

# Legislation on privacy laws a sticky issue

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Though the federal government's current use of spying techniques has irked many Americans, statistics from polls show many citizens are willing to give up some privacy for increased security.

Panelists at a Tuesday forum on privacy laws noted this balancing act, with some adding, however, that in addition to legislation, the free market would step in to defend the right of Americans to privacy.

According to Sen. John Sununu, R-N.H., the public needs to understand that there are no explicit constitutional rights to privacy, also adding, "We tend to lump security and privacy issues together. The bottom line is that the issues are not the same."

At the conference Sununu addressed several issues in privacy legislation including the Patriot Act, datamining and economic contracts.

The Patriot Act, which gives government increased access to private information by wiretapping, and electronic interceptions, Sununu said created fundamental constitutional questions.

The violation of personal data collected by corporations is also questionable ethically, though allowed by the latest legislation. In many cases banks release personal information to the government or sell it to corporations but Sununu pointed out this wasn't unconstitutional but Americans should know under what conditions these transactions may take place.

But Sununu said the market may be more effective in weeding out questionable behavior because markets can assert direct retribution on those who infringe upon the privacy of citizens.

Sununu took a market approach to the privacy laws, which fellow panelists said was explainable by the congressman's business background.

One key problem Sununu noted was that privacy laws concerning new technology have no protection under the Constitution. Also Congress may have difficulty in creating appropriate legislation on technology they often know nothing about.

"If you are going to be effective you need some sort of framework," Sununu said. "To develop a good solution you must understand what it is."

Sununu said the federal government should put more faith into governments at the state level.

Martin Frost, a former democratic representative from Texas, addressed difficulties associated with creating new legislation.

"Most members in Congress are clueless on these issues because we know so little," said Frost, a scholar at the Woodrow Wilson Institute.

Joelle Tessler, a journalist for Congressional Quarterly, also attended the conference. She agreed with Sununu's observation that legislation hadn't kept up with the advances in technology.

"Some Fourth Amendment Acts don't have precedence in cyberspace," Tessler said. "The public is often unaware of how little privacy protection they really have."

Tessler said the public generally has a high support for anti-terrorism despite intrusions on privacy. This leaves little incentive for Congress to aggressively attack the issue.

But Peter Swire, a professor of law at Ohio State and former Clinton administration privacy counselor at the Office of Management and Budget, took a more casual approach to the issue. He compared the current privacy concerns to the '60s, when citizens were worried about their bosses using lie detectors.

"I am optimistic, though it (sometimes) seems privacy is on the verge of despair," Swire said of mounting citizen concerns over the issue.

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