

**New Authorities/New Priorities:
Congressional
Investigations in the
119th Congress**



GIBSON DUNN

Agenda

01 Overview of Congressional Investigations

02 Defenses to Congressional Investigations and Related Considerations

03 Developments in the Law

04 Outlook for Investigations in the 119th Congress

05 Other Considerations - Congressional Review Act and DOGE

MCLE Certificate Information

- Approved for 1.5 hours General PP credit.
- CLE credit form must be submitted by **Friday, January 17th**.
- Form Link: https://gibsondunn.qualtrics.com/jfe/form/SV_7X0kMBanFiEidsa
 - Most participants should anticipate receiving their certificate of attendance in four to eight weeks following the webcast.
- **Please direct all questions regarding MCLE to CLE@gibsondunn.com.**

Overview of Congressional Investigations

01

Congressional Investigations Powers

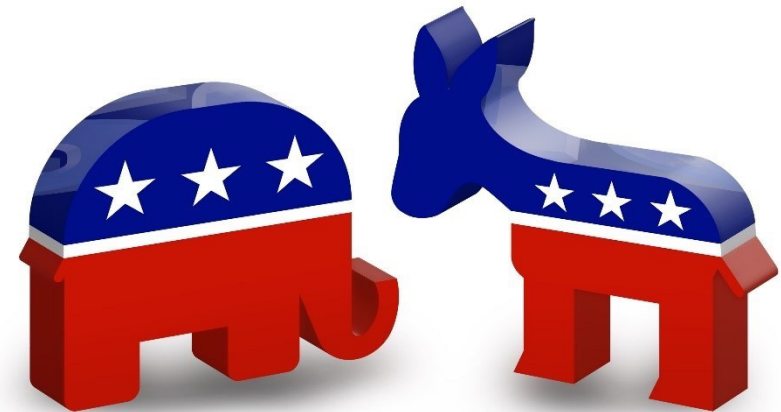
**Authorized by
the Constitution**

**Not a
“general power”**

**Must further a
valid legislative
purpose**

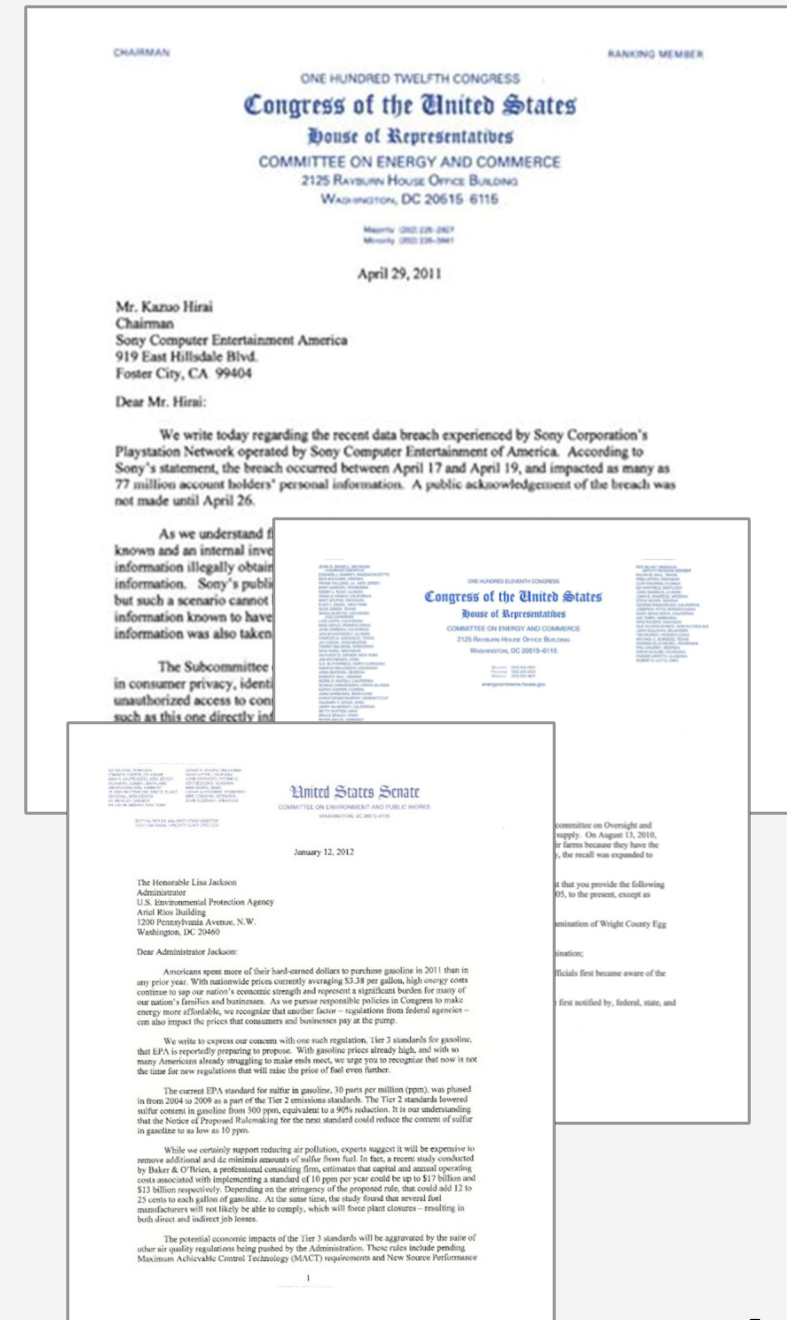
Purposes of Congressional Investigations

- Advance legislation
- Advance a policy preference
- Hold a company, government agency, or other entity responsible for its actions
- Bolster a member's or party's political agenda or position
- Influence executive branch agencies
- Expose actual criminal or civil wrongdoing



Congressional Investigatory Tools

- Requests for information
- Interviews and depositions
- Hearings
- Subpoenas
 - Generally no pre-enforcement review
- Contempt proceedings
- Referral to executive branch for criminal prosecution
 - Congress may refer, but executive branch may proceed regardless of Congress's views.
 - Prosecute false statements to Congress, obstruction, destruction of evidence, etc.



Subpoena Power

- Document requests usually begin with a letter and may be followed by a subpoena, if necessary.
- Every standing committee has the authority to issue subpoenas. This is authorized under both House and Senate rules, but the specific procedures vary by committee.
- House rules give more authority to committee chairs.
 - House chairs may issue subpoenas unilaterally, with only notice to ranking members.
 - Senate rules are more restrictive; only the Senate's Permanent Subcommittee on Investigations permits the chair to issue a subpoena with only notice to the ranking member.
- Subpoenas can be friendly.
- Recipient can't quash a subpoena.

Served on me at 11 PM
10 Oct. 1960, outside of the Congressional Hotel,
Washington D.C.
L.P.

UNITED STATES OF AMERICA
Congress of the United States

To Dr. Linus Pauling
Congressional Hotel
Washington, D. C.

