UNITED STATES DISTRICT COURT

NORTHERN DISTRICT OF CALIFORNIA

TWITTER, INC.,

Plaintiff,

v.

ERIC H. HOLDER, *ET AL.*,

Defendants.

Case No. 14-cv-04480-YGR

ORDER DIRECTING FURTHER BRIEFING RE: EFFECT OF RECENT LEGISLATION

On June 3, 2015, Defendants Loretta Lynch, *et al.*, filed a Notice Regarding Enactment of USA Freedom Act of 2015. (Dkt. No. 67.) Defendants describe the new legislation as "permit[ing] disclosure of aggregate data in bands similar to those described by the Deputy Attorney General in the January 27, 2014 letter" and changing the standards for judicial review of National Security Letters ("NSLs"). In that Notice, Defendants represented that they would meet and confer with counsel for Plaintiff concerning any additional briefing.

On June 9, 2015, Plaintiff Twitter, Inc. filed its own Notice Regarding Enactment of USA Freedom Act. (Dkt. No. 68.) Twitter takes the position that the legislation has no impact on the issues before the Court in Defendants' pending motion to dismiss "pertaining to the Administrative Procedure Act, 5 U.S.C. § 551 *et seq*., transfer of FISA-related claims to the Foreign Intelligence Surveillance Court, and deferring consideration of certain issues pertaining to national security letters." (*Id.*)

Contrary to Twitter's position, it does appear to the Court that the USA Freedom Act has provisions pertinent to those at issue in the motion to dismiss and at the heart of Twitter's Complaint, including permissible disclosure of aggregate data regarding legal process obtained under the Foreign Intelligence Surveillance Act ("FISA") and the constitutionality of the statutory standards of review applicable to NSLs. Indeed, the Court is concerned that the new legislation moots the claims for relief in Twitter's Complaint. Further, it is not clear that the parties have met

and conferred yet.

The Court now **ORDERS** that the parties meet and confer forthwith, and file supplemental briefing on the effect of this legislation, both as to the pending partial motion to dismiss and as to the ultimate claims for relief in Plaintiff's Complaint, as follows:

(1) the parties each shall file opening supplemental briefs of no more than fifteen (15) pages by **June 26, 2015**.

(2) the parties each shall file responsive supplemental briefs of no more than ten (10) pages by **July 10, 2015**.

Should the parties seek any modification of this briefing schedule, they are directed to meet and confer and submit a joint stipulation with a proposed schedule. Hearing, if any, on the issues covered in the supplemental briefing will be set by further notice from the Court after all briefs are on file.

IT IS SO ORDERED.

Dated: June 11, 2015

YVONNE GONZALEZ ROGERS
UNITED STATES DISTRICT JUDGE

United States District Court
Northern District of California