

**From:** [Jade Nester](#)  
**To:** [Aaron Burstein](#)  
**Subject:** Comments on (b) Thus Far  
**Date:** Thursday, December 13, 2012 7:19:47 PM  
**Attachments:** (b) (5)

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Hi Aaron,

Could you please take a look at (b) (5)

Any help would be appreciated!

This thing is a beast.

-Jade

Jade Nester  
National Telecommunications and Information Administration  
U.S. Department of Commerce  
1.202.482.2560

8 Pages

Withheld in its entirety  
pursuant to FOIA Exemption 5  
(5 U.S.C. § 552 (b)(5))

**From:** [Fairla Hawkins](#)  
**To:** [Fiona Alexander](#)  
**Cc:** [John Morris](#); [Aaron Burstein](#); [Tanya Holmes](#); [Joyce Craig](#)  
**Subject:** #1211 Exec. Sec. #13-028981 Ltr from Prominent US Consumer and Civil Liberties Organization  
**Date:** Wednesday, February 13, 2013 12:53:14 PM  
**Attachments:** [20130213122510871.pdf](#)

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NR

ASSIGNED TO: Fiona Alexander

INCOMING: Ltr from Prominent US Consumer and Civil Liberties Organization to US Government Leaders

SUBJECT: Regarding Consumer Privacy Bill of Rights

EXEC. SEC. CORRESPONDENCE NUMBER: 13-028981

SUSPENSE DATE: (Front Office DUE DATE): 02/28/13

COPY DUE IN EXEC. SEC.: 02/28/13

3 Pages

Withheld in their entirety as  
Not Responsive to the Request.

13-028981

LETTER FROM PROMINENT US CONSUMER AND CIVIL LIBERTIES ORGANIZATIONS  
TO US GOVERNMENT LEADERS  
REGARDING EFFORTS TO UPDATE AND STRENGTHEN PRIVACY LAWS  
IN EUROPE AND THE UNITED STATES

2013 FEB 11 PM 2:53  
U.S. EXECUTIVE SECRETARIAT

February 4, 2013

Hon. Eric Holder Holder,  
Attorney General  
Washington, DC

Ambassador Ron Kirk,  
United States Trade Representative  
Washington, DC

Hon. John Kerry,  
Secretary of State  
Washington, DC

Ambassador William Kennard  
United States Mission to European Union  
Brussels, Belgium

Hon. Rebecca Blank,  
Acting Secretary of Commerce  
Washington, DC

Dear Mr. Attorney General, Mr. Secretary, Madame Secretary, Ambassador Kirk, and  
Ambassador Kennard,

We are writing to you regarding the role of the United States Government in the development of the new European privacy law. Many US consumer and civil liberties organizations support the EU effort to strengthen privacy protection. And we believe the President shares our concerns. Therefore, we are writing to seek a meeting to ensure that the efforts of US policymakers in Europe advance the aim of privacy and are not averse to the views expressed by the President.

The challenges we face today are very real. Users around the world are experiencing increases in identity theft, security breaches, government surveillance, and secretive, discriminatory profiling. Users find that personal information given for one purpose is often used for another purpose, often without their knowledge or consent.

Our personal data -- our privacy -- is being abused by both the commercial sector and governments. In fact, the line is increasingly blurred as personal data passes between both with few restrictions.

Europeans are working together to update and modernize their framework for privacy protection. There are many important, innovative proposals contained in the package of reforms, as well as the recognition that the process of data protection can be simplified to the benefit of all. Europe is considering both an overarching Data Protection Regulation and a Directive on Law Enforcement that will help strengthen the safeguards on police collection and use of personal data.

Our organizations support this effort. Leading US consumer and privacy organizations wrote to the European Parliament to say that the "promotion of stronger privacy standards in Europe will benefit consumers around the globe, as businesses improve their privacy practices and security standards."<sup>1</sup>

A group of US NGO leaders just returned from Brussels where we met with Members of the European Parliament from across the political spectrum. Without exception the MEPs and staff reported that both the US Government and US industry are mounting an unprecedented lobbying campaign to limit the protections that European law would provide.

We also found that the Europeans were excited to hear a different view from the US. They had many questions about the laws that applied to European data transferred to the US government and American corporations. They were concerned about the absence of safeguards for personal data stored in the Cloud. And most significantly, we learned that Europeans and Americans have very similar concerns about the need for privacy protection. We share a fundamental belief that Europe and the United States need to update their privacy laws.

