

# United States Senate

COMMITTEE ON COMMERCE, SCIENCE,  
AND TRANSPORTATION

WASHINGTON, DC 20510-6125

March 10, 2011

Chairman Patrick Leahy  
Ranking Member Charles Grassley  
United States Senate Committee on the Judiciary  
224 Dirksen Senate Office Building  
Washington, DC 20510

Dear Chairman Leahy and Ranking Member Grassley:

We read with interest about the new Privacy, Technology and the Law Subcommittee established in the Senate Judiciary Committee. This subcommittee has the opportunity to build on efforts by the Full Committee to criminalize behavior such as identity theft, and establish parameters under which the federal government may conduct surveillance of Americans. Deterrence of criminal activity and law enforcement oversight are important components of any effort to protect privacy, and we welcome the Judiciary Committee's engagement in these matters.

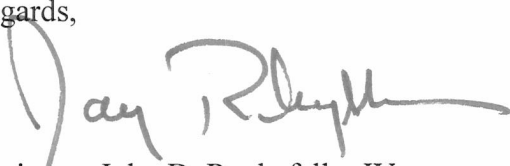
However, we are concerned about the description of the Subcommittee on the Judiciary Committee website and are puzzled insofar as the jurisdiction described appears to be beyond the scope of the jurisdiction of the Judiciary Committee under the Senate Rule XXV. Legislation related to such matters lie squarely within the jurisdiction of the Senate Commerce, Science and Transportation Committee. We have attached a copy of the Subcommittee's description as well as the relevant provisions of Senate Rule XXV.

As you undoubtedly know, the Senate Commerce Committee for many years has focused attention on the need to protect consumers' privacy interests. This Committee has held hearings and considered legislation aimed at establishing standards for commercial use of personal data as well as the protection and security of that data. For example, the Children's Online Privacy Protection Act of 1998, which provides needed protection to children in a growing online world, originated in the Commerce Committee. Just last year, the President signed into law the Restore Online Shoppers' Confidence Act. That law advances consumers' privacy and security interests by prohibiting online merchants from distributing consumer financial information to third parties. Furthermore, the Federal Trade Commission (FTC) has consistently lead the federal government's effort to protect consumer privacy by initiating numerous enforcement actions under section 5 of the Federal Trade Commission Act, which broadly prohibits "unfair or deceptive acts or practices in or affecting commerce." The FTC's consumer protection mission and authority are fully under the jurisdiction of the Commerce Committee, and the Committee's ongoing oversight of the FTC has ensured that the Commission remains focused on consumer privacy protection.

In this Congress, Members of the Commerce Committee have made consumer privacy issues a priority. For the past several weeks, our staffs have held briefings on consumer privacy initiatives and concerns from government agencies and stakeholders. We have scheduled a Full Committee hearing this month, at which we will consider privacy proposals from the Department of Commerce and the FTC. In addition, several members of the Committee have publicly announced their intent to introduce comprehensive privacy legislation. The Commerce Committee is actively engaged in overseeing privacy interests in the commercial realm, and in protecting consumer interests in this regard.

Consumers can benefit from vigorous oversight by both of our Committees, and we want to be sure that – as the Senate Rules provide – our Committees do not duplicate efforts in this area. The work of the Judiciary Committee establishing protections against criminal activity can complement and enhance Commerce Committee’s commercial consumer privacy and data security. We will carefully follow the work of the Judiciary Committee and its new Subcommittee to make sure that our Committees are cooperatively working to enhance consumer protections.

Regards,



Chairman John D. Rockefeller IV  
United States Senate  
Committee on Commerce,  
Science, and Transportation



Ranking Member Kay Bailey Hutchison  
United States Senate  
Committee on Commerce,  
Science, and Transportation

cc: Majority Leader Harry Reid  
Minority Leader Mitch McConnell  
Senator Al Franken  
Senator Tom Coburn

## Senate Judiciary Privacy, Technology and the Law Subcommittee

Jurisdiction: (1) Oversight of laws and policies governing the collection, protection, use and dissemination of **commercial information** by the private sector, including online behavioral advertising, privacy within social networking websites and other online privacy issues; (2) Enforcement and implementation of **commercial information** privacy laws and policies; (3) Use of **technology by the private sector** to protect privacy, enhance transparency and encourage innovation; (4) Privacy standards for the collection, retention, use and dissemination of personally identifiable **commercial information**; and (5) Privacy implications of **new or emerging technologies**. (emphasis added)

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### RULES OF THE SENATE – RULE XXV

#### STANDING COMMITTEES

1. The following standing committees shall be appointed at the commencement of each Congress, and shall continue and have the power to act until their successors are appointed, with leave to report by bill or otherwise on matters within their respective jurisdictions:

....

(1) Committee on the Judiciary, to which committee shall be referred all proposed legislation, messages, petitions, memorials, and other matters relating to the following subjects:

1. Apportionment of Representatives.
2. Bankruptcy, mutiny, espionage, and counterfeiting.
- 3. Civil liberties.**
4. Constitutional amendments.
5. Federal courts and judges.
- 6. Government information.**
7. Holidays and celebrations.
8. Immigration and naturalization.
9. Interstate compacts generally.
- 10. Judicial proceedings, civil and criminal, generally.**
11. Local courts in the territories and possessions.
12. Measures relating to claims against the United States.
13. National penitentiaries.
14. Patent Office.
15. Patents, copyrights, and trademarks.
16. Protection of trade and commerce against unlawful restraints and monopolies.
17. Revision and codification of the statutes of the United States.
18. State and territorial boundary lines.

....

(f)(1) Committee on Commerce, Science, and Transportation, to which committee shall be referred all proposed legislation, messages, petitions, memorials, and other matters relating to the following subjects:

1. Coast Guard.
2. Coastal zone management.
- 3. Communications.**
4. Highway safety.
5. Inland waterways, except construction.
- 6. Interstate commerce.**
7. Marine and ocean navigation, safety, and transportation, including navigational aspects of deepwater ports.
8. Marine fisheries.
9. Merchant marine and navigation.
10. Nonmilitary aeronautical and space sciences.
11. Oceans, weather, and atmospheric activities.
12. Panama Canal and interoceanic canals generally, except as provided in subparagraph (c).
- 13. Regulation of consumer products and services**, including testing related to toxic substances, other than pesticides, and except for credit, financial services, and housing.
14. Regulation of interstate common carriers, including railroads, buses, trucks, vessels, pipelines, and civil aviation.
- 15. Science, engineering, and technology research and development and policy.**
16. Sports.
17. Standards and measurement.
18. Transportation.
19. Transportation and commerce aspects of Outer Continental Shelf lands.

(2) Such committee shall also study and review, on a comprehensive basis, **all matters relating to science and technology, oceans policy, transportation, communications, and consumer affairs**, and report thereon from time to time.

(emphasis added)