

February 12, 2015

The Honorable Orrin Hatch
United States Senate
104 Hart Office Building
Washington, D.C. 20510

Dear Senator Hatch:

I write today with strong support for the Law Enforcement Access to Data Stored Abroad Act (LEADS Act). This legislation is critical for the future of American companies that provide or use cloud services abroad.

The LEADS Act provides much needed clarity to the legal framework by which law enforcement can access data stored abroad. The bill effectively balances the needs of law enforcement with individual privacy protections. It also updates and strengthens the Mutual Legal Assistance Treaty (MLAT) process. Consistent with current reform efforts, the bill requires a warrant to access stored communications, regardless of the age of the content.

The need to clarify the treatment of stored communications is urgent and overdue. The 1986 Electronic Communications Privacy Act (ECPA) currently governs this activity. At the time of that law's enactment, the word "email" was barely in use and the World Wide Web – what we today recognize as the public internet – was still five years away. The bill's authors could not have anticipated the massive growth of digital communications, which have become central to our daily lives.

The emergence of distributed, remote cloud computing is at the heart of this digital revolution. It has dramatically changed how companies manage their information technology. Cloud services have replaced the office server, lowered IT expenditures, and increased efficiency. From startups to multinationals, cloud computing allows companies to scale their resources based on need without upfront hardware investment.

The cloud has also ushered in a new wave of consumer services. Every movie streamed online and every app downloaded comes from the cloud. Web-based email, online shopping, and digital music all owe their success to the cloud. Without it, smartphones would not exist. And these devices have become fastest adopted technology in human history.

American technology companies are the global leaders in cloud services. Yet, like many other U.S. companies competing in foreign markets, this industry has been severely disadvantaged by the Snowden revelations. Our trading partners have expressed grave concerns that their citizens' data cannot be safe when stored by American companies within reach of U.S. surveillance agencies.

Extreme measures are being considered that would ban U.S. cloud providers from the European market and other countries internationally. These proposals aren't coming from fringe elements. German Chancellor Angela Merkel and former European Commission Vice President for the Digital Agenda of Europe Neelie Kroes are among the leading voices calling for these drastic steps.

Unfortunately, the U.S. Department of Justice is pursuing a court case that threatens to provide ammunition to these radical proposals. In U.S. v. Microsoft, DOJ claims that it can legally compel the company to

give up data stored by a foreign national at its data center abroad, without a warrant or the approval of the host country. This runs directly counter to the MLAT provisions through which the United States and other countries cooperate on investigations. DOJ is asking Microsoft to violate the law where its data center resides while also compromising the framework through which countries conduct cross-border investigations.

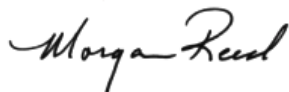
If Europe and our other trading partners believe the American government can openly compel our companies to break their laws and violate their sovereignty, there will be a devastating backlash against U.S. cloud providers. That is why the tech industry is vehemently behind the LEADS Act. And we're not the only industry that needs this legislation; many U.S. manufacturers use enterprise cloud software from American companies and face similar threats to their overseas operations.

The LEADS Act addresses these concerns by providing a clear legal framework for law enforcement agencies and U.S. cloud providers abroad. The bill finds an appropriate balance by reinforcing the MLAT process as the lawful framework for cross-border investigations while strengthening it to authorize an ECPA warrant to pursue U.S. persons abroad.

It is critical to reassure our trading partners that the United States has learned from the Snowden revelations. U.S. companies cannot compete overseas if we're unable to provide reassurance that data is safe. Nowhere is this danger more evident than in the tech industry and cloud computing. The app economy is dependent on American cloud providers to deliver our products. Without those companies, the \$87 billion industry disappears.

The LEADS Act strengthens consumer privacy rights, clearly defines the limits of law enforcement and allows technology companies to continue innovating. Most importantly, it would eliminate the issue that Europeans and others have seized upon us in their efforts to ban American cloud providers internationally. We look forward to working with your office to assist in the passage of this important legislation.

Sincerely,



Morgan Reed

Executive Director