We believe that President Obama has an equally strong commitment to the protection of privacy. In February 2012, the President set out a comprehensive privacy framework with principles designed to establish new safeguards for consumers and new responsibilities for companies that collect and use personal information. As President Obama explained, "Never has privacy been more important than today, in the age of the Internet, the World Wide Web and smart phones. In just the last decade, the Internet has enabled a renewal of direct political engagement by citizens around the globe and an explosion of commerce and innovation creating jobs of the future."<sup>2</sup>

The principles include (1) individual control over the collection and use of personal data; (2) transparency; (3) respect for the context in which data is collected; (4) security; (5) access and correction rights for consumers; (6) data limitation; and (7) accountability. President Obama stated that "even though we live in a world in which we share personal information more freely than in the past, we must reject the conclusion that privacy is an outmoded value. It has been at the heart of our democracy from its inception, and we need it now more than ever."<sup>3</sup>

These principles reflect many of the same goals contained in the European privacy initiative. But the key is that these principles must be given legal force. Without implementation and enforcement, the Consumer Privacy Bill of Rights will become a hollow

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<sup>1</sup> Letter to European Parliament from 22 US Consumer Organizations (Sept. 5, 2012) ("On EU General Data Protection Regulation.")

<sup>2</sup> The White House, "Consumer Data Privacy in a Networked World: A Framework for Protecting Privacy and Promoting Innovation in the Global Digital Economy," (Feb. 23, 2012), available at <http://www.whitehouse.gov/sites/default/files/privacy-final.pdf>

<sup>3</sup> *Id.*

promise. We do not believe that is the President's intent.

We also note growing support in the United States Congress for updates to US privacy law that would make clear, for example, that government access to communications data under the Electronic Communications Privacy Act (ECPA) must be pursuant to a rigorous legal process. Updating ECPA would be a good start for the strengthening of US law and policy to bring us into compliance with International Human Rights norms.

To be clear, we do not view privacy as a partisan issue. The tradition of privacy law in the United States is bipartisan, and we urge you to work with leaders in both parties to ensure that this fundamental American right is safeguarded. At the same time, we expect leadership from those who represent the United States overseas and we expect that the views of American consumers and privacy advocates, not simply business leaders, will be conveyed to your counterparts.

Enactment of robust privacy legislation in the United States should be a top priority for the Administration. As the President explained last year, the Consumer Privacy Bill of Rights is "a blueprint for privacy in the information age. . . . My Administration will work to advance these principles and work with Congress to put them into law."<sup>4</sup> And the US should not stand in the way of Europe's efforts to strengthen and modernize its legal framework.

We look forward to discussing these issues with you soon.

Sincerely,

Advocacy for Principled Action in Government

American Civil Liberties Union

Center for Digital Democracy

Consumer Action

Consumer Federation of America

Consumer Watchdog

Defending Dissent Foundation

Electronic Frontier Foundation

Electronic Privacy Information Center

Friends of Privacy USA

Government Accountability Project

Liberty Coalition

National Association of Consumer Advocates

Patient Privacy Rights Foundation

Privacy Rights Clearinghouse

Privacy Times

Privacy Journal

U.S. PIRG

<sup>4</sup> *Id.*





**From:** [Jade Nester](#)  
**To:** [Aaron Burstein](#)  
**Subject:** Draft Nemitz Paper for JM  
**Date:** Thursday, January 17, 2013 1:03:50 PM  
**Attachments:** (b) (5)

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I welcome all thoughts/responses in the form of cat videos/criticisms.

Thank you!

Jade Nester  
National Telecommunications and Information Administration  
U.S. Department of Commerce  
1.202.482.2560

5 Pages

Withheld in its entirety  
pursuant to FOIA Exemption 5  
(5 U.S.C. § 552 (b)(5))

**From:** Aaron Burstein  
**To:** [John Morris](#)  
**Subject:** FW: CPDP Conference in Brussels  
**Date:** Wednesday, January 02, 2013 10:50:00 AM

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John – NR [REDACTED]. Did we reach a final decision about participating in this event? We should probably help Jade let our people in Brussels know, one way or the other.

-Aaron

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**From:** Jade Nester  
**Sent:** Friday, December 28, 2012 11:56 AM  
**To:** Aaron Burstein; John Morris  
**Cc:** Diane Steinour  
**Subject:** Fw: CPDP Conference in Brussels

FYI...we could look to ITA or confirm an OPAD speaker.

