

COALITION FOR ONLINE ACCOUNTABILITY

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VIA E-MAIL

The Honorable Rick Boucher
Chairman, Subcommittee on Communications, Technology and the Internet
Committee on Energy and Commerce
U.S. House of Representatives
Washington, DC

Dear Chairman Boucher:

The Coalition for Online Accountability (COA) appreciates the chance to comment on your May 3 discussion draft of privacy legislation. COA is comprised of eight leading copyright industry companies, trade associations and member organizations of copyright owners (listed below). In addition to this letter, some COA participants will be submitting more detailed comments under separate cover, including through trade associations.

For the past decade, COA has worked to preserve and enhance online transparency and accountability, with a main focus on ensuring that data concerning domain name registrations and IP address allocations remains publicly accessible, accurate and reliable. As you know, this data constitutes a key tool for identifying and remedying online infringement of copyright, including through licensing programs and public education. It is equally essential in combating trademark infringement, cybersquatting, phishing, and other fraudulent acts online.

COA appreciates your recognition, as reflected in your letter last August to Secretary Locke, of the importance of maintaining “timely and public access to accurate and complete Whois information .. that is critical to the tracking of malicious websites and domain names.” Among the many complex balances to be maintained in federal privacy legislation is the need to ensure that this access is preserved. Similarly, collection of Internet Protocol address data, which travels with virtually all Internet communications, is essential to the investigation of all forms of online misconduct. It is particularly important to preserve the ability to collect and use IP address data in cooperative efforts among copyright owners and Internet companies, to reduce the unacceptably high levels of trademark and copyright infringement online without jeopardizing legitimate privacy interests.

We commend you for including in your discussion draft the concept of use of covered information for “operational purposes.” The definition of these purposes --- including detecting and preventing security attacks, unauthorized transactions and fraud – seems suitably broad, but could benefit from an explicit reference to intellectual property rights protection. Under the

American Society of Composers
Authors & Publishers (ASCAP)

Entertainment Software Association (ESA)

Software & Information Industry Association (SIIA)

Broadcast Music Inc. (BMI)

Motion Picture Association of America (MPAA)

Time Warner Inc.

Recording Industry Association of America (RIAA)

The Walt Disney Company

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draft, the use of covered information for operational purposes properly is exempted from the requirement of consent. We urge you to consider broadening this accommodation to cover disclosure to the public of information such as domain name registrant contact data via Whois and similar services. As you know, this has been a feature of the domain name system since its inception, and one that provides vital transparency that benefits all Internet users.

Similarly, the inclusion of IP addresses within the category of covered information could prove problematic, when this data is used for operational purposes such as intellectual property enforcement. For example, it would be difficult – and perhaps completely unnecessary – to provide meaningful notice to Internet users that their publicly available IP address information may be collected for these purposes. We appreciate that the draft does not treat an IP address as “covered information” in all circumstances, but urge that the long-standing availability of this information for helping to detect and remedy instances of intellectual property infringement and similar online misconduct be explicitly preserved.

The drafting of a balanced and comprehensive privacy framework for the online environment presents many challenges. COA applauds you for stepping up to this challenge by preparing and circulating the discussion draft. We thank you again for the opportunity to comment on it, and hope that you and your staff will not hesitate to call on us if we can provide further information or input in this process.

Respectfully submitted,

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