

ONE HUNDRED EIGHTEENTH CONGRESS

Congress of the United States

House of Representatives

COMMITTEE ON THE JUDICIARY

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July 17, 2023

Mr. Mark Zuckerberg
c/o Mr. Reginald J. Brown
Kirkland & Ellis LLP
1301 Pennsylvania Avenue, NW
Washington, DC 20004

Dear Mr. Zuckerberg

The Committee on the Judiciary is conducting oversight of how and to what extent the Executive Branch has coerced and colluded with companies and other intermediaries to censor speech. In furtherance of this oversight, on February 15, 2023, the Committee issued a subpoena to you compelling the production of documents related to content moderation and Meta's engagements with the Executive Branch.¹ In light of Meta's introduction of a new social media platform, "Threads," we write to inform you that it is the Committee's view that the subpoena of February 15 covers material to date relating to Threads.²

Since the Committee's subpoena to Meta, we have obtained additional evidence that the federal government has coerced or colluded with technology, social media, and other companies to moderate content online.³ These examples reinforce the Committee's serious concerns about whether the Executive Branch is engaging in censorship by proxy—using surrogates to censor, suppress, or discourage speech in a manner that the government is unable to do itself.⁴

¹ See Letter from Rep. Jim Jordan to Mark Zuckerberg, CEO, Meta (Feb. 15, 2023) (attaching subpoena).

² *Introducing Threads: A New Way to Share With Text*, Meta (July 5, 2023), <https://about.fb.com/news/2023/07/introducing-threads-new-app-text-sharing/>.

³ See, e.g., STAFF OF SELECT SUBCOMM. ON THE WEAPONIZATION OF THE FEDERAL GOVERNMENT OF THE H. COMM. ON THE JUDICIARY, 118TH CONG., *THE WEAPONIZATION OF CISA: HOW A "CYBERSECURITY" AGENCY COLLUDED WITH BIG TECH AND "DISINFORMATION" PARTNERS TO CENSORS AMERICANS* (COMM. PRINT 2023); STAFF OF SELECT SUBCOMM. ON THE WEAPONIZATION OF THE FEDERAL GOVERNMENT OF THE H. COMM. ON THE JUDICIARY, 118TH CONG., *THE FBI'S COLLABORATION WITH A COMPROMISED UKRAINIAN INTELLIGENCE AGENCY TO CENSOR AMERICAN SPEECH* (COMM. PRINT 2023); see also HEARING ON THE WEAPONIZATION OF THE FEDERAL GOVERNMENT, H. COMM ON THE JUDICIARY, SELECT SUBCOMM. ON THE WEAPONIZATION OF THE FEDERAL GOVERNMENT, *The Twitter Files* (March 9, 2023) (testimony of Matt Taibbi); see *id.* (testimony of Michael Shellenberger, *The Censorship-Industrial Complex: U.S. Government Support For Domestic Censorship And Disinformation Campaigns, 2016-2022*).

⁴ See, e.g., STAFF OF SELECT SUBCOMM. ON THE WEAPONIZATION OF THE FEDERAL GOVERNMENT OF THE H. COMM. ON THE JUDICIARY, 118TH CONG., *THE WEAPONIZATION OF CISA: HOW A "CYBERSECURITY" AGENCY COLLUDED*

In fact, on July 4, 2023, a federal court held that the government's collusion with and coercion of social media platforms to censor disfavored speech appeared to have violated the plaintiffs' First Amendment rights, and issued a preliminary injunction against government defendants.⁵ The court recognized that Meta played a central role in this censorship scheme, frequently acquiescing and catering to the government's requests and demands.⁶

Congress has an important interest in protecting and advancing fundamental free speech principles. To develop effective legislation, such as the possible enactment of new statutory limits on the Executive Branch's ability to work with technology companies to restrict the circulation of content and deplatform users, the Committee on the Judiciary must first understand how and to what extent the Executive Branch coerced and colluded with companies and other intermediaries to censor speech.