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**From:** [Jade Nester](#)  
**To:** [Aaron Burstein](#)  
**Subject:** FW: DP & Clas Actions  
**Date:** Tuesday, February 05, 2013 2:39:03 PM  
**Attachments:** [US Chamber Letter and Report to Viviane Reding - January 2013.pdf](#)

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January 29, 2013

Viviane Reding  
Vice-President of the European Commission  
Rue de la Loi 200  
B-1049 Brussels  
Belgium

Dear Vice-President Reding,

### **Collective Redress and the Draft Data Protection Regulation**

I am writing to you to express the U.S. Chamber Institute for Legal Reform's deep concerns about the draft General Data Protection Regulation's approach to collective redress.

These concerns have recently been heightened by the draft report of Mr. Jan Philipp Albrecht MEP, which suggests the introduction of a loosely drawn mechanism for mass damages actions before the Commission has even published its upcoming communication on issues relating to collective redress in the EU. ILR's main concerns (which are set out in greater detail in the enclosed note) are as follows:

1. The draft Regulation, as adopted by the Commission, refers to third parties seeking "*judicial remedies*" on behalf of data subjects, but Mr. Albrecht has suggested they should also be allowed to seek damages. This would create an incentive for profit-driven third parties to seek out and promote mass litigation.
2. Even in the form adopted by the Commission, the draft Regulation would permit an almost unlimited range of third parties to act on behalf of data subjects. Mr. Albrecht has suggested an even more relaxed criterion for establishing that a representative has standing: that it must be "*acting in the public interest.*"

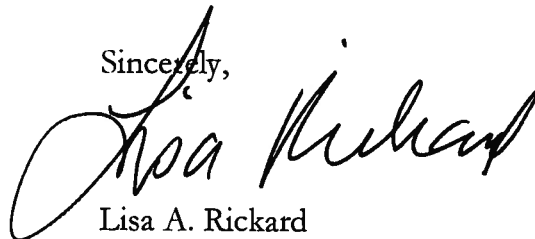
3. The draft Regulation envisages that legal action could be taken by third parties on behalf of data subjects without their consent. This should not be allowed as a matter of principle and would be especially controversial if those third parties were permitted to seek damages.

As you are aware from our previous communications, the U.S. Chamber Institute for Legal Reform has been an active participant in the debate on collective redress in the EU. We have yet to see the case made for EU measures on collective redress and, since there is no guarantee that the problems of the U.S. class action system would not be replicated, it is imperative that any EU measures that are adopted include certain essential safeguards.

Collective redress raises many issues on which the Commission, the European Parliament and stakeholders have expended considerable effort over the past several years. That effort is in danger of being rendered irrelevant if flawed measures are adopted without proper consideration. As the Commission's draft Regulation works its way through the legislative process, we urge the Commission to use its influence to guide the debate in a way that takes into account the concerns outlined above.

I would be delighted to meet with you next time you are in Washington or, if convenient for you, when I travel to Brussels. In the meantime, if there is anything ILR can do to assist you or your staff in considering the options for reform, then please do not hesitate to ask.

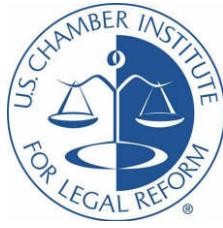
Sincerely,

A handwritten signature in black ink, appearing to read "Lisa A. Rickard". The signature is fluid and cursive, with a large loop at the beginning.

Lisa A. Rickard

Enclosure





January 29, 2013

Comments of the U.S. Chamber Institute for Legal Reform on Proposals for Collective Redress as Part of the European Union Data Protection Regime

Having campaigned across the globe for over a decade in support of simple, efficient and fair legal systems, the U.S. Chamber Institute for Legal Reform (“ILR”) is extremely concerned by developments regarding the reform of European Union data protection law, particularly that the creation of a U.S.-style class action system for data protection is now under discussion.

ILR’s experience with collective redress, including the notorious U.S. class action system, is that mechanisms for the aggregation of lawsuits are inefficient and inherently prone to abuse. This abuse often takes the form of claims which are brought, or drawn out, to extract a financial settlement which is unrelated to achieving justice in a case. The main drivers of such abuse are typically third parties, such as law firms, litigation funders or other “investors” in the disputes of others. It is those parties, rather than individuals or businesses with claims, who are likely to be the main beneficiaries of collective redress. Wherever those parties are permitted to aggregate claims, and especially where they are permitted to share directly in the proceeds, costly and often abusive litigation is likely to follow.<sup>1</sup>

ILR has been an active participant in the long-running debate on collective redress in the European Union and looks forward to the European Commission’s forthcoming communication on the issue. ILR has been encouraged by the emerging consensus that the EU should avoid replicating the U.S. system and the widespread recognition of essential safeguards such as the “loser pays” principle.

