

May 26, 2017

The Honorable Bob Goodlatte, Chairman
House Judiciary Committee
House of Representatives
2138 Rayburn House Office Building
Washington, D.C. 20515

Dear Chairman Goodlatte:

As U.S.-based companies that provide consumer and business technology, products, and services around the world through the use of electronic data, we were pleased to see that you included in your “Innovation and Competitiveness Agenda” for the 115th Congress a reference to reforming Section 702 of the FISA Amendments Act of 2008 (50 U.S.C. 1881a). We are writing to express our support for reforms to Section 702 that would maintain its utility to the U.S. intelligence community while increasing the program’s privacy protections and transparency.

As you consider reforms to Section 702, we recommend that you adopt the following changes.

First, reauthorization legislation should codify recent changes made to “about” collection pursuant to NSA’s Upstream program. This reform would merely codify changes already embraced by the U.S. government with the imprimatur of the Foreign Intelligence Surveillance Court (FISC) to correct deficiencies that implicate the constitutional rights of U.S. citizens.

Second, reauthorization legislation should require judicial oversight for government queries of the contents of 702 material for the communications of U.S. persons (given that U.S. persons are not the target of 702).

Third, reauthorization legislation should narrow the definition of “foreign intelligence information” under FISA to reduce the likelihood of collecting information about non-U.S. persons who are not suspected of wrongdoing.

Fourth, increasing oversight and transparency of Section 702 collection will improve confidence in both its utility and lawfulness. Companies should be allowed to disclose the number of requests they receive by a legal authority and should be permitted to make more granular disclosures concerning the volume of national security demands that they receive. We also support further declassification of FISC orders.

Finally, there should be greater transparency around how the communications of U.S. persons that are incidentally collected under Section 702 are searched and used, including how often 702 databases are queried using identifiers that are tied to U.S. persons.

We look forward to working with you and Ranking Member Conyers, as well as your counterparts in the Senate, as you consider improvements to Section 702 of the FISA Amendments Act.

Yours Sincerely,

Adobe

Airbnb

Amazon

Atlassian

Automattic

Cisco Systems, Inc.

Cloudflare

Computer & Communications Industry Association (CCIA)

Consumer Action

cPanel, Inc.

Data Foundry

Dropbox

Engine

Evernote

Facebook

Golden Frog

Google

i2Coalition

Internet Association

LinkedIn

Lyft

Microsoft

Mozilla

Pinterest

Rapid7

Reddit

Snap

Sonic

Twitter

Uber

Yahoo

cc: The Honorable John Conyers, Ranking Member, House Judiciary Committee