Meeting:

Pursuant to lawful authority, YOU ARE HEREBY COMMANDED to appear before the Internal Security/Committee on the Judiciary of the Senate of the United States, on Tuesday, October 11, 1960, at 10:30 o'clock a. m., at their committee room 3237 New Senate Office Bldg., Washington, D. C., then and there to testify what you may know relative to the subject matters under consideration by said committee. You are hereby commanded to bring with you all signatures or purported signatures to the petition presented by you to the Secretary General of the United Nations on January 15, 1958, together with all letters of transmittal by which, or in connection with which, such signatures were transported to you or received by you. Pursuant to Senate Resolution 366 approved by the 81st Congress—2d, as amended and extended and Senate Res. 242 agreed to Feb. 9, 1960. With respect to Communist participation in, or support of, propaganda campaign against nuclear testing, and other Communist or Communist-front activity with respect to which you may have knowledge.

Hereof fail not, as you will answer your default under the pains and penalties in such cases made and provided.

To JOSEPH C. DUKE, Sergeant at Arms of the Senate of the United States and/or F. W. Schroeder, William H. McManus, Internal Security Subcommittee, of the United States Senate.

Given under my hand, by order of the committee, this 10th day of October, in the year of our Lord one thousand nine hundred and sixty

THOMAS J. DALL
Vice-Chairman, Committee on the Judiciary and Internal Security Subcommittee.

Congressional Contempt / Civil Enforcement

There are three means through which Congress can enforce its subpoenas:

Inherent Contempt
(both House and Senate)

Criminal Contempt
(both House and Senate)

Civil Enforcement
(Senate, and probably House)

Backpage.com Subpoena Timeline

October 1, 2015:
PSI withdraws the Backpage.com subpoena, and issues subpoena to CEO Carl Ferrer.

November 3, 2015:
PSI issues a comprehensive ruling overruling Mr. Ferrer's objections.

March 17, 2016:
The Senate adopts the resolution by a vote of 96-0.

August 5, 2016:
The District Court issues an order directing compliance with the subpoena.

June 7, 2015:
Senate Permanent Subcommittee on Investigations ("PSI") issues subpoena to Backpage.com.

October 23, 2015:
Mr. Ferrer issues a response objecting to the subpoena.

February 29, 2016:
PSI presents a resolution directing the Senate Legal Counsel to bring civil action enforcing subpoena request.

March 29, 2016:
Senate Legal Counsel files suit to enforce subpoena with the U.S. District Court for the District of Columbia.

November 30, 2016:
Mr. Ferrer files certificate with District Court indicating he has complied with subpoena.

Recent Timelines and Examples

Case	Suit Filed	Party Initiating Suit	Nature of the Suit	Result	Initial Production Order	Actual Production
<i>Trump v. Mazars</i>	April 2019	Donald Trump	Quash subpoena to Mazars	Settlement	May 2019 (1 month)	Sept. 2022 (41 months) (never, as to Deutsche Bank/Capital One)
<i>Judiciary v. McGahn</i>	August 2019	House	Enforce subpoena	Settlement.	Nov. 2019 (3 months)	June 2021 (21 months)
<i>Ways & Means v. Treasury</i>	July 2019	House	Enforce subpoena	Subpoena upheld as valid, after appeal to D.C. Circuit (2022)	Dec. 2021 (28 months)	Nov. 2022 (39 months)
<i>Trump v. Thompson</i>	Oct. 2021	Donald Trump	Quash subpoena to National Archive	National Archive produced documents	Nov. 2021 (1 month)	Jan. 2022 (3 months)
<i>Plaintiff v. Verizon Communications</i>	Jan. 2022	Pseudonymous plaintiff related to January 6th	Quash subpoena to Verizon	Plaintiff prohibited from proceeding pseudonymously		
<i>Eastman v. Thompson</i>	Jan. 2022	John Eastman (law professor)	Quash subpoena	Subpoena upheld as valid		
<i>Ward v. Thompson</i>	February 2022	Kelli Ward (chair of the Arizona Republican Party)	Quash subpoena to T-Mobile	Subpoena upheld as valid	Sept. 2022 (7 months)	Nov. 2022 (9 months)
<i>RNC v. Pelosi</i>	March 2022	RNC	Quash subpoena to Salesforce	Mooted by committee's withdrawal of subpoena		Never
<i>Budowich v. Pelosi</i>	December 2021	Taylor Budowich (former spokesman for Donald Trump)	Seeking return of documents produced to Congress by J.P. Morgan	Speech or Debate Clause barred claims		
<i>Friess v. Thompson</i>	Feb. 2022	Katherine Friess (attorney for Donald Trump)	Quash subpoena to AT&T	Subpoena upheld as valid		
<i>Bragg v. Jordan</i>	April 2023	Alvin Bragg (DA of NYC)	Quash subpoena	Subpoena upheld as valid		HJC released deposition testimony on May 2, 2024

Defenses to Congressional Investigations and Related Considerations

02

Congressional Investigations Defenses – Private Parties

Legislative Purpose

**First
Amendment**

**Fourth
Amendment**

**Fifth
Amendment**

**Attorney-Client Privilege
& Attorney Work Product**

**Committee Jurisdiction & Procedural
Defenses**

Legislative Purpose

- **Standard for showing valid “legislative purpose”:** In *Mazars*, the Court announced what it called a “balanced approach” to govern future interbranch disputes, one that it viewed as protecting Congress’s ability to investigate the president while also mitigating the risk of improper congressional inquiry.
- The Court held that a congressional subpoena must address a “valid legislative purpose” and must be “related to, and in furtherance of, a legitimate task of Congress.”
- Motivating this newly heightened standard appeared to be **dissatisfaction with the prior legislative purpose standard, which the Court described as “limitless.”**
- Congress must now, in effect, show its work and adequately describe the nexus between the records sought and the legislation the committee is considering.



First Amendment Challenges

- The First Amendment protects petitioning, lobbying, association, and speech on matters of public concern, and it prohibits government officials from taking retaliatory actions on account of protected speech. See *Nieves v. Bartlett*. The First Amendment applies to Congress just as much when it investigates as when it legislates. See *Barenblatt v. United States*.
- **First Amendment Retaliation:** An investigation itself is burdensome and can constitute an adverse action. Arguably, retaliatory motives could be inferred from committees' and senators' public statements on the investigation and may be evident from the letter itself.
- **Privilege Against Disclosure:** Where the party opposing production can show a chilling effect from disclosure, the proponent of discovery must satisfy "exacting scrutiny."

Examples

Freedom of association

Freedom of the press

Freedom to engage in public advocacy

Freedom to express opinion on matters of public concern

Other Constitutional Defenses



Fourth Amendment

Reasonableness varies depending upon the “nature, purposes, and scope of the inquiry.”

- Overly broad demands for documents that lack congruence and proportionality to the scope of the investigation may violate protection against search and seizure, but courts have not enforced rigorously.

Fifth Amendment

Individuals can invoke right against self-incrimination. Corporations cannot.

- Generally applies only to testimony, although in certain circumstances the privilege applies to the act of producing documents (when the documents amount to “Testimonial Communications”).
- Congress can compel testimony by granting transactional immunity or use and derivative use immunity.
- Choose your words carefully, so as not to waive the privilege.
 - In 2013, Lois Lerner invoked the privilege before the House Committee on Oversight and Reform, but also stated that she had done nothing wrong.
 - Chairman Darrell Issa claimed her statement waived the privilege, and Congress referred the matter to the U.S. Attorney for the District of Columbia for criminal contempt charges when Lerner refused to testify.