Given that Meta has censored First Amendment-protected speech as a result of government agencies' requests and demands in the past,⁷ the Committee is concerned about potential First Amendment violations that have occurred or will occur on the Threads platform. Indeed, Threads raises serious, specific concerns because it has been marketed as rival of Elon Musk's Twitter, which has faced political persecution from the Biden Administration following Musk's commitment to free speech.⁸ In contrast, there are reports that Threads will enforce "Instagram's community guidelines," which resulted in lawful speech being moderated following pressure by the government.⁹ Despite launching only 12 days ago, there are reports that Threads is already engaging in censorship, including censoring users but offering no grounds for appeal.¹⁰

The Committee's February 15 subpoena to Meta requires, among other things, the production of material concerning Meta's engagement with the Executive Branch and Meta's decisions and policies regarding content moderation.¹¹ The subpoena is continuing in nature, and the instructions and definitions accompanying the subpoena make clear that documents and information related to Threads, a social media platform as described and marketed by Meta, are

WITH BIG TECH AND "DISINFORMATION" PARTNERS TO CENSORS AMERICANS (COMM. PRINT 2023); Vivek Ramaswamy & Jed Rubenfeld, *Twitter Becomes a Tool of Government Censorship*, WALL ST. J. (Aug. 17, 2022); cf. *Biden v. Knight First Amend. Inst. At Columbia Univ.*, 141 S. Ct. 1220, 1226 (2021) (Thomas, J., concurring).

⁵ *Missouri v. Biden*, No. 3:22-cv-01213-TAD-KDM (W.D. La. 2023), ECF No. 293 (Memorandum Ruling on Request for Preliminary Injunction), ECF No. 294 (Judgment).

⁶ *Missouri v. Biden*, ECF No. 293, at 10-17, 22-27.

⁷ *Id.*

⁸ STAFF OF SELECT SUBCOMM. ON THE WEAPONIZATION OF THE FEDERAL GOVERNMENT OF THE H. COMM. ON THE JUDICIARY, 118TH CONG., THE WEAPONIZATION OF THE FEDERAL TRADE COMMISSION: AN AGENCY'S OVERREACH TO HARASS ELON MUSK'S TWITTER (COMM. PRINT 2023); Ryan Tracy, *FTC Twitter Investigation Sought Elon Musk's Internal Communications, Journalist Names*, WALL ST. J. (Mar. 8, 2023).

⁹ See, e.g., *Missouri v. Biden*, ECF No. 293, at 43.

¹⁰ See, e.g., Michael Shellenberger, @shellenberger, TWITTER (July 5, 2023, 11:24 PM), <https://twitter.com/shellenberger/status/1676794179173900289?s=42>; Mike Gunzelman, *Mark Zuckerberg's 'Threads' App Is Already Censoring Accounts*, OUTKICK (July 6, 2023), <https://www.outkick.com/mark-zuckerbergs-threads-app-is-already-censoring-accounts/>.

¹¹ Document Subpoena for Mr. Mark Zuckerberg before the House Committee on the Judiciary (Feb. 15, 2023).

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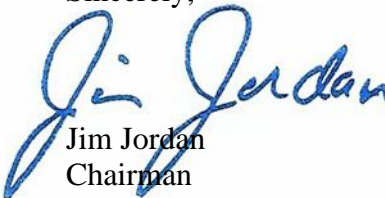
within the scope of the subpoena.¹² Thus, to aid the Committee's oversight obligations, we ask that you please produce all documents and information related to Threads that are responsive to the terms of the Committee's subpoena. Please produce all documents and information as soon as possible but no later than 5:00 p.m. on July 31, 2023. In addition, please treat these discovery obligations as ongoing and applicable to any information generated after receipt of this letter.

Furthermore, this letter serves as a formal request to preserve all existing and future records and materials relating to the Threads platform and related topics addressed in this letter. You should construe this preservation notice as an instruction to take all reasonable steps to prevent the destruction or alteration, whether intentionally or negligently, of all documents, communications, and other information, including electronic information and metadata, that are or may be responsive to this congressional inquiry. This instruction includes all electronic messages sent using your official and personal accounts or devices, including records created using text messages, phone-based message applications, or encryption software.

Pursuant to the Rules of the House of Representatives, the Committee on the Judiciary has jurisdiction to conduct oversight over matters concerning "civil liberties" to inform potential legislative reforms.¹³ In addition, H. Res. 12 authorized the Committee's Select Subcommittee on the Weaponization of the Federal Government to investigate "issues related to the violation of the civil liberties of citizens of the United States."¹⁴

If you have any questions about this matter, please contact Committee staff at (202) 225-6906. Thank you for your prompt attention to this matter.

Sincerely,



Jim Jordan
Chairman

cc: The Honorable Jerrold L. Nadler, Ranking Member

¹² *Id.*

¹³ Rules of the House of Representatives R. X (2023).

¹⁴ H. Res. 12 § 1(b)(1).