

ONE HUNDRED EIGHTEENTH CONGRESS

Congress of the United States
House of Representatives

COMMITTEE ON THE JUDICIARY

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WASHINGTON, DC 20515-6216

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July 18, 2023

Mr. Robert M. Davis
Chief Executive Officer and Chairman
Merck & Co., Inc.
126 East Lincoln Avenue
P.O. Box 2000
Rahway, NJ 07065

Dear Mr. Davis:

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.¹ Certain entities, including pharmaceutical companies such as Merck, may have played a role in this censorship regime by determining what types of content constituted “misinformation”—sometimes at the behest of or with the encouragement of the federal government.² Whether directly or indirectly, a government-approved or -facilitated censorship regime poses a grave threat to the First Amendment and American civil liberties. Accordingly, as part of the Committee’s constitutional oversight obligations, we write to request relevant information and documents.

According to documents obtained by the Committee, personnel from Merck were invited in December 2020 to meet with personnel from other pharmaceutical companies, Executive Branch agencies, and Stanford University to discuss “a coalition to respond to COVID-19

¹ See Ken Klippenstein & Lee Fang, *Truth Cops: Leaked Documents Outline DHS’s Plans to Police Disinformation*, THE INTERCEPT (Oct. 31, 2022); Editorial Board, *The White House and Twitter Censorship*, WALL ST. J. (Aug. 12, 2022); Editorial Board, *How the Feds Coordinate With Facebook on Censorship*, WALL ST. J. (Sept. 9, 2022).

² See, e.g., Matt Taibbi, @mtaibbi, *1. THREAD: The Twitter Files: Twitter and the FBI “Belly Button”*, TWITTER (Jan. 3, 2023, 4:54 P.M.); Matt Taibbi, @mtaibbi, *1. THREAD: The Twitter Files: How Twitter Let the Intelligence Community In*, TWITTER (Jan. 3, 2023, 3:27 P.M.); David Zweig, @davidzweig, *1. THREAD: THE TWITTER FILES: HOW TWITTER RIGGED THE COVID DEBATE*, TWITTER (Dec. 26, 2022, 9:10 A.M.); Matt Taibbi, @mtaibbi, *1. TWITTER FILES #19 The Great Covid-19 Lie Machine, Stanford, the Virality Project, and the Censorship of “True Stores,”* TWITTER (Mar. 17, 2023, 10:00 AM), <https://twitter.com/mtaibbi/status/1636729166631432195>.

vaccine disinformation.”³ The entanglement of Executive Branch agencies, third-party organizations, and technology companies to moderate speech-related content online raises questions about the extent to which these actions affected the civil liberties of American citizens.⁴ Other reporting indicates that the pharmaceutical industry pressured social media platforms to take down posts related to producing low-cost generic vaccines.⁵

Therefore, to assist the Committee in its oversight, we ask that you please provide the following documents and information:

1. All documents and communications, from January 1, 2020 to the present, between or among any employee, contractor, or agent of Merck and the Executive Branch of the United States Government referring or relating to the moderation, deletion, suppression, restriction, demonetization, or reduced circulation of content; the accuracy or truth of content; or the attribution of content to the source or participant in a foreign malign or state-sponsored influence operation.
2. All documents and communications, from January 1, 2020 to the present, between or among any employee, contractor, or agent of Merck and any technology company, including social media companies, referring or relating to the moderation, deletion, suppression, restriction, demonetization, or reduced circulation of content; the accuracy or truth of content; or the attribution of content to the source or participant in a foreign malign or state-sponsored influence operation.
3. A list of employees, contractors, or agents of Merck, along with their current and prior titles, who, from January 1, 2020 to the present, have communicated with the Executive Branch of the United States Government regarding the moderation, deletion, suppression, restriction, demonetization, or reduced circulation of content; the accuracy or truth of content; or the attribution of content to the source or participant in a foreign malign or state-sponsored influence operation.
4. A list of employees, contractors, or agents for Merck, along with their current and prior titles, who, from January 1, 2020 to the present, have communicated with any technology company, including social media companies, regarding the moderation, deletion, suppression, restriction, demonetization, or reduced circulation of content; the accuracy or truth of content; or the attribution of content to the source or participant in a foreign malign or state-sponsored influence operation.

³ See, e.g., “Vaccine Disinformation Response” Zoom Calendar Invite sent to personnel from the Department of Health and Human Services, pharmaceutical companies, and Stanford (sent Dec. 11, 2020) (on file with the Comm.).

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 WITH BIG TECH AND “DISINFORMATION” PARTNERS TO CENSORS AMERICANS (COMM. PRINT 2023).

⁵ See, e.g., Lee Fang, @lhfang, *I. New piece from the TWITTER FILES. How the pharmaceutical industry lobbied social media to shape content around vaccine policy*, TWITTER (Jan. 16, 2023, 10:30 A.M.), <https://twitter.com/lhfang/status/1615008625575202818>.

5. A list of all grants, contracts, or any funds received by Merck, from January 1, 2020 to the present, from the United States Government, as well as any documents and communications referring or relating to those grants, contracts, or funds, related to Merck's efforts concerning the moderation, deletion, suppression, restriction, demonetization, or reduced circulation of content; the accuracy or truth of content; or the attribution of content to the source or participant in a foreign malign or state-sponsored influence operation.

Please produce all documents and information as soon as possible but not later than 5:00 p.m. on August 1, 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 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 of matters concerning "civil liberties" to inform potential legislative reforms.⁶ 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."⁷

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

⁶ Rules of the House of Representatives R. X (2023).

⁷ H. Res. 12 § 1(b)(1).