Attorney-Client Communication Privilege & Attorney Work Product

Mazars and Common Law Privileges/Protections

Congress has traditionally taken the position that it is not bound to recognize common law privileges.

In *Mazars*, the Court stated that recipients of congressional subpoenas retain **both** “common law and constitutional privileges with respect to certain materials, such as attorney-client communications and governmental communications protected by executive privilege.”

- While the Court’s treatment of common law privileges in *Mazars* is arguably dicta, both the **executive branch and private litigants can be expected to take the position** that Congress is obligated to observe common law privileges **in the same way that courts and grand juries must observe them.**



Procedural Defenses & Committee Jurisdiction

- Committees are created by the Senate and House. They have no independent authority beyond their delegations. *Exxon Corp. v. FTC.*
- Each committee creates its own rules based on Senate or House delegation, and the committee is then bound by those rules. These rules provide procedural protections to targets of congressional investigations.
- If a committee fails to follow its rules and violates the rights of witnesses in the process, the violation is cognizable in court. *See Yellin v. United States.*
- **Examples**
 - Quorum Requirements
 - Two Hour Rule
 - Ending Debate
- In addition, the subject matter of an inquiry must also be within the scope of jurisdiction clearly delegated to the committee by Congress.

Examples

Quorum Requirements

Two Hour Rule

Ending Debate

Developments in the Law

03

Trump v. Mazars

Mazars resulted in **notable developments** in several areas of the law.

Applicability of attorney-client privilege in congressional investigations

- In *Mazars*, the Court stated that recipients of congressional subpoenas retain **both** “common law and constitutional privileges with respect to certain materials, such as attorney-client communications and governmental communications protected by executive privilege.”

Defining the contours of legislative purpose

- The *Mazars* Court held that congressional subpoenas raising separation of powers or other constitutional concerns require “careful analysis” and “detailed and substantial” evidence of a valid legislative purpose sufficient to justify the intrusion on constitutional interests.

Limits to potentially relevant materials

- In *Mazars*, the Court stated that “Unlike in criminal proceedings. . . efforts to craft legislation involve predictive policy judgments that are not hampered in quite the same way **when every scrap of potentially relevant evidence is not available.**”

Attorney-Client Privilege

Recently, courts have permitted objections based on attorney-client privilege, though such objections must be specific.

Bragg v. Jordan (SDNY 2023):

- Held that Plaintiff challenging subpoena may **object** to questions based on attorney-client privilege, though the court did not quash subpoena on that basis.

Eastman v. Thompson (C.D. Cal. 2022)

- The court rejected Plaintiff's broad attorney-client privilege claims over an entire cache of documents requested by the government. Instead, the court permitted Plaintiff **leave to reassert privilege claims** in the context of **specific documents**.
- The court concluded that “[t]he party must assert the privilege as to each record sought to allow the court to rule with specificity.”

Legislative Purpose

Courts recently evaluating legislative purpose have largely followed *Mazars* while ultimately showing deference to committees.

Committee on Ways and Means, U.S. House of Representatives v. U.S. Dep't of Treasury (D.C. Cir. 2022)

- Upholding the subpoena as valid, the court found a valid legislative purpose in the requests: the Presidential Audit Program.
- The court noted that “[t]he mere fact that individual members of Congress may have political motivations as well as legislative ones is of no moment.”

Bragg v. Jordan (S.D.N.Y. 2023)

- Holding that the subpoena had a valid legislative purpose, the court accepted Defendant’s argument that subpoenas related to federal funding and possible legislative reforms to insulate current and former presidents from state prosecutions had valid legislative purposes.

Eastman v. Thompson (C.D. Cal. 2022)

- Finding a valid legislative purpose, the court held that “the issues surrounding the 2020 election and the January 6th attacks [are] clearly ‘subjects on which legislation could be had,’ [and that] there are numerous legislative measures that could relate to [Plaintiff’s] communications.”

“Every Scrap of Evidence”

Mazars held that “[u]nlike in criminal proceedings. . . efforts to craft legislation involve predictive policy judgments that are not hampered in quite the same way **when every scrap of potentially relevant evidence is not available.**”

- The D.C. Circuit decision after remand in *Mazars* relied in part on this language in substantially narrowing the House Oversight Committee subpoena at issue.
- Courts have yet to address the extent to which this language applies outside the context of subpoenas implicating separation of powers or other constitutional concerns.
- But the *Mazar’s* Court’s rationale logically extends to subpoenas to private parties as well.

Recent Development Key Takeaways

Overall, *Mazars* and its application in subsequent cases suggest that recipients of congressional investigations now have firmer grounds on which to raise objections when producing information in response to requests and/or subpoenas

- **Attorney-client privilege applies** to recipients of congressional subpoenas
- If constitutional concerns are present, the support for legislative purpose may **need to be more detailed than in prior cases**, although the bar is still fairly low to establish legislative purpose
- Congress is not a grand jury, not entitled **to every “scrap of potentially relevant evidence.”**
- Investigative targets may **sue** to prevent the enforcement of a subpoena to third parties.
- **Constitutional concerns** can be at play in cases involving litigation against private parties, if those parties have had interactions with government entities (e.g., separation of powers concerns, sovereign immunity, executive privilege)

Outlook for Investigations in the 119th Congress

04

Lay of the Land in the 119th Congress (Senate)

Homeland Security & Gov. Affairs



Rand Paul (R-KY) Gary Peters (D-MI)

Health, Education, Labor & Pensions



Bill Cassidy (R-LA) Bernie Sanders (I-VT)

Finance



Mike Crapo (R-ID) Ron Wyden (D-OR)

Commerce, Science & Transportation



Ted Cruz (R-TX) Maria Cantwell (D-WA)

Judiciary



Charles Grassley (R-IA) Dick Durbin (D-IL)

Budget



Lindsey Graham (R-SC) Jeff Merkley (D-OR)

Appropriations



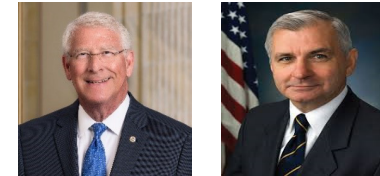
Susan Collins (R-ME) Patty Murray (D-WA)

Banking, Housing & Urban Affairs



Tim Scott (R-SC) Elizabeth Warren (D-MA)

Armed Services



Roger Wicker (R-MS) Jack Reed (D-RI)

Foreign Relations



James Risch (R-ID) Jeanne Shaheen (D-NH)

Agriculture



John Boozman (R-AR) Amy Klobuchar (D-MN)

Energy & Natural Resources



Mike Lee (R-UT) Martin Heinrich (D-NM)

Environment & Public Works



Shelley Moore Capito (R-WV) Sheldon Whitehouse (D-RI)

Veterans' Affairs



Jerry Moran (R-KS) Richard Blumenthal (D-CT)

Rules & Administration



Mitch McConnell (R-KY) Alex Padilla (D-CA)

Lay of the Land in the 119th Congress (House)

Oversight & Accountability



James Comer
(R-KY)



