



April 26, 2012

Re: ACLU Opposition to H.R. 3523, the Cyber Intelligence Sharing and Protection Act of 2011 (CISPA); White House Statement of Administration Policy Includes Veto Threat

Dear Representative:

AMERICAN CIVIL
LIBERTIES UNION
WASHINGTON
LEGISLATIVE OFFICE
915 15th STREET, NW, 6TH FL
WASHINGTON, DC 20005
T/202.544.1681
F/202.546.0738
WWW.ACLU.ORG

LAURA W. MURPHY
DIRECTOR

NATIONAL OFFICE
125 BROAD STREET, 18TH FL.
NEW YORK, NY 10004-2400
T/212.549.2500

OFFICERS AND DIRECTORS
SUSAN N. HERMAN
PRESIDENT

ANTHONY D. ROMERO
EXECUTIVE DIRECTOR

ROBERT REMAR
TREASURER

On behalf of the American Civil Liberties Union, a non-partisan organization with over half a million members, countless additional activists and supporters, and 53 affiliates nationwide we write in opposition to H.R. 3523, the Cyber Intelligence Sharing and Protection Act of 2011 (CISPA). CISPA would violate Americans' privacy by permitting companies to share vast amounts of personal information with the government in the name of cybersecurity with little meaningful oversight. The 16 amendments to be considered under the rule governing floor debate on the bill do not fix that fundamental flaw. We urge you to vote 'NO' on final passage when this bill comes to the House floor for consideration.

The Cyber Intelligence Sharing and Protection Act would create a cybersecurity exception to all privacy laws and allow companies to share the private and personal data they hold on their American customers with the government for cybersecurity purposes. The bill would not limit the companies to sharing only technical, non-personal data. Instead, it would give the companies discretion to decide the type and amount of information to turn over to the government, and permit them to share the information with the government agency of their choice, including military agencies like the National Security Agency. These entities would receive liability protection under CISPA and would be immune from criminal or civil liability, even after an egregious breach of privacy. Further, once an individual's information is shared with the government, it could be used for undefined 'national security' purposes that have nothing to do with cybersecurity.

The White House shares our concerns. Yesterday, the Office of Management and Budget sent a Statement of Administration Policy to Congress stating its opposition to CISPA. It stated that CISPA, "lacks sufficient limitations on the sharing of personally identifiable information between private entities and does not contain adequate oversight or accountability measures necessary to ensure that the data is used only for appropriate purposes." The SAP explained the consequences of allowing military agencies to gather domestic, civilian information: "H.R. 3523 effectively treats domestic cybersecurity as an intelligence activity and thus,

significantly departs from longstanding efforts to treat the Internet and cyberspace as a civilian spheres.” The SAP concluded with a warning that **“if H.R. 3523 were presented to the President, his senior advisors would recommend that he veto the bill.”**

In our letter of April 16, 2012, to the House of Representatives, we shared five principles that information sharing legislation must include to sufficiently protect the privacy of Americans using the internet. CISPA, even if it were to include the moderately pro-privacy amendments scheduled for a vote, fails to do the following:

- Narrowly define the privacy laws it will contravene,
- House domestic cybersecurity efforts in a civilian agency,
- Require companies to remove personally identifiable information (PII) from data they share with the government,
- Sufficiently limit government use of information shared for cybersecurity purposes, and
- Create a robust oversight and accountability structure.

Because CISPA does not include any such provisions, we urge a ‘NO’ vote when it comes to the House floor for a vote.

Sincerely,



Laura W. Murphy
Director, Washington Legislative Office



Michelle Richardson
Legislative Counsel