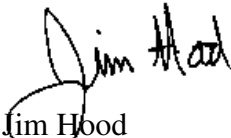
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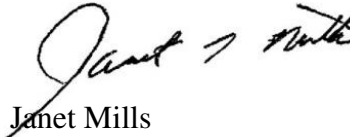
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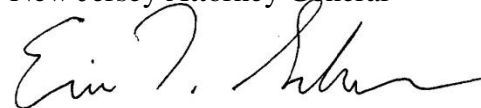
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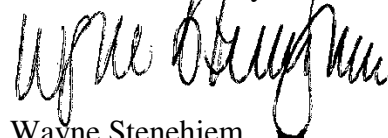
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