Gerry Connolly
(D-VA)

Ways & Means



Jason Smith (R-MO)



Richard Neal
(D-MA)

Homeland Security



Mark Green
(R-TN)



Bennie Thompson
(D-MS)

Judiciary



Jim Jordan (R-OH)



Jamie Raskin
(D-MD)

Appropriations



Tom Cole
(R-OK)



Rosa DeLauro
(D-CT)

Foreign Affairs



Brian Mast
(R-FL)



Greg Meeks
(D-NY)

Energy & Commerce



Brett Guthrie
(R-KY)



Frank Pallone
(D-NJ)

Transportation



Sam Graves
(R-MO)



Rick Larsen
(D-WA)

Rules



Foxx/
Fischbach
running



Jim McGovern
(D-MA)

Financial Services



French Hill
(R-AR)



Maxine Waters
(D-CA)

Education & the Workforce



Tim Walberg
(R-MI)



Bobby Scott
(D-VA)

Armed Services

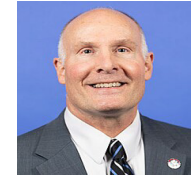


Mike Rogers
(R-AL)



Adam Smith
(D-WA)

Select Committee on the CCP



John Moolenaar
(R-MI)



Raja
Krishnamoorthi
(D-IL)

Science, Space & Tech



Brian Babin
(R-TX)



Zoe Lofgren
(D-CA)

Veterans' Affairs



Mike Bost
(R-IL)



Mark Takano
(D-CA)

118th Congress: Investigative Priorities

The 118th Congress saw a broad variety of investigations in both the House and Senate.

Investigations varied in size, scope, and subject matter, though consistent themes emerged across chambers:

- Both chambers were especially focused on big tech, though investigations centered on different issues related to big tech.
- The **healthcare** and **pharmaceutical** industries were frequent targets of investigations and congressional letters.
- Both chambers are increasingly focused on interactions with **China** and certain other countries (**Russia**, **Saudi Arabia**).

In the House, the Select Committee on the CCP pursued several different investigative avenues, including:

- Colleges and Universities;
- Retail;
- Finance;
- Healthcare;
- Banking;
- Tech; and
- Engineering.

House committees were especially focused on investigating **antisemitism at colleges and universities**.



119th Congress: Investigative Priorities in Congress

- **China** – business and university interactions with and support
- **Big Tech** – size and business practices and alleged censorship
- **Alleged Wasteful Spending**
- **Hunter Biden Pardon**
- **Universities/Antisemitism**
- **DEI Programs**
- **Immigration/Border Security**
- **Cyberattacks**
- **AI**
- **Media Bias**
- **Healthcare**

House panel on Chinese Communist Party threats survives into new Congress

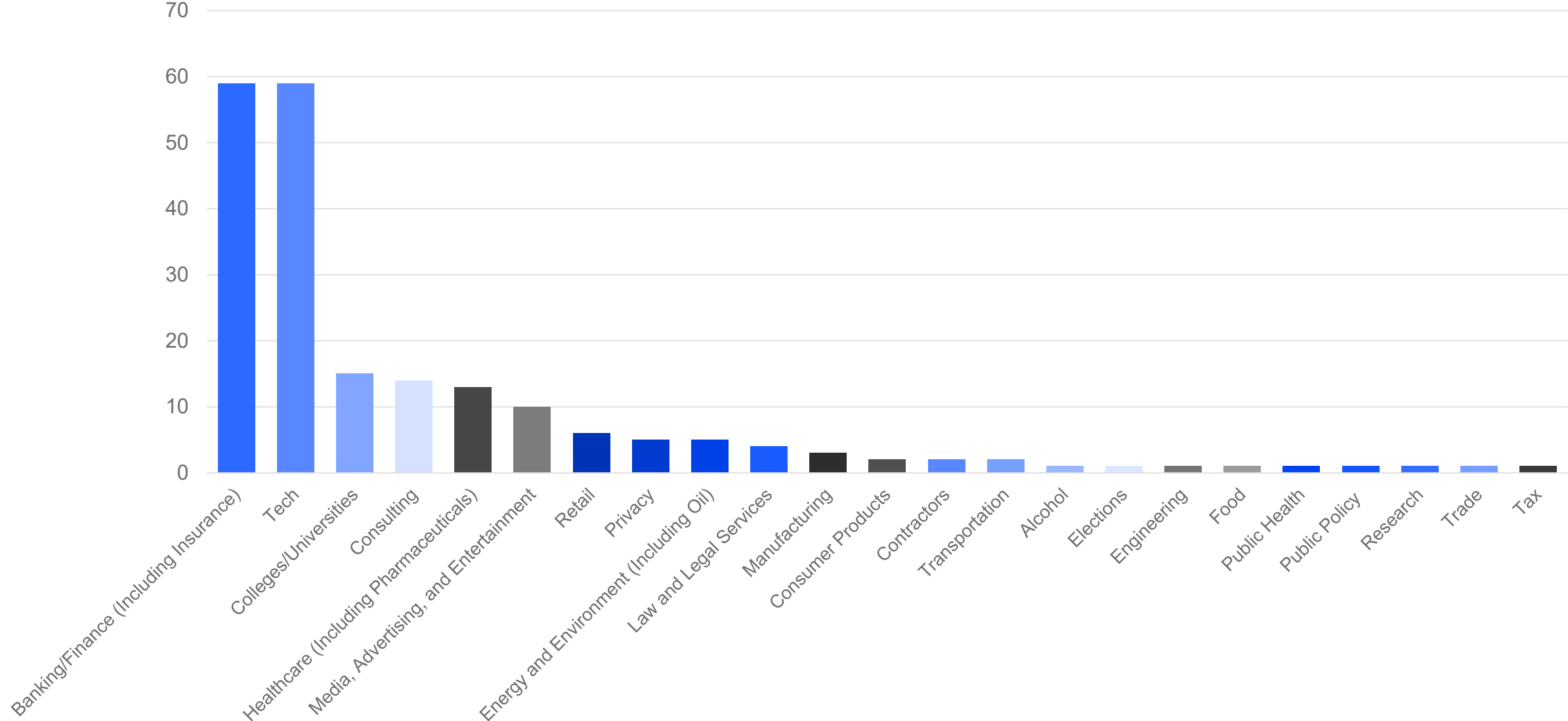
Trump Signals Continued Focus on “Big Tech” in Naming Brendan Carr as FCC Chair

