

Congress of the United States
House of Representatives

COMMITTEE ON OVERSIGHT AND GOVERNMENT REFORM

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March 1, 2018

The Honorable Trey Gowdy
Chairman
Committee on Oversight and Government Reform
U.S. House of Representatives
Washington, D.C. 20515

Dear Mr. Chairman:

We are writing to request that you issue a subpoena to compel the Department of Justice to produce documents it is withholding from Congress regarding reports of interference by the White House in the decision to file a lawsuit to block the merger between AT&T and Time Warner. Our concern relates not only to President Trump's well-known animus against CNN—Time Warner's news organization—but also to Attorney General Jeff Sessions' refusal to answer questions from Congress regarding his communications with the White House about this matter.

On February 8, 2018, we sent a letter requesting that the Department produce the following documents by February 22, 2018:

1. all documents and communications, including email, referring or relating to the decision to sue AT&T, DirectTV Group Holdings LLC, and Time Warner Inc.;
2. all documents and communications, including email, referring or relating to the Justice Department's negotiations with AT&T, DirectTV Group Holdings LLC, and Time Warner Inc.; and
3. all documents and communications, including email, identifying any contact between any employee of the White House or any official or unofficial adviser to the President with any Department of Justice employee regarding CNN or the AT&T/Time Warner merger.¹

¹ Letter from Ranking Member Elijah E. Cummings, House Committee on Oversight and Government Reform, Ranking Member Gerald E. Connolly, Subcommittee on Government Operations, House Committee on Oversight and Government Reform, Ranking Member Jerrold Nadler, House Committee on the Judiciary, and Ranking Member David N. Cicilline, Subcommittee on Regulatory Reform, Commercial and Antitrust Law, House Committee on the Judiciary, to Attorney General Jeff Sessions, Department of Justice (Feb. 8, 2017) (online at <https://democrats-oversight.house.gov/sites/democrats.oversight.house.gov/files/documents/2018-02-08.EEC%20Nadler%20Cicilline%20Connolly%20to%20Sessions%20re%20CNN.pdf>)

To date, we have received no response to our request, we have received none of the documents we requested, and we have received no indication of when the Department will provide the requested information.

We made our request based in part on President Trump's statement on October 22, 2016, that he would never allow the merger to go through, stating: "AT&T is buying Time Warner, and thus CNN, a deal we will not approve in my administration."²

In addition, over the course of the past year, there have been numerous reports of meetings directly between President Trump, as well as his son-in-law and senior advisor Jared Kushner, and various Justice Department officials. For example:

- On January 12, 2017, *Fortune* reported that President-elect Trump met personally with AT&T Chief Executive Randall Stephenson to discuss the company's planned merger with Time Warner.
- On January 25, 2017, *ProPublica* reported that this meeting and others raised concerns inside the Department, quoting one antitrust official who stated: "It is troubling that presidents of companies whose cases are before the Antitrust Division would be meeting with the president-elect. We're a law enforcement agency and we pride ourselves on enforcing the law and looking at a case objectively and deciding whether it would or would not violate the antitrust laws."³
- The same account reported that Republicans have also raised concerns, including Larry Thompson, Deputy Attorney General in the George W. Bush Administration, who warned that "businesses are entitled to predictability as it relates to transactions and potential mergers and acquisitions," and although the Department's rulings "always reflect the prevailing administration's policy views about certain things," they "should be free of direct political intervention."⁴
- On February 17, 2017, the *Wall Street Journal* reported that President's Trump son-in-law and senior advisor, Jared Kushner, met with Time Warner executives to express concern that CNN was providing negative coverage of the President.⁵

² *Trump Says He Would Block AT&T-Time Warner Deal*, Wall Street Journal (Oct. 22, 2016), (online at www.wsj.com/articles/trump-says-he-would-block-at-t-time-warner-deal-1477162214).

³ *Why Trump's Meetings with CEOs Seeking Mergers Trouble Observers*, ProPublica (Jan. 25, 2017) (online at www.propublica.org/article/why-trumps-meetings-with-ceos-seeking-mergers-trouble-observers).

⁴ *Id.*

⁵ *Jared Kushner Delivers Critique of CNN to Time Warner Executive*, Wall Street Journal (Feb. 17, 2017) (online at www.wsj.com/articles/jared-kushner-delivers-critique-of-cnn-to-time-warner-executive-1487292962?tesla=y&mod=djemCapitalJournalDaybreak).

