

United States Senate

WASHINGTON, DC 20510

October 26, 2011

Mr. Jack Tretton
President and CEO
Sony Computer Entertainment America
919 East Hillsdale Boulevard
Foster City, CA 94404

Dear Mr. Tretton,

We are writing regarding Sony's inclusion of a binding arbitration clause and class action waiver in its new terms of service for Sony's PlayStation Network. After experiencing a security breach that compromised the sensitive personal information of PlayStation Network's 77 million users, it is highly inappropriate for Sony to now shield itself from being held accountable by its customers.

As you are well aware, Sony's PlayStation Network suffered an "external intrusion" this April. After this breach, PlayStation Network's 77 million users were understandably concerned about the possible theft or other misuse of their personal information. We understand that Sony is facing litigation from PlayStation Network users who allege that Sony failed to adequately protect, encrypt, and secure their data.

We believe that companies should establish and follow strong data security practices and that consumers whose personal or financial data is breached deserve to be made whole. In some circumstances, litigation is the most appropriate avenue for consumers to seek recourse. That is why the Personal Data Protection and Breach Accountability Act, which we introduced, explicitly prohibits the use of mandatory binding arbitration to resolve disputes around the data security and breach notification and remedy provisions of the bill.

We were therefore very troubled to learn that PlayStation Network's new terms of service require users to consent to binding arbitration of any disputes, and forbid any class action claims. Such clauses prevent consumers from seeking justice when they are injured. That a company would seek to shield itself from accountability *after* injuring its consumers is unconscionable.

Although the terms of service purport to offer an opt-out clause for consumers who wish to retain their legal rights, the opt-out clause is inadequate. Although PlayStation Network users are required to consent to the terms of service before continuing to use PlayStation Network and must provide consent through the PlayStation controller, users who wish to opt out must mail a letter to Sony's legal department. There is no valid reason to allow users to accept the terms of service via the PlayStation but not let them opt out via the PlayStation. The current procedure for accepting or rejecting the terms will ensure that virtually all PlayStation users will unknowingly "agree" to the arbitration clause and class action ban.

Accordingly, we urge Sony to remove the arbitration clause and class action waiver from its terms of service. We look forward to your response.

Sincerely,

A handwritten signature in blue ink that reads "Richard Blumenthal". The signature is fluid and cursive, with a long horizontal stroke at the end.

Richard Blumenthal

United States Senate

A handwritten signature in blue ink that reads "Al Franken". The signature is very stylized and cursive, with a large, sweeping initial "A" and a long horizontal stroke at the end.

Al Franken

United States Senate