

# High court temporarily blocks subpoena over sex ads (Update)

September 6 2016, by Sam Hananel

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Supreme Court Chief Justice John Roberts on Tuesday temporarily blocked a congressional subpoena that seeks information on how the classified advertising website Backpage.com screens ads for possible sex trafficking.

The order came hours after Backpage CEO Carl Ferrer asked the high court to intervene, saying the case threatens the First Amendment rights of online publishers.

A federal appeals court ruled 2-1 on Friday that the website must respond to the subpoena within 10 days. Roberts said Backpage does not have to comply with the appeals court order until further action from the Supreme Court. He requested a response from the Senate Permanent Subcommittee on Investigations by Friday.

The Senate panel has tried for nearly a year to force Backpage to produce certain documents as part of its investigation into human trafficking over the Internet.

After the website refused to comply, the Senate voted 96-0 in March to hold the website in contempt. The vote allowed the Senate to pursue the documents in federal court, marking the first time in more than two decades that the Senate has enforced a subpoena in court.

A federal district judge sided with the Senate last month, rejecting arguments that the subpoena was unconstitutional, overly broad and

burdensome. The U.S. Court of Appeals for the District of Columbia Circuit agreed.

Senate investigators have said that Backpage is a market leader in commercial sex advertising and has been linked to hundreds of reported cases of sex trafficking, including the trafficking of children.

Subcommittee Chairman Sen. Rob Portman, R-Ohio, says the documents he is seeking will help lawmakers determine what if any businesses practices and policies the company has to prevent criminal activity.

While Backpage has produced over 16,000 pages of documents responding to the subpoena, Ferrer said documents relating to the website's system for reviewing ads are part of the editorial process protected under the First Amendment.

"This case presents a question of exceptional nationwide importance involving the protection the First Amendment provides to online publishers of third-party content when they engage in core editorial functions," Ferrer said in a brief filed to Roberts.

Roberts handles emergency requests from the appeals court in Washington, D.C.

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