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<sup>1</sup> ILR’s concerns about collective redress are set out in detail in its response to the European Commission’s 2011 consultation: “*Towards a coherent European approach to Collective Redress.*” A copy of ILR’s response is available here: [http://www.instituteforlegalreform.com/sites/default/files/images2/stories/documents/pdf/international/ilrresponseconsultationoncollectiveredress\\_29april2011.pdf](http://www.instituteforlegalreform.com/sites/default/files/images2/stories/documents/pdf/international/ilrresponseconsultationoncollectiveredress_29april2011.pdf)

However, the proposed General Data Protection Regulation (the “Proposed Regulation”)<sup>2</sup> includes elements that threaten to undermine the Commission’s careful approach to collective redress and its initiatives on alternative dispute resolution.

Articles 73 to 77 of the Proposed Regulation would, even in the form proposed by the Commission, empower an almost limitless range of third party representatives to seek legal remedies without introducing the safeguards necessary to ensure that: (a) data controllers and processors are protected from abusive complaints or legal actions; and (b) any action taken by representatives is taken for the benefit of data subjects. The stakes have now been raised even higher by the draft report on the Proposed Regulation prepared by Mr. Jan Philipp Albrecht MEP.

ILR’s three main areas of concern are as follows:

**The possibility of third party representatives seeking damages.** The Proposed Regulation, as adopted by the Commission, would allow third parties to seek “*judicial remed[ies]*”, which ILR understands would not include awards of damages. However, the draft report prepared by Mr. Albrecht suggests that third parties should be able to claim damages on behalf of one or more data subjects. It thus envisages an unprecedented EU-wide mechanism for collective damages actions, completely devoid of effective safeguards. Such a mechanism would be an invitation to self-interested third parties (such as law firms, litigation funders and other investors) to seek out and promote mass litigation. The complexity of these cases could be enormous given the need to establish data subjects’ losses on an individual basis, and the scale would be exacerbated by Mr. Albrecht’s suggestion that non-pecuniary loss (such as distress) should be specifically identified as recoverable, an issue better left to Member States. Mr. Albrecht’s suggested amendments threaten to undermine in one fell swoop the Commission’s deliberations on collective redress before its position has even been settled.

**The criteria to be met by third party representatives.** Even in the form adopted by the Commission, Articles 73 to 76 of the Proposed Regulation would allow an almost unlimited range of third party representatives to lodge complaints and seek judicial remedies on behalf of others. There would be few practical or legal obstacles to prevent anyone, including a self-interested investor, from forming a body, organization or association and immediately holding itself out as aiming “*to protect data subjects’ rights and*

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<sup>2</sup> Proposal for a Regulation of the European Parliament and of the Council on the protection of individuals with regard to the processing of personal data and on the free movement of such data (General Data Protection Regulation), 25.1.2012, COM(2012) 11 final.

*interests concerning the protection of their personal data.”* Mr. Albrecht’s draft report, however, goes further, suggesting that *any* body, organization or association “*acting in the public interest*” should be allowed to lodge complaints and seek judicial remedies (including damages) on behalf of others. For example, would an association formed especially to take legal action on behalf of data subjects be considered (merely in light of that purpose) to be acting in the public interest? If so, there would be nothing to stop law firms, litigation funders, or any other third parties, creating special purpose litigation vehicles as profit-making enterprises – a phenomenon already taking place in the Netherlands.

**The absence of consent on the part of data subjects.** It is envisaged by the Proposed Regulation as adopted by the Commission (see Article 73.3) that action could be taken on behalf of data subjects without their consent. This might include actions taken without their knowledge, or even contrary to their express wishes. As a matter of principle, third parties should not be entitled to take action based on the rights of others without consent. Instead, express consent should be obtained before a complaint is lodged or a remedy is sought. This issue would take on even greater importance if, as envisaged by Mr. Albrecht’s draft report, representatives were permitted to seek damages on behalf of data subjects. Whether collective redress should operate on an “opt in” or “opt out” basis – and, indeed, whether there should be any EU measures on compensatory collective redress at all – are issues to which the Commission, the European Parliament and stakeholders have devoted much attention in recent years. Those efforts will be rendered irrelevant if compensatory collective redress is rushed through in the Proposed Regulation.