Big Tech scrutiny will continue under Trump, even without Lina Khan

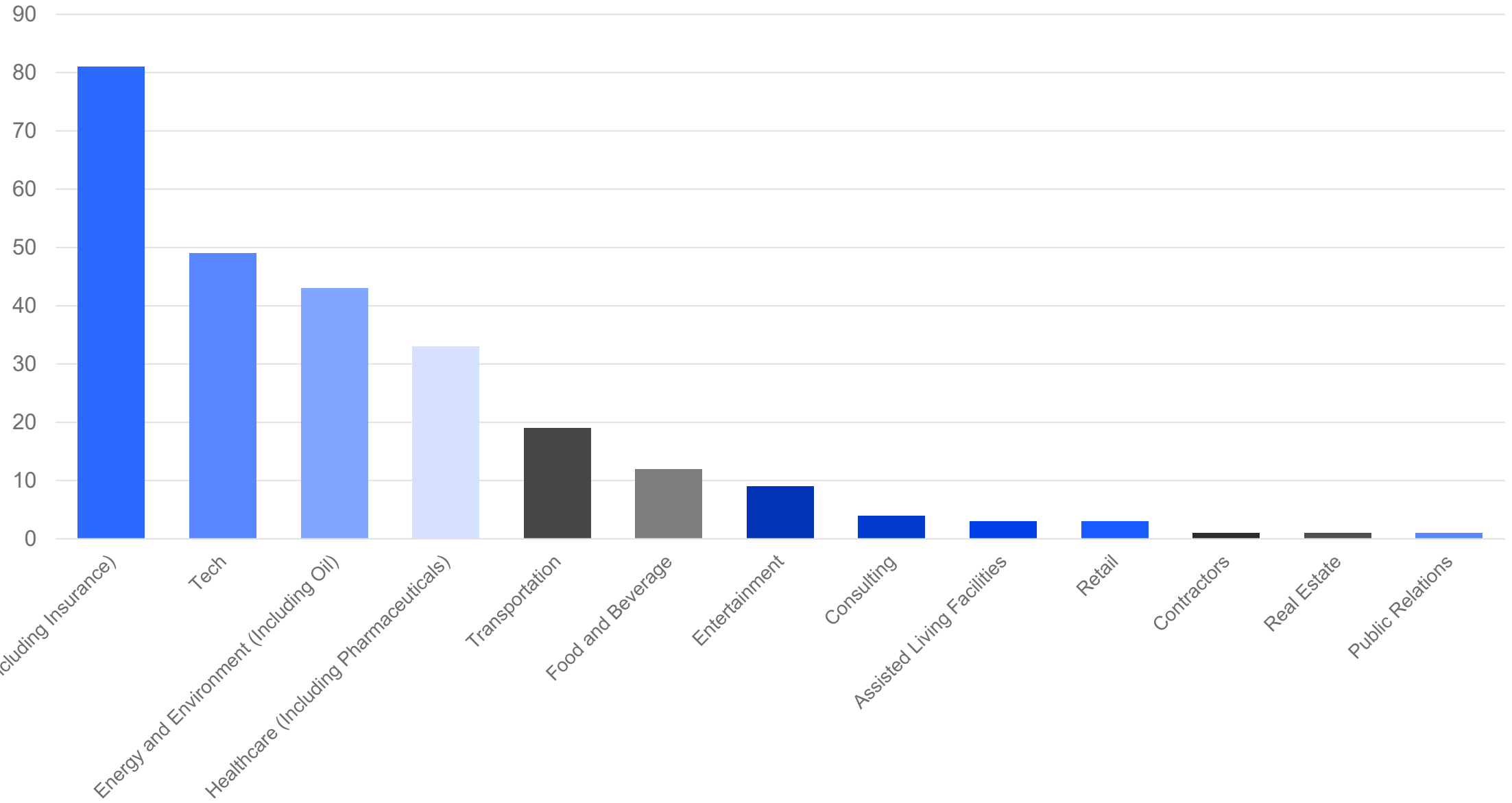
Congressional panel urges toughing the US-China trade relationship

Trump's anti-DEI brigade prepares to take power

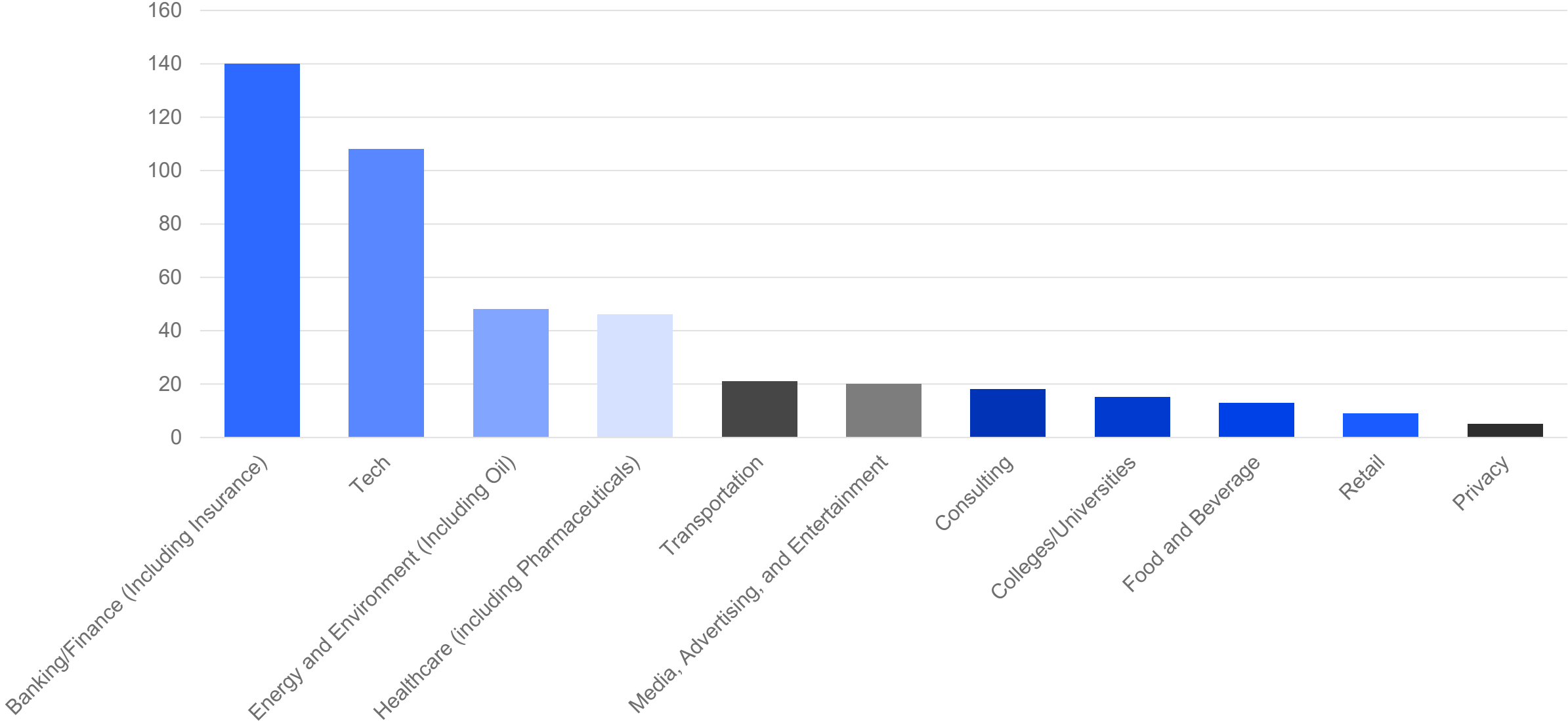
Industries Investigated in the 118th Congress (House)



Industries Investigated in the 118th Congress (Senate)



Industries Investigated in the 118th Congress (House and Senate)



Other Considerations - Congressional Review Act and DOGE

05

The Congressional Review Act: An Overview

- Enables Congress to enact joint resolutions invalidating new rules adopted by federal agencies and provides for expedited consideration process in the House and Senate.
- Congress has 60 days to introduce a joint resolution disapproving of a rule, starting from the later of 1) the date the agency publishes the Rule in the Federal Register or 2) submits the rule to Congress.
 - When a rule is submitted within 60 legislative days at the end of a congressional session, a new 60-day clock starts on the fifteenth legislative day of the new session.
 - Fast-track Senate procedures; simple majority vote required
 - Once the joint resolution passes both chambers, the president may sign or veto it (subject to override by 2/3 of both chambers).
- If the joint resolution is signed into law, the agency may not issue a substantially similar rule unless Congress authorizes otherwise.

