

AMENDMENT NO. \_\_\_\_\_ Calendar No. \_\_\_\_\_

Purpose: To provide the sense of Congress with respect to international data privacy.

IN THE SENATE OF THE UNITED STATES—114th Cong., 2d Sess.

**H. R. 2578**

**AMENDMENT NO 4747**

By Hatch Commerce  
 the fiscal  
 her pur-

To: Amor No 4685

and

4

Page(s)

1

GPO: 2010 63-070 (mac)

AMENDMENT INTENDED TO BE PROPOSED BY MR. HATCH TO the amendment (No. 4685) proposed by Mr. SHELBY

Viz:

- 1 At the appropriate place, insert the following:
- 2 **SEC. \_\_\_\_ . SENSE OF CONGRESS WITH RESPECT TO INTER-**
- 3 **NATIONAL DATA PRIVACY.**
- 4 (a) FINDINGS.—Congress finds the following:
- 5 (1) When the Electronic Communications Pri-
- 6 vacy Act (Public Law 99-508; 100 Stat. 1848) (in
- 7 this section referred to as “ECPA”) was enacted in
- 8 1986, no one could have envisioned the globalization
- 9 of the Internet and electronic communications.

1           (2) Today, multinational companies serve their  
2 customers around the world by storing and transfer-  
3 ring data through a complex network of global data  
4 centers.

5           (3) Because ECPA never contemplated the  
6 global networks that technology companies operate  
7 today, ECPA presents unique challenges for a num-  
8 ber of industries that increasingly face a conflict be-  
9 tween Federal law in the United States and the laws  
10 of other countries. For example, when a technology  
11 company receives a demand from a Federal law en-  
12 forcement agency to turn over data on behalf of for-  
13 eign customers, that company is forced to make a  
14 difficult decision: either comply with the demand and  
15 satisfy Federal law or risk violating the privacy laws  
16 of the host country. The same is true in reverse be-  
17 cause when foreign governments compel global pro-  
18 viders to disclose information, even information  
19 about the citizens of those governments, Federal law  
20 in the United States sometimes prohibits the pro-  
21 viders from complying.

22           (4) Modernizing ECPA to better reflect the  
23 truly global nature of global technology will—

1 (A) better serve the interests of law en-  
2 forcement, both in the United States and  
3 abroad;

4 (B) protect individual privacy; and

5 (C) promote innovation and the free flow  
6 of information.

7 (b) SENSE OF CONGRESS.—It is the sense of Con-  
8 gress that the Federal Government—

9 (1) must safeguard data throughout the world  
10 from unauthorized access by law enforcement agen-  
11 cies; and

12 (2) should—

13 (A) require law enforcement agencies in  
14 the United States to obtain a warrant for all  
15 electronic content;

16 (B) create a clear international legal  
17 framework that provides law enforcement agen-  
18 cies with an efficient process to obtain informa-  
19 tion while—

20 (i) protecting the privacy of all indi-  
21 viduals; and

22 (ii) respecting the laws of other coun-  
23 tries; and

24 (C) strengthen the Mutual Legal Assist-  
25 ance Treaty process by providing greater effi-

1           ciency, accessibility, transparency, and account-  
2           ability.