**Mechanisms to safeguard recoveries for claimants and prevent abuse.** While we remain opposed to any measures aimed at promoting collective litigation in Europe, if the EU does legislate in this area it is essential that provision is made for safeguards which would seek at least to minimize abuse. These safeguards would include: robust criteria for certification of collective cases; carefully considered restrictions on who may act as lead or representative claimants; a mechanism to ensure that only claimants who actively “opt in” are bound by the outcome; the “loser pays” principle; and prohibitions on contingency fees and third party litigation funding.

ILR is aware that the Proposed Regulation attempts to address an ambitious range of issues and is fearful that, with so many issues being hotly debated, EU measures on compensatory collective redress are in danger of being adopted with insufficient regard for the consequences. Strong leadership will therefore be required to steer the Proposed Regulation away from attempting to deal with collective redress. This applies in particular to the suggestions set out by Mr. Albrecht in his draft report but also to the aspects of the Commission's original which are identified above.

ILR is yet to see a convincing case for EU action on compensatory collective redress. There can be no guarantee that the problems witnessed with collective redress in the U.S. will not be replicated in Europe, particularly given that the ongoing liberalization of legal services in Member States, and the increasing presence of third party litigation funders, risk creating the same incentives which drive abuse in the U.S. As a result, while encouraging collective litigation may appear in simple terms to benefit data subjects by facilitating the payment of compensation on a mass scale, in reality it will do substantial harm by creating incentives for abuse and raising the cost of doing business in the EU.

EU policymakers should therefore seek alternative models for delivering redress outside of the courts rather than rush to introduce court-based mechanisms which contain none of the essential safeguards identified above.

**From:** [Jade Nester](#)  
**To:** [OIA](#)  
**Cc:** [John Morris](#); [Aaron Burstein](#); [John Verdi](#)  
**Subject:** FW: EU DATA PROTECTION PROPOSALS: REQUEST FOR CONTINUING OUTREACH  
**Date:** Wednesday, January 09, 2013 6:35:59 PM  
**Attachments:** [StateSeal.gif](#)

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The cable you've all been waiting for with bated breath!

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**From:** [Jade Nester](#)  
**To:** [Aron Burstein](#)  
**Subject:** FW: NSTC International Engagement working group meeting  
**Date:** Friday, December 14, 2012 12:51:11 PM  
**Attachments:** [New demarche TPs on EU Privacy 12102012 \(2\). fincen-treas.docx](#)

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They changed the sentence about (b) (5)

-----Original Message-----

Other Agency

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-----Original Message-----

From: Jade Nester [<mailto:JNester@ntia.doc.gov>]  
Sent: Tuesday, December 11, 2012 10:44 AM  
To: Maher, Mike  
Cc: Kook, Sabina; Clunie, David  
Subject: Re: NSTC International Engagement working group meeting

Yes, will do. My apologies for the omission thus far.

-Jade

----- Original Message -----

Other Agency

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[Redacted]

[Redacted]

-----Original Message-----

From: Jade Nester [<mailto:JNester@ntia.doc.gov>]

