

**Congress of the United States**  
**Washington, DC 20515**

September 3, 2021

Ms. Marissa Mayer  
President and Chief Executive Officer  
Yahoo! Inc.  
701 First Avenue  
Sunnyvale, CA 94089

Dear Ms. Mayer:

You are receiving this letter because news reports indicate that your company received a request to turn over your clients' private and confidential data to Democrats in the U.S. House of Representatives.<sup>1</sup>

The United States Congress has a significant and important oversight power "to secure needed information" in order to legislate.<sup>2</sup> However, "Congress has no enumerated constitutional power to conduct investigations or issue subpoenas."<sup>3</sup> As the Supreme Court explicitly reaffirmed last year, a congressional subpoena is valid only if it is "related to, and in furtherance of, a legitimate task of Congress and must serve a valid legislative purpose."<sup>4</sup>

Additionally, Congress has no general power to inquire into private affairs and to compel disclosure in order to expose for the sake of exposure.<sup>5</sup> As the Supreme Court clearly held, recipients of legislative subpoenas retain their constitutional rights throughout the course of an investigation.<sup>6</sup> This right includes the ability of the individuals to challenge the collection and release of their private telecommunication records before Congress obtains and publishes the subpoenaed documents.<sup>7</sup>

Select Committee Chairman Bennie Thompson made an obvious admission in the letters he sent to each telecommunication and social media company demanding they preserve individuals' personal records. He is clearly aware he lacks the authority to rifle through the private data of individuals. He states, "If you are not able or willing to respond to this request without alerting the subscribers or the accounts, please contact the Select Committee prior to proceeding."<sup>8</sup> Chairman Thompson is asking your company to participate in surreptitious and

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<sup>1</sup> Mark Hosenball, *Congressional panel tells telecom firms to preserve Jan. 6 records*, Reuters (Aug. 30, 2021), <https://www.reuters.com/world/us/congressional-panel-seek-phone-records-related-us-capitol-attack-2021-08-30/>.

<sup>2</sup> *Trump v. Mazars* 591 U.S. \_\_\_\_ (2020) citing, *McGrain v. Daugherty*, 273 U.S. 135, 161 (1927).

<sup>3</sup> *Trump v. Mazars* 591 U.S. \_\_\_\_ (2020).

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

<sup>5</sup> *Watkins v. U.S.* 354 U.S. 178, 200 (1957).

<sup>6</sup> *Trump v. Mazars* 591 U.S. \_\_\_\_ (2020).

<sup>7</sup> *United States v. AT&T*, 567 F.2D 121, 129 (D.C. Cir. 1977).

<sup>8</sup> Scott MacFarlane, (@MacFarlaneNews), Twitter (Aug. 30, 2021, 5:49 PM), <https://twitter.com/MacFarlaneNews/status/1432459963465715718>, (citing a Letter from Bennie G. Thompson, Chairman, H. Select Comm. to Investigate the January 6th Attack on the United States Capitol, to George Farmer, CEO, Parler LLC, (Aug. 30, 2021)).

legally dubious surveillance of Members of Congress. Chairman Thompson's request may ultimately prove illegal, but, unlike you, he is a sitting member of Congress and is shielded from legal repercussions by the Constitution's Speech and Debate clause while acting in his official capacity.

As you are aware, your company has a legal obligation to protect the data of your subscribers and customers, and we are confident that you will follow the law and not disclose their private and confidential records without a legal order to do so. Section 222 of the Communications Act and the Electronic Communications Privacy Act<sup>9</sup> both protect the privacy and confidentiality of these records and data, and they prohibit the unlawful disclosure of this information. If you fail to comply with these obligations, we will pursue all legal remedies. Please be advised that the undersigned do not consent to the release of confidential call records or data.

Sincerely,



Andy Biggs  
Member of Congress



Jim Banks  
Member of Congress



Matt Gaetz  
Member of Congress



Jody Hice  
Member of Congress



Scott Perry  
Member of Congress



Lauren Boebert  
Member of Congress



Louie Gohmert  
Member of Congress



Paul A. Gosar, D.D.S.  
Member of Congress

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<sup>9</sup> 47 U.S.C § 222; 18 U.S.C. § 2501; 18 U.S.C. § 2701.

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September 2, 2021  
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Marjorie Taylor Greene  
Member of Congress



Madison Cawthorn  
Member of Congress



Mo Brooks  
Member of Congress