One Hundred Seventeenth Congress of the United States of America

AT THE FIRST SESSION

*Begun and held at the City of Washington on Sunday,
the third day of January, two thousand and twenty one*

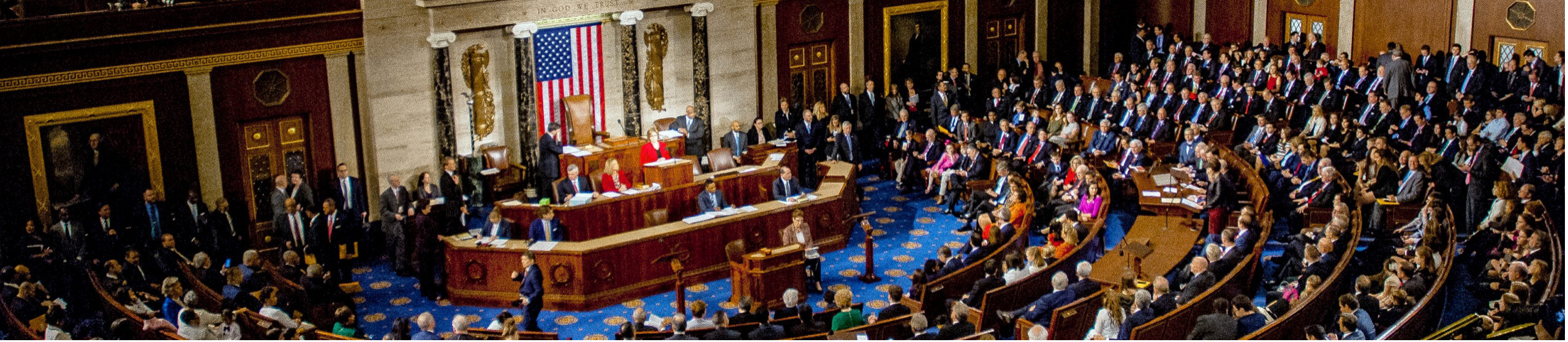
Joint Resolution

Providing for congressional disapproval under chapter 8 of title 5, United States Code, of the rule submitted by the Equal Employment Opportunity Commission relating to "Update of Commission's Conciliation Procedures".

Resolved by the Senate and House of Representatives of the United States of America in Congress assembled, That Congress disapproves the rule submitted by the Equal Employment Opportunity Commission relating to "Update of Commission's Conciliation Procedures" (86 Fed. Reg. 2974; published January 14, 2021), and such rule shall have no force or effect.

Speaker of the House of Representatives.

*Vice President of the United States and
President of the Senate.*



The Congressional Review Act: Practical Notes for the 119th Congress

Because agencies have become increasingly wary of congressional action under the Congressional Review Act, many rules are finalized before the last 60 legislative days of a session.

Recently finalized rules from August 16, 2024 onwards could be subject to the Congressional Review Act.

Finalized rules that could be subject to the Congressional Review Act include:

- A Department of Education rule on student loan repayment plans.
- An Environmental Protection Agency rule on manufacturing and pollutants.

Department of Government Efficiency (“DOGE”) Implications

In his announcement of **DOGE**, President-Elect Trump stated that it will “provide advice and guidance from outside of Government and will partner with the White House and Office of Management & Budget to drive large scale structural reform.”

- There are at least two basic models such an organization could follow:
 - A federal advisory committee (“FAC”) that falls under the Federal Advisory Committee Act (“FACA”); or
 - An outside organization that would act like a think tank or lobbying group.
 - Under either format, DOGE itself likely will not be able to act on its recommendations—that will be up to the administration or Congress through their usual regulatory and legislative processes.
- DOGE also may help shape congressional oversight priorities.
 - House Oversight DOGE Subcommittee (Chairwoman Marjorie Taylor Greene)
 - House and Senate DOGE Caucuses



DOGE Leaders Elon Musk and Vivek Ramaswamy

Top Mistakes



Facts: failure to identify and verify

Corporate message: unclear or undetailed

Internal communications: understanding the risks and settling on a strategy

Context: failure to adapt to type of investigation

Knowing the rules: vary by committee

Big picture: anticipating what might come next

Care and concern: inadequate attention

Legal: preserving privilege and assessing collateral consequences



EDUCATION

Harvard University
Juris Doctor

Brown University
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Michael D. Bopp

Partner / Washington, D.C.

Michael Bopp is a partner in the Washington, D.C. office of Gibson Dunn & Crutcher. He brings his extensive government and private-sector experience to help clients navigate through the most difficult crises, often involving investigations as well as public policy and media challenges. He chairs the Congressional Investigations Subgroup and he is a member of the White Collar Defense and Investigations Crisis Management Practice Groups. He also co-chairs the firm's Public Policy Practice Group and is a member of its Financial Institutions Practice Group.

Michael's practice focuses on congressional investigations, internal corporate investigations, and other government investigations. He also advises clients on public policy and regulatory consulting in a variety of fields, and on managing and responding to major crises involving multiple government agencies and branches. Michael is one of only a handful of attorneys in the country listed in Band 1 for Congressional Investigations by *Chambers* – its highest rating. In addition, Michael has been recognized by *The Hill* as a top lobbyist for 2022 and 2023. *BTI Consulting* named Michael to its 2018 BTI Client Service All-Stars list, recognizing the “lawyers who truly stand out as delivering the absolute best client service” as determined by a poll of corporate counsel.

Michael has extensive experience representing clients in congressional, executive branch, and internal investigations. During more than a decade on Capitol Hill, Michael led or played a key role in major investigations in both the Senate and House of Representatives, including four special investigations. In these capacities, he developed the strategy and set the agenda, and managed the discovery efforts for numerous investigations and orchestrated more than 100 committee hearings.

Michael has extensive knowledge of both legislative and regulatory processes, as well as of the powers and authorities of Congressional committees, and he has testified as an expert on Congressional investigations before Congress. He currently chairs the ABA's Committee on Legislative Process and Congressional Investigations. His contacts are extensive and strong in both Republican and Democratic circles.

Since joining Gibson, Dunn in 2008, Michael has defended clients in dozens of Congressional and other investigations and has prepared numerous CEOs and other top executives for committee hearings, depositions, and interviews. He also brings his more than two decades of investigations experience to bear on internal investigations on important matters for a variety of clients.

Michael's full biography can be viewed [here](#).



