

May 23, 2006

SCHAKOWSKY ASKS AT&T TO DISCLOSE WHETHER IT SHARED CONSUMERS' PHONE RECORDS AND INTERNET MESSAGES WITH NSA

WASHINGTON, DC - U.S. Representative Jan Schakowsky, ranking member on the Subcommittee on Commerce, Trade, and Consumer Protection, today wrote a letter to AT&T Chairman and CEO Edward Whitacre to ask that AT&T disclose whether it had shared the phone records and internet messages of American consumers with the National Security Agency. Schakowsky was joined by all Democratic members of the Energy and Commerce Committee last week in asking Chairman Barton to hold hearings on whether the telecommunications companies had shared phone records with the NSA.

In today's letter, Schakowsky said: "Although it is my understanding that AT&T may have received a directive from the Director of National Intelligence (Federal Register: May 12, 2006 [Volume 71, Number 92, Page 27943, Doc 06-4538]) excusing AT&T from the duty of keeping records and liability for specific actions it may be taking, I would like more information on the Internet and phone records AT&T may have provided to the NSA and the access AT&T has provided the NSA to its telecommunications network, if any."

Schakowsky is the sponsor of the SAFE CALL Act, which would have prohibited pretexting, or posing as someone else, in order to obtain phone records. This legislation served as the basis for the Prevention of Fraudulent Access to Phone Records Act. In the letter to AT&T CEO Whitacre, Schakowsky raised concerns that the company had played a role in removing the bill from the House floor.

"I am also concerned about the role your company may have played in the removal of H.R. 4943, the Prevention of Fraudulent Access to Phone Records Act from consideration on the House floor. As you know, the Energy and Commerce Committee recently passed unanimously H.R. 4943, the Prevention of Fraudulent Access to Phone Records Act, which would protect consumers from having their phone calls accessed without their permission as is currently happening. Although it was scheduled for a vote on the House floor on May 2, 2006, it was pulled because of undisclosed concerns raised with House Majority Leader Dennis Hastert and which I am concerned relate to the current questionable activities in which your company may have been involved. I respectfully request that you provide me with the answers to the following questions."

The full text of the letter to Whitacre is below:

Mr. Edward E. Whitacre, Jr.
Chairman and Chief Executive Officer
AT&T

175 East Houston Street
Suite 1300
San Antonio, Texas 78205

Dear Mr. Whitacre:

According to recent news reports, your company has allowed the National Security Agency (NSA) to install equipment capable of examining "every individual message" on the Internet. Additionally, it has been reported that AT&T has been engaged in the sharing of Americans' phone call records with the NSA. Reportedly, this has been happening without subpoenas, warrants, or any approval from special a federal court that enforces the Foreign Intelligence Surveillance Act (FISA). It has also allegedly occurred without consumers' knowledge or consent. I am concerned that AT&T and the NSA may have been acting outside of the law. I am especially concerned what this means to the privacy of Illinois residents since AT&T is one of the biggest telecommunications providers for the state.

Although it is my understanding that AT&T may have received a directive from the Director of National Intelligence (Federal Register: May 12, 2006 [Volume 71, Number 92, Page 27943, Doc 06-4538]) excusing AT&T from the duty of keeping records and liability for specific actions it may be taking, I would like more information on the Internet and phone records AT&T may have provided to the NSA and the access AT&T has provided the NSA to its telecommunications network, if any.

I am also concerned about the role your company may have played in the removal of H.R. 4943, the Prevention of Fraudulent Access to Phone Records Act from consideration on the House floor. As you know, the Energy and Commerce Committee recently passed unanimously H.R. 4943, the Prevention of Fraudulent Access to Phone Records Act, which would protect consumers from having their phone calls accessed without their permission as is currently happening. Although it was scheduled for a vote on the House floor on May 2, 2006, it was pulled because of undisclosed concerns raised with House Majority Leader Dennis Hastert and which I am concerned relate to the current questionable activities in which your company may have been involved. I respectfully request that you provide me with the answers to the following questions.

Internet Records

- 1) Has AT&T ever been approached by the NSA to track the Internet activity of private citizens without their knowledge or consent?
- 2) If AT&T were to engage in the sharing of any Internet activity of its customer with any governmental agency, what kind of legal certification would it seek before doing so?
- 3) Is it AT&T's position that the 1934 Telecommunications Act allows for the sharing of Internet activity of its customers without their knowledge or consent? If so, please provide a reference the section of the Act that allows such sharing.
- 4) Is it AT&T's policy to alert its customers that may engage in the sharing of their Internet

activity?

5) Has AT&T ever been provided with any kind of compensation from the government for providing access to the Internet activity of its customers or others?

6) If AT&T allowed access to its Internet service connections, what kind of Internet activity could be tracked? Would it be limited to AT&T customers or could it also track the activity of other businesses' customers? 7) Did AT&T give access to its Internet network to the NSA?

Phone Records Sharing

1) Has AT&T ever been approached by the NSA to share phone records of private citizens without their knowledge or consent?

2) If approached, was any legal certification provided to AT&T from the court that oversees FISA or any other source concerning the sharing of phone records with NSA?

3) If AT&T were to engage in the sharing of any phone records of its customer with any governmental agency, what kind of legal certification would it seek before doing so?

4) What protections and procedures do you have in place to ensure that you are not violating any federal laws by sharing private phone records?

5) How would AT&T establish that your customers are "known associates" of al Qaeda, or any other terrorist group, before releasing Americans' personal phone logs to the NSA?

6) Has AT&T ever been provided with any kind of compensation from the government for providing phone logs? If so, is this through a contractual relationship? If so, please provide copies of your contracts. 7) Did AT&T share any consumer phone records with the NSA?

Pretexting

1) What position did your company take on H.R. 4943, the Prevention of Fraudulent Access to Phone Records Act?

2) Who in the U.S. House of Representatives did your company, or representatives for your company, contact to express your position on H.R. 4943? Please provide the dates, method of contact, and any documents connected to the contact.>

3) Who else in elected or appointed governmental positions did you contact to express your company's position? Please provide the dates, method of contact, and any documents connected to the contact.

4) Were you contacted by any governmental entities concerning this bill? If so, which ones and what issues were raised?

5) Would H.R. 4943 affect any practice concerning phone records sharing that AT&T is currently or has been engaged in?

6) I appreciate your cooperation and would like your response to the above questions by May 26, 2006.

If you have any questions, please feel free to contact my office at 202-225-2111.

Thank you.

Sincerely,
Jan Schakowsky
Member of Congress