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We Balance Security, Privacy
Immunity For Telecoms Is Critical To Efforts To Protect The Nation

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We all want to protect our country against terrorists and other foreign threats while preserving the privacy of Americans. The Senate Intelligence Committee bill, crafted in a careful, bipartisan manner, would achieve both of these goals.

The bill appropriately retains a requirement to seek court orders to conduct surveillance of persons in the USA. It also contains other extensive privacy safeguards, including court review of the procedures we use to protect information about Americans.

At the same time, the bill would make the country safer by extending the authority we need to keep critical intelligence gaps closed. These gaps resulted from an outdated law that often required us to obtain court orders before intercepting the communications of terrorists overseas. The bill would correct that problem.

Critically, the bill would afford liability protection to companies alleged to have assisted the nation with intelligence activities after the Sept. 11 attacks, if the companies were told the activity was authorized by the president and determined to be lawful.

This liability protection would not prevent lawsuits against the government and would not provide immunity from criminal prosecution. It is based on the Intelligence Committee's conclusion that companies acted in good faith with written assurances from the government.

We cannot expect, nor do we want, companies to second-guess the government's determination of the necessity and lawfulness of requested assistance. This would slow or eliminate critical intelligence collection and would place private parties in the impossible position of making legal determinations without access to the classified facts necessary to make such determinations.

The Senate Intelligence Committee carefully studied this issue and found that "without retroactive immunity, the private sector might be unwilling to cooperate with lawful government requests," resulting in a "possible reduction in intelligence" that is "unacceptable for the safety of our nation." Liability protection is therefore critical to the ongoing effort to protect the nation from another catastrophic attack.

When Congress returns, it should continue work on the Senate Intelligence Committee bill – a bipartisan solution that would protect Americans and their liberties.

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