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Barry H. Berke is renowned nationwide as a leading trial lawyer and white-collar criminal defense attorney. He is Co-Chair of the firm's Litigation Practice Group and a member of the Trials and White Collar Defense and Investigations Practice Groups. Barry represents individuals and corporations in high-stakes trials, investigations, and complex litigation. He is a fellow of the American College of Trial Lawyers. Barry is widely acclaimed for his success and creativity as a trial lawyer and strategist, his ability to connect with and persuade juries, and his skills in protecting his clients' interests.

Chambers USA has recognized Barry as a Band 1-ranked trial lawyer nationwide and a "Star Individual" in New York for white-collar crime & government investigations (one of only five lawyers). He has been praised in *Chambers USA* as "one of the foremost litigators in the U.S.," "the go-to criminal defense lawyer in the country," and "universally regarded as one of the best in the white-collar business." His peers and clients describe him as "the best lawyer of our generation" and "America's greatest trial lawyer."

Barry served as chief impeachment counsel to the U.S. House of Representatives during the Senate impeachment trial of the former President of the United States. As lead counsel, Barry was instrumental in preparing and presenting a case that garnered widespread recognition for its precise choreography and compelling presentation of factual evidence and constitutional arguments.

Previously, Barry served as special counsel to the Judiciary Committee of the U.S. House of Representatives during its first investigation and impeachment of the former President. He was instrumental in building the investigative framework, developing and drafting the articles of impeachment, and playing a prominent public-facing role during the House impeachment hearings. His opening statement and cross-examination of key witnesses received widespread acclaim, with *The Washington Post* naming him "Distinguished Person of the Week" and *Slate* describing his cross-examination of the president's former campaign manager as "a cross-examination that should be mandatory viewing for every law student in the history of time."

Barry co-authored *The Practice of Federal Criminal Law: Prosecution and Defense* and has taught courses on criminal law and professional ethics at New York University School of Law. He is also chairman of the board of directors of the Coalition for the Homeless and former chairman of the board of directors of the Federal Defenders of New York.

Barry's full biography can be viewed [here](#).

EDUCATION

Harvard University
Juris Doctor

Duke University
Bachelor of Arts

CLERKSHIPS

U.S.D.C., Southern District of New York

Thomas G. Hungar

Partner / Washington, D.C.

Thomas G. Hungar is a partner in the Washington, D.C., office of Gibson, Dunn & Crutcher LLP. His practice focuses on appellate litigation, and he assists clients with congressional investigations and complex trial court litigation matters as well. He has presented oral argument before the Supreme Court of the United States in 27 cases, including some of the Court's most important patent, antitrust, securities, and environmental law decisions, and he has also appeared before numerous lower federal and state courts.

Thomas served as General Counsel to the U.S. House of Representatives from July 2016 until January 2019, when he rejoined the firm. As General Counsel, he provided legal advice and litigation representation on a non-partisan basis to the House and its leadership, members, officers, and staff, and he worked closely with numerous House committees in connection with their oversight and investigative activities. Previously, he served as a Deputy Solicitor General of the United States. In that position, he supervised business-related appellate litigation for the federal government, with particular emphasis on patent, antitrust, securities, and environmental appellate cases, and he also oversaw appellate litigation in banking, bankruptcy, tax, government contracts, communications, copyright, labor, trademark, and international trade matters. In private practice, Thomas's appellate experience has encompassed those areas as well as class actions, constitutional law, employment law, product liability, administrative procedure, insurance coverage and bad faith, and general commercial litigation. He has handled scores of business-related appeals in the Supreme Court and lower appellate courts, and has briefed and argued many high-profile matters.

Thomas previously served as an Assistant to the Solicitor General of the United States from 1992-1994. In that position he presented oral argument before the Court and handled numerous other appellate matters for the government. He also served as a law clerk to Justice Anthony M. Kennedy of the Supreme Court and to Circuit Judge Alex Kozinski of the United States Court of Appeals for the Ninth Circuit.

He received his law degree from Yale Law School in 1987, where he was a Senior Editor of the *Yale Law & Policy Review*. He received his bachelor of science degree *magna cum laude* in mathematics/computer science and economics from Willamette University in 1984.

Thomas's full biography can be viewed [here](#).



EDUCATION

Yale University
Juris Doctor

Willamette University
Bachelor of Science

CLERKSHIPS

U.S. Supreme Court, Hon. Anthony M. Kennedy

U.S. Court of Appeals, 9th Circuit



Amanda H. Neely

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Amanda H. Neely is of counsel in the Washington, D.C. office of Gibson, Dunn & Crutcher and is a member of the Public Policy, Congressional Investigations, White Collar, and National Security practice groups.

Amanda has extensive experience working on Capitol Hill. She leverages that expertise to advise clients regarding their interactions with Congress and the executive branch. Over the course of ten years, Amanda held several senior staff positions in Congress. She served as Director of Governmental Affairs for the Senate Homeland Security and Governmental Affairs and General Counsel to Senator Rob Portman. Under Senator Portman's chairmanship, she also served as Deputy Chief Counsel for the Permanent Subcommittee on Investigations. In those roles, she managed Senator Portman's regulatory reform agenda and led oversight of federal government agencies and investigations into private entities. She previously served in several other Capitol Hill offices including as Oversight Counsel for the House of Representatives Committee on Ways and Means.

At Gibson Dunn, Amanda has represented clients undergoing investigations by numerous congressional committees, including the Senate Permanent Subcommittee on Investigations; Senate Finance Committee; Senate Judiciary Committee; Senate Health, Education, Labor, and Pensions Committee; House Committee on Oversight and Accountability; House Judiciary Committee; and the House Energy and Commerce Committee. In the course of those representations, Amanda assists clients in all stages of investigations, including responding to letter requests and subpoenas to preparing witnesses for interviews, depositions, and congressional hearings.

Amanda also works with clients to advance their legislative interests on Capitol Hill by gathering intelligence, formulating strategic plans, and executing lobbying campaigns. In those matters, she has represented a wide range of clients from the fields of technology, healthcare, finance, and energy.

Amanda regularly advises clients regarding their interests before regulatory agencies. Her expertise in the CHIPS and Science Act allows her to help clients comply with the Department of Commerce's regulations and assist them in commenting on agency rules and applying for funding. She also works with clients to engage in the rulemaking process at agencies ranging from the Consumer Financial Protection Bureau to the Commodity Futures Trading Commission to the Securities and Exchange Commission.

Amanda's full biography can be viewed [here](#).

EDUCATION

Duke University
Juris Doctor

Princeton University
Bachelor of Arts

CLERKSHIPS

U.S. Court of Appeals, DC Circuit



Jillian N. Katterhagen

Associate Attorney / Washington, D.C.

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Jillian N. Katterhagen is an associate in the Washington, D.C. office of Gibson, Dunn & Crutcher. She practices in the firm's Litigation Department with a particular focus on white collar defense investigations, complex commercial litigation, global anti-corruption matters, and congressional investigations.

Jillian has experience representing financial institutions and multinational companies in investigations conducted by the Securities and Exchange Commission, the Department of Justice, and the United States Congress. She has conducted internal investigations involving alleged securities and accounting fraud, violations of the Foreign Corrupt Practices Act, violations of anti-money laundering laws, and violations of the False Claims Act. Additionally, Jillian has significant litigation experience and has represented clients in proceedings before administrative agencies.

