



July 16, 2013

The Honorable Eric Holder
Attorney General
U.S. Department of Justice
950 Pennsylvania Avenue, NW
Washington, D.C. 20530-0001

Dear Attorney General Holder:

I'm writing to ask you to get involved personally in assessing the Constitutional issues raised by Microsoft and other companies that have repeatedly asked to share publicly more complete information about how we handle national security requests for customer information. In my opinion, these issues are languishing amidst discussions among multiple parts of the Government, the Constitution itself is suffering, and it will take the personal involvement of you or the President to set things right.

Since the initial leak of NSA documents, Microsoft has engaged constructively with the Department of Justice, the FBI, and other members of the Intelligence Community on the ground rules governing our ability to address these issues and the leaked documents publicly. We have appreciated the good faith in which the Government has dealt with us during this challenging period. But we're not making adequate progress. When the Department and FBI denied our requests to share more information, we went to the Foreign Intelligence Surveillance Court (FISC) on June 19 to seek relief. Almost a month later, the Government is still considering its response to our motion.

Last week we requested official permission to publicly explain practices that are the subject of newly-leaked documents that refer to Microsoft and have now been misinterpreted in news stories around the world. This request was rejected. While we understand that various government agencies are trying to reach a decision on these issues, this has been the response for weeks. In the meantime, the practical result of this indecision is continued refusals to allow us to share more information with the public.

This opposition and these delays are serving poorly the public, the Government itself, and most importantly, the Constitutional principles that we all put first and foremost.

As I know you appreciate, the Constitution guarantees the fundamental freedom to engage in free expression unless silence is required by a narrowly tailored, compelling Government interest. It's time to face some obvious facts. Numerous documents are now in the public domain. As a result, there is no longer a compelling Government interest in stopping those of us with knowledge from sharing more information, especially when this information is likely to help allay public concerns.

I feel very fortunate that we have both an Attorney General and a President with such longstanding knowledge of and appreciation for our Constitution. Put simply, we need you to step in to ensure that common sense and our Constitutional safeguards prevail.

Thank you for your consideration.

Sincerely,

A handwritten signature in blue ink, appearing to read "Brad Smith", with a stylized flourish extending to the right.

Bradford L. Smith
General Counsel and Executive Vice President
Microsoft Corporation