Sent: Monday, December 10, 2012 1:09 PM

To: Jade Nester; Bogomolny, Michael; Aaron Burstein; Alex (alexawj@dni.gov); Alex Khachaturian (CFTC); Allison Stanton (DOJ); Amy Snipes (HUD); Amy Tovar (DOT); Su, Andrew; Schwartz, Ari; Ashley Heineman; Babback Sabahi (SEC); wgorlick@cftc.gov; Belinda Barnett (DOJ); Blecher, Beryl; Thorn, William; Sonfield, Brian; Brianne Draffin; Bryan McCall (NASA); Bucky Methfessel (Education); Burman, Kendall; Fennessy, Caitlin; Kerry, Cameron; Nunziato, Charles (Adam); Chris Painter (State); Chris Schroeder (DOJ); Christine Bliss (USTR); Claire Barrett (claire.barrett@dot.gov); Claire McKenna (claire.mckenna@dot.gov); Stapleton, Claire (CFPB); Cyril J. Dadd; Damon Smith (damon.y.smith@hud.gov); Paisley, Daniel; David Weiner; Dawn Wiggins; Debbie Matties (dmatties@ftc.gov); Deborah Johnson (deborah.d.johnson@hud.gov); Diane Steinour; Edelman, R. David; Elana Tyrangiel (elana.tyrangiel2@usdoj.gov); Elliot Oxman (elliott.oxman@hq.doe.gov); 'Eric Pan'; Erica Mintzer (erica.mintzer@usdoj.gov); 'Erik Magdanz'; Fiona Alexander; Georgina Harding; 'Guilherme Roschke'; 'harrisar@state.gov'; Helen Kanovsky (helen.r.kanovsky@hud.gov); Hugh Stevenson (hstevenson@ftc.gov); Maelcamp, Isabelle; Thiessen, Jacob; James Speros (james.speros@va.gov); Jerry Hanley (jerry.hanley@hq.doe.gov); Jessica Rich (jrich@ftc.gov); Stowers, Jim; Jim Wasilewski; John Morris; John Opitz (john.p.opitz@hud.gov); 'Jonathan Cantor'; Jonathan McHale (jonathan\_mchale@ustr.eop.gov); Josh Gottheimer (josh.gottheimer@fcc.gov); joy.pritts@hhs.gov; Julie Clowes (julie.clowes@sba.gov); Hughes, Justin; Kathleen Styles (kathleen.styles@ed.gov); Kathleen Wilson (WilsonKA2@state.gov); Kathryn Marchesini (Kathryn.Marchesini@hhs.gov); 'Kathy Harman-Stokes'; 'Ken Propp'; 'Kenneth Harris'; Kevin Herms (kevin\_w.\_herms@omb.eop.gov); Jenci, Krysten; Lara Ballard (ballardla@state.gov); Larry Strickling; Lauren Saadat (lauren.saadat@dhs.gov); Leslie Freriksen; 'Magdalena Camillo'; Maneesha Mithal (mmithal@ftc.gov); Manu K. Bhardwaj (bhardwajm@state.gov); Marisa Chun (DOJ); Marsha MacBride; Mary Ellen Callahan (mary.ellen.callahan@dhs.gov); Maureen Casey; Maya Bernstein (maya.bernstein@hhs.gov); Pisa, Michael; Michelle Dallafior (michelle.dallafior@hq.doe.gov); Michelle Schmith (michelle.schmith@navy.mil); Mindel DeLaTorre (mindel.delatorre@fcc.gov); Lefkovitz, Naomi; Bramble, Nick; Patricia Hoffman (patricia.hoffman@hq.doe.gov); Peter Levin (peter.levin@va.gov); Peter Miller; Pappas, Peter; Philip Verveer (verveerpl@state.gov); Quentin Palfrey (OSTP); Regina Hart; Dodson, Richard; Robert Hollis (DOJ); Robert Kramer (DOJ); Robert Rivkin (DOT); Layton, Robin; Ronald Jackson (DOT); Sanchez, Nicole; Sara Lipscomb (SBA); Shaundra Watson (FTC); Sheila Flynn (State); Raseman, Sophie; Stephen Bell (State); Steve Siger (DOJ); Steven Croley (WHO); Baker, Susan L; Terrell McSweeney (DOJ); Thomas Sawyer (DOJ); Yue, William; Wykema Jackson (DOJ); Yael Weinman (FTC); Zach Katz (FCC); Purvis, Catrina; Burrows, Thomas  
Cc: 'Saadat, Lauren'; Maher, Mike  
Subject: RE: NSTC International Engagement working group meeting

Dear Colleagues:

Please see the attached revised talking points on the European data protection Regulation. These revised talking points reflect comments submitted by (b) (5). Please let me know if you have further comments on the talking points by Wednesday, December 12 by COB. I suggest reading the document in "final" form rather than "final showing markup." I understand that some of you would like the talking points to be shorter (i.e. two pages total), while others believe that longer points will be more useful to posts. I suggest that we achieve a balance between these two views by ensuring that our top-line points succinctly summarize our message. We could also aim to condense the detailed talking points into three pages or less.

I've also attached the revised non-paper. (b) (5)

Please let me know if you have any final comments on the non-paper by Wednesday, December 12 by COB.

Kind regards,

Jade

Jade Nester

National Telecommunications and Information Administration U.S. Department of Commerce

