

# SCOTTISH HAGGIS' LATEST "COMPROMISE"

Since the Senate Judiciary voted out a FISA Amendment that didn't include telecom immunity, Arlen "Scottish Haggis" Specter and some Democratic Senators have been working on a compromise. And voila! your wishy-washy compromise (Specter's statement; the bill):

The legislation substitutes the U.S. in place of any electronic communication service company which provided communications in connection with an intelligence activity that was authorized by the President between September 11, 2001, and January 17, 2007, and designed to detect or prevent a terrorist attack against the U.S.

Though to be fair to Scottish Haggis, there's one bit I'm quite fond of:

In order for substitution to apply, the electronic communications service provider must have received a written request from the Attorney General or the head of an element of the intelligence community indicating that the activity was authorized by the President and determined to be lawful. If the provider assisted the Government beyond what was requested in writing, this legislation will leave the provider on the hook for any surplus assistance.

In other words, if AT&T wiretapped me before 9/11, or if it wiretapped me based on the say so of Alberto Gonzales during the period following the March 10 hospital confrontation, then I still get to sue AT&T.

But here's the killer:

nothing in the bill is designed to increase or diminish the ability of the

Government to assert the States Secret  
privilege

Given that much of BushCo's motivation to give the telecoms immunity relates to BushCo's own exposure for illegally wiretapping Americans, and given that the telecom lawsuits were so important because they provided an angle around State Secrets, this pretty much sinks the lawsuits anyway.

As I understand it, this bill will go before SJC on Thursday.