- On July 5, 2017, the *New York Times* reported that White House aides discussed using the pending merger as a “potential point of leverage over their adversary.”⁶
- On November 8, 2017, *Politico* reported that Justice Department officials pressured AT&T and Time Warner to offload CNN to win the approval of the merger. In response, Department officials claimed that the companies themselves offered to sell CNN and that the Department rejected the option.⁷
- Later the same day, the CEO of AT&T, Randall Stephenson, publicly rejected the Justice Department’s account, stating: “[G]iven DOJ’s statement this afternoon, it’s important to set the record straight. Throughout this process, I have never offered to sell CNN and have no intention of doing so.”⁸
- On November 10, 2017, the *Wall Street Journal* reported that Mr. Kushner told CNN executive Gary Ginsberg that CNN should fire 20% of its staff because they were wrong in their analysis of the election. According to this report, White House officials did not deny this allegation.⁹

Finally, on November 14, 2017, Attorney General Sessions testified before the House Committee on the Judiciary. When Rep. David N. Cicilline, Ranking Member of the Subcommittee on Regulatory Reform, Commercial and Antitrust Law, asked whether the Attorney General had discussed the merger with anyone at the White House, the Attorney General refused to answer, but did not assert executive privilege or any other valid privilege. Instead, he stated only: “I am not able to comment on conversations or communications that Department of Justice top people have with top people at the White House.”¹⁰

Although we take no position on the legality of this transaction or the merits of the lawsuit itself, we believe our Committee has a Constitutional obligation to investigate allegations of inappropriate political interference with Justice Department decision-making.

If you decide not to issue this subpoena yourself, we ask that you place this matter on the agenda for our next regularly scheduled business meeting so all Committee members will have the opportunity to vote on a motion to subpoena these documents.

⁶ *The Network Against the Leader of the Free World*, *New York Times* (July 5, 2017) (online at www.nytimes.com/2017/07/05/business/media/jeffrey-zucker-cnn-trump.html).

⁷ *Sources: AT&T, Time Warner Under Pressure to Dump CNN*, *Politico* (Nov. 8, 2017) (online at www.politico.com/story/2017/11/08/att-time-warner-dump-cnn-244697).

⁸ *AT&T Takeover of Time Warner Hits Snag with DOJ as Dispute Goes Public*, *CNN* (Nov. 8, 2017) (online at <http://money.cnn.com/2017/11/08/media/att-time-warner/index.html>).

⁹ *Snag In Media Merger Stirs Tensions Over Trump-CNN Feud*, *Wall Street Journal* (Nov. 10, 2017) (online at www.wsj.com/articles/snag-in-media-merger-stirs-tensions-over-trump-cnn-feud-1510354324).

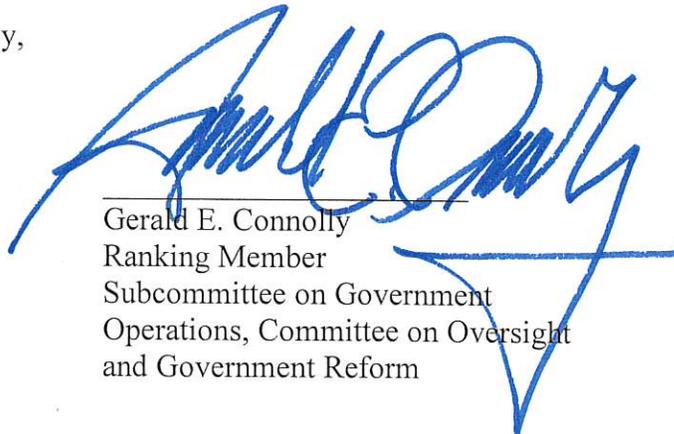
¹⁰ *Oversight of the Department of Justice*, House Committee on the Judiciary (Nov 14, 2017) (online at <https://judiciary.house.gov/hearing/oversight-department-justice-2017>).

Thank you for your consideration of this request.

Sincerely,



Elijah E. Cummings
Ranking Member
Committee on Oversight and
Government Reform



Gerald E. Connolly
Ranking Member
Subcommittee on Government
Operations, Committee on Oversight
and Government Reform

cc: The Honorable Bob Goodlatte, Chairman
Committee on the Judiciary

The Honorable Jerrold Nadler, Ranking Member
Committee on the Judiciary

The Honorable Tom Marino, Chairman
Subcommittee on Regulatory Reform, Commercial and Antitrust Law,
Committee on the Judiciary

The Honorable David N. Cicilline, Ranking Member
Subcommittee on Regulatory Reform, Commercial and Antitrust Law,
Committee on the Judiciary

The Honorable Mark Meadows, Chairman
Subcommittee on Government Operations,
Committee on Oversight and Government Reform