1.202.482.2560

From: Jade Nester

Sent: Wednesday, November 21, 2012 1:43 PM

To: 'Bogomolny, Michael'; Aaron Burstein; Alex (alexawj@dni.gov); Alex Khachaturian (CFTC); Allison Stanton (DOJ); Amy Snipes (HUD); Amy Tovar (DOT); Su, Andrew; Schwartz, Ari; Ashley Heineman; Babback Sabahi (SEC); 'wgorlick@cftc.gov'; Belinda Barnett (DOJ); Blecher, Beryl; Thorn, William; Brian Sonfield (Treasury); Brianne Draffin; Bryan McCall (NASA); Bucky Methfessel (Education); Burman, Kendall; Fennessy, Caitlin; Kerry, Cameron; Charles Nunziato; Chris Painter (State); Chris Schroeder (DOJ); Christine Bliss (USTR); Claire Barrett (claire.barrett@dot.gov); Claire McKenna (claire.mckenna@dot.gov); Claire Stapleton (CFPB); Cyril J. Dadd; Damon Smith (damon.y.smith@hud.gov); 'Daniel Paisley'; David Weiner; Dawn Wiggins; Debbie Matties (dmatties@ftc.gov); Deborah Johnson (deborah.d.johnson@hud.gov); Diane Steinour; Edelman, R. David; Elana Tyrangiel (elana.tyrangiel2@usdoj.gov); Elliot Oxman (elliott.oxman@hq.doe.gov); 'Eric Pan'; Erica Mintzer (erica.mintzer@usdoj.gov); 'Erik Magdanz'; Fiona Alexander; Georgina Harding; 'Guilherme Roschke'; 'harrisar@state.gov'; Helen Kanovsky (helen.r.kanovsky@hud.gov); Hugh Stevenson (hstevenson@ftc.gov); Maelcamp, Isabelle; 'Jacob Thiessen'; James Speros (james.speros@va.gov); Jerry Hanley (jerry.hanley@hq.doe.gov); Jessica Rich (jrich@ftc.gov); Stowers, Jim; Jim Wasilewski; John Morris; John Opitz (john.p.opitz@hud.gov); 'Jonathan Cantor'; Jonathan McHale (jonathan\_mchale@ustr.eop.gov); Josh Gottheimer (josh.gottheimer@fcc.gov); joy.pritts@hhs.gov; Julie Clowes (julie.clowes@sba.gov); Hughes, Justin; Kathleen Styles (kathleen.styles@ed.gov); Kathleen Wilson (WilsonKA2@state.gov); Kathryn Marchesini (Kathryn.Marchesini@hhs.gov); 'Kathy Harman-Stokes'; 'Ken Propp'; 'Kenneth Harris'; Kevin Herms (kevin\_w.\_herms@omb.eop.gov); Jenci, Krysten; Lara Ballard (ballardla@state.gov); Larry Strickling; Lauren Saadat (lauren.saadat@dhs.gov); Leslie Freriksen; 'Magdalena Camillo'; Maneesha Mithal (mmithal@ftc.gov); Manu K. Bhardwaj (bhardwajm@state.gov); Marisa Chun (DOJ); Marsha MacBride; Mary Ellen Callahan (mary.ellen.callahan@dhs.gov); Maureen Casey; Maya Bernstein (maya.bernstein@hhs.gov); 'Michael Pisa'; Michelle Dallafior (michelle.dallafior@hq.doe.gov); Michelle Schmith (michelle.schmith@navy.mil); Mindel DeLaTorre (mindel.delatorre@fcc.gov); Lefkovitz, Naomi; Nick Bramble; Patricia Hoffman (patricia.hoffman@hq.doe.gov); Peter Levin (peter.levin@va.gov); Peter Miller; Pappas, Peter; Philip Verveer (verveerpl@state.gov); Quentin Palfrey (OSTP); Regina Hart; Richard Dodson (richard.dodson@treasury.gov); Robert Hollis (DOJ); Robert Kramer (DOJ); Robert Rivkin (DOT); Layton, Robin; Ronald Jackson (DOT); Sanchez, Nicole; Sara Lipscomb (SBA); Shaundra Watson (FTC); Sheila Flynn (State); Sophie Raseman (Treasury); Stephen Bell (State); Steve Siger (DOJ); Steven Croley (WHO); Susan Baker (Treasury); Terrell McSweeney (DOJ); Thomas Sawyer (DOJ); Yue, William; Wykema Jackson (DOJ); Yael Weinman (FTC); Zach Katz (FCC); Purvis, Catrina  
Cc: 'Saadat, Lauren'; Mike.Maher@treasury.gov

Subject: RE: NSTC International Engagement working group meeting

Dear Colleagues:

Following our discussion during our meeting last week, I've condensed the talking points on the proposed European data protection regulation (see attached). I've also restructured the non-paper we circulated last summer, to reflect our current priorities (see attached). I've deleted some sections on issues we agreed are not current priorities (such as (b) (5) [REDACTED]). References to the (b) (5) [REDACTED].

Please send me any comments on the talking points and the non-paper by COB Tuesday, November 27th. While we welcome comments on the non-paper, please keep in mind that the substance of the non-paper remains largely unchanged.



I understand that some of our regulatory colleagues may meet to review and finalize the section of the talking points on (b) (5) [REDACTED]. DOC may be able to host such a meeting on December 3rd or 4th.

