

May 17, 2011

The Honorable John Kerry  
Chairman, United States Senate Committee on Foreign Relations  
446 Dirksen Senate Office Building  
Washington, D.C. 20510

The Honorable Richard Lugar  
Ranking Member, United States Senate Committee on Foreign Relations  
446 Dirksen Senate Office Building  
Washington, D.C. 20510

Dear Senators:

We, the undersigned groups and individuals, are writing to highlight the high-level negotiations that are underway between the United States and the European Union aimed at reaching an “umbrella” agreement for the protection of private information when it is shared between U.S. and E.U. governments. The umbrella agreement would subsume existing agreements on such topics as airline passenger name records (PNR) and international financial transactions (SWIFT). The agreements will be of vital importance to Americans’ civil liberties and security, and we believe it is especially important for the Chairman and Ranking Member of the U.S. Senate Committee on Foreign Relations to pay close attention to and extend your expertise to these negotiations.

Enclosed is a letter we have written to President Obama, urging him to reach an agreement with the Europeans that respects basic, internationally accepted principles for the protection of privacy and fairness in the handling of personal information.

Based on our conversations with some of the interested parties, we fear that the United States may be pushing the Europeans to weaken their comparatively strong protections of privacy and other fundamental rights, rather than agreeing to strengthen U.S. protections and respect such principles.

This is an issue of the highest priority, and one to which Congress should pay the closest attention. As information technology advances, it is crucial that we update our privacy laws in order to maintain the privacy that our civilization has valued for centuries. We appreciate the Senate’s efforts in the Internet privacy context. But much of the world – including countries in Asia and elsewhere – will also be looking to this U.S.-E.U. agreement as a benchmark, so it will be a crucial determinant of evolving global standard practices. It would be a betrayal of American values for our government to fail to uphold privacy and civil liberties in this pact, and it would not serve the long-term interests of the people of the United States.

Currently, the European approach to privacy is much more robust than the American approach. As you know, European privacy laws incorporate a set of principles that are regarded around the world as the human-rights gold standard for the protection of data privacy. Those principles, while drawn from guidelines developed by the OECD, actually have their origin in

work done by the U.S. government in the 1960s. They incorporate human rights, civil liberties and the Fair Information Practices – protections such as limits on the use of personal information for new purposes beyond the purpose for which it was collected, limits on the length of time the data is retained, the right to access one's files, the right to correct inaccurate information that might be in those files, and the right to seek redress when adverse decisions have been made unfairly against a person.

Abroad as at home, the United States should stand behind these principles, which were originally formulated here before they spread around the world.

We hope you agree that these agreements are vitally important and should not be negotiated without input and advice from Congress, and it is especially necessary for the leaders of the Senate Committee on Foreign Relations to be a part of this process. We respectfully ask that you carefully track these negotiations in order to ensure that U.S. negotiators are protecting the privacy and civil liberties of our citizens, rather than pushing the Europeans to weakening their laws. As part of that oversight, we urge you to conduct hearings on this matter, including E.U. officials as witnesses. The American public has the right to full knowledge of these important negotiations.

Sincerely,

Chris Calabrese  
American Civil Liberties Union

Jeff Chester  
Center for Digital Democracy

Susan Grant  
Consumer Federation of America

John Simpson  
Consumer Watchdog

Lee Tien  
Electronic Frontier Foundation

Barry Steinhardt  
Friends of Privacy USA

Edward Hasbrouck  
Identity Project

Michael Ostrolenk  
Liberty Coalition

Deborah Peel  
Patient Privacy Rights

Pam Dixon  
World Privacy Forum

Sheila Dean  
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