



One Hundred Ninth Congress
U.S. House of Representatives
Committee on Homeland Security
Washington, DC 20515

May 16, 2006

Edward E. Whitacre, Jr.
Chairman and Chief Executive Officer
AT&T Inc.
175 E. Houston
San Antonio, Texas 78205

Ivan Seidenberg
Chairman and Chief Executive Officer
Verizon Communications, Inc.
140 West Street
New York, New York 10007

F. Duane Ackerman
Chairman and Chief Executive Officer
BellSouth Corporation
1155 Peachtree Street, N. E.
Atlanta, Georgia 30309-3610

Richard C. Notebaert
Chairman and Chief Executive Officer
Qwest Communications International, Inc.
1801 California Street
Denver, Colorado 80202

Dear Sirs:

Last week, a news report described that AT&T, Verizon and Bellsouth have been providing call records for tens of millions of Americans to the National Security Agency since 2001.¹ The report described the NSA's collection as "the largest database ever assembled in the world," with a goal of creating "a database of every call ever made" within the nation.²

If these reports are true, it would appear that these three companies are violating the federal laws governing the provision of private communications records to the National Security Agency. We ask that your companies each respond in writing with a detailed explanation of the types of information you have provided to the NSA as well as the legal basis for the provision of that information.

Section 222 of the Communications Act (47 U.S.C. §222) generally prohibits the disclosure of individually-identifiable communications records – so-called "customer proprietary network information" – except "as required by law or with the approval of the customer." Under the Electronic Communications Privacy Act, government agencies generally are permitted to obtain transactional data arising from communications only upon court order or with a subpoena, along with a showing of "specific and articulable facts" that the data is relevant to an ongoing criminal investigation. (18 U.S.C. §2703(d)). That law also requires specific information such

¹ See USA Today, "NSA Has Massive Database of Americans' Phone Calls," Leslie Cauley, May 11, 2006.

² *Id.*

as the identity of the suspect or other individually identifiable information for communications data captured by a pen-register or trap-and-trace search. (18 U.S.C. §3123(b)). The USA PATRIOT Act of 2001 empowers the Federal Bureau of Investigation – not the NSA – to apply for court orders or issue National Security Letters to obtain communications records in relation to a specific ongoing criminal investigation into international terrorism or intelligence matters. (50 U.S.C. §1861, 18 U.S.C. §2709).

These laws do not permit NSA's wholesale collection of billions of call records involving tens of millions of Americans from your companies, as recent reports indicate. If these reports are true, three of your companies have acted in violation of federal law.

We ask that you each respond in writing with a detailed explanation of the categories of information you have provided to the NSA and the legal basis for the provision of each category of information. If you have objected to providing NSA with the contents of or transactional data related to particular categories of communications, we ask you to explain the legal basis for that objection with respect to each such category of information. If you decline to respond to our request for this information on the grounds that the information sought is classified, we ask you to explain why Members of Congress who are entitled to have access to classified information are, in your view, not authorized to review this material.

We request your written responses no later than May 26, 2006.

Sincerely,



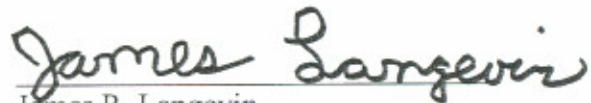
Bennie G. Thompson
Ranking Member



Zoe Lofgren
Ranking Member
Subcommittee on Intelligence,
Information Sharing, and Terrorism
Risk Assessment



Bill Pascrell
Ranking Member
Subcommittee on Emergency Preparedness,
Science and Technology



James R. Langevin
Ranking Member
Subcommittee on Prevention of Nuclear
and Biological Attack



Kendrick B. Meek
Ranking Member
Subcommittee on Management,
Integration, and Oversight



Ed Markey
Member of Congress



Peter De Fazio
Member of Congress



Nita Lowey
Member of Congress



Donna M. Christian-Christensen
Member of Congress