I apologize for distributing this before the holiday.

Happy Thanksgiving,

Jade

-----Original Message-----  
Other Agency

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Other Agency

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6 Pages

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pursuant to FOIA Exemption 5  
(5 U.S.C. § 552 (b)(5))

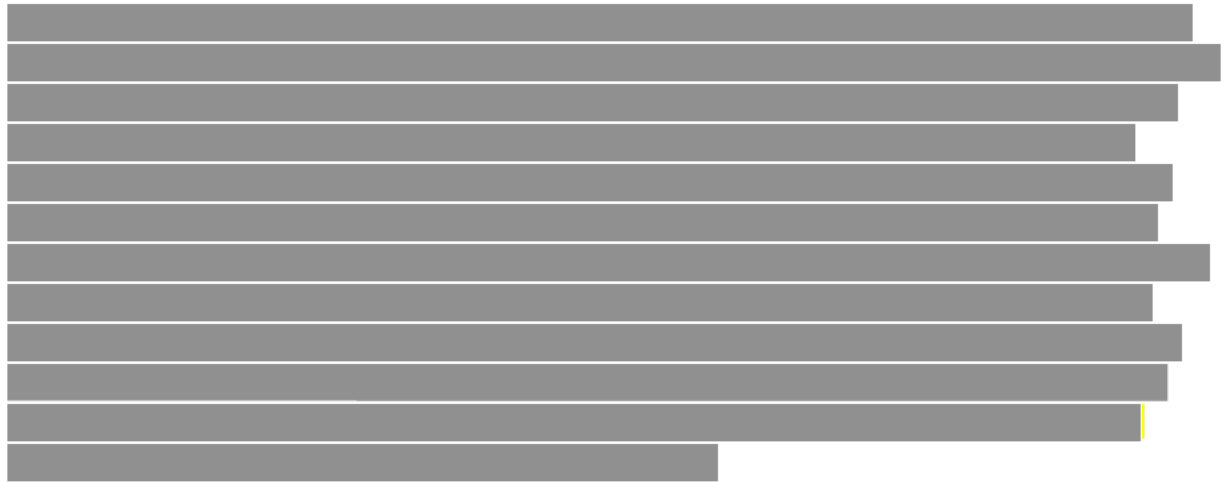

**From:** [Jade Nester](#)  
**To:** [Fiona Alexander](#); [John Morris](#); [Aaron Burstein](#); [Heather Phillips](#); [John Verdi](#)  
**Subject:** FW: News articles about "massive lobbying"  
**Date:** Monday, February 11, 2013 10:54:02 AM

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FYI. It looks like European businesses are meeting with the European Parliament just as often, or more often, than U.S. industry. I highlighted Lara's note about the financial and insurance industries. This tracks with the significant concerns with the Regulation expressed by Treasury, CFTC, SEC, etc.

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Other Agency



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34 Pages


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pursuant for Referral to  
Another Agency

**From:** [Fiona Alexander](#)  
**To:** [Jade Nester](#); [Aaron Burstein](#)  
**Cc:** [John Morris](#); [Marsha MacBride](#)  
**Subject:** FW: NSTC talking points  
**Date:** Friday, January 18, 2013 1:00:28 PM  
**Attachments:** [~WRD000.jpg](#)

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Reactions?

Other Agency



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A single line of text is redacted with a solid grey bar.



A block of text is redacted with a solid grey bar.

10 Pages

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pursuant for Referral to  
Another Agency

**From:** [Jade Nester](#)  
**To:** [John Morris](#); [Aaron Burstein](#); [John Verdi](#)  
**Subject:** Fw: Potential Meetings in Brussels?  
**Date:** Wednesday, January 09, 2013 9:19:28 AM

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**From:** Jade Nester  
**To:** Ballard, Lara A (BallardLA@state.gov) <BallardLA@state.gov>  
**Sent:** Tue Jan 08 17:25:13 2013  
**Subject:** Potential Meetings in Brussels?

Hi Lara,

Per the voicemail I just left you, I'm brainstorming potential meetings John Morris could schedule if he goes to Brussels for the Jan. 23 CDPD conference. We're hoping he can go, but it's still tentative. In the meantime, we'd like to be prepared with some ideas for additional meetings. Since the report is out, and the next step in February is the Opinion Committee review, I was thinking John could meet with (b) (5). He could also meet with (b) (5). I think they would have a good conversation. He could also meet with the (b) (5). We could also consider setting something up with the (b) (5). What do you think?

Thanks,

Jade