She received her law degree from Stanford Law School in 2018. She served as an Editor for the *Stanford Law and Policy Review*, and as a student attorney in Stanford's Immigrants' Rights Clinic, where she advocated on behalf of clients seeking legal advice in connection with asylum applications and other immigration matters. Jillian graduated *magna cum laude* from Washington and Lee University, where she was elected to Phi Beta Kappa, earned a B.A. in history and politics, and served as the captain of the women's track and field team.

Jillian is admitted to practice in Texas and the District of Columbia.

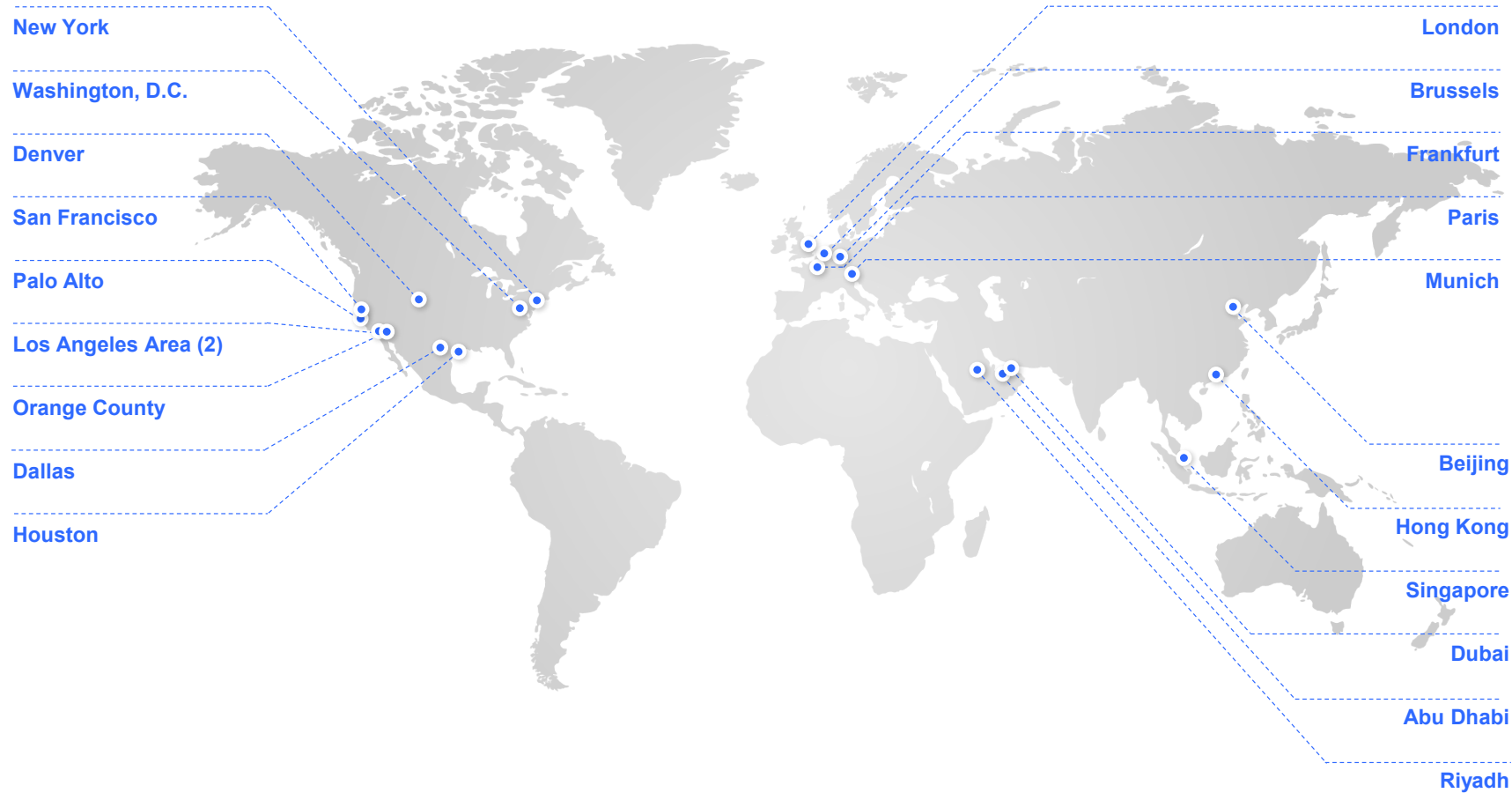
Jillian's full biography can be viewed [here](#).

EDUCATION

Stanford University
Juris Doctor

Washington & Lee University
Bachelor of Arts

Our Global Footprint



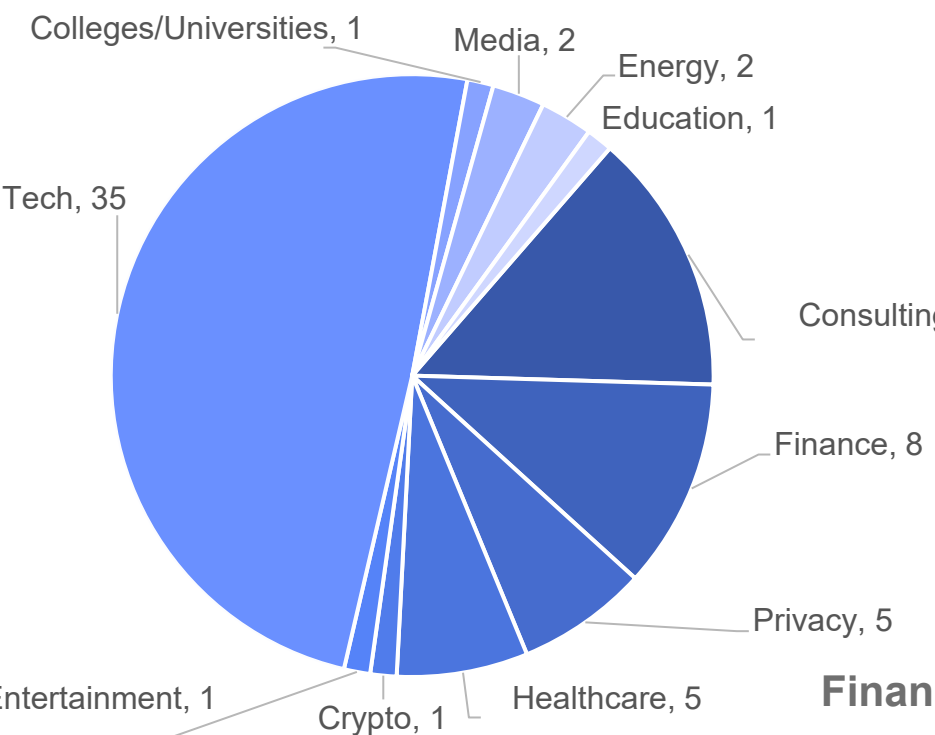
We are committed to providing the highest quality legal services to our clients around the globe.

Offices in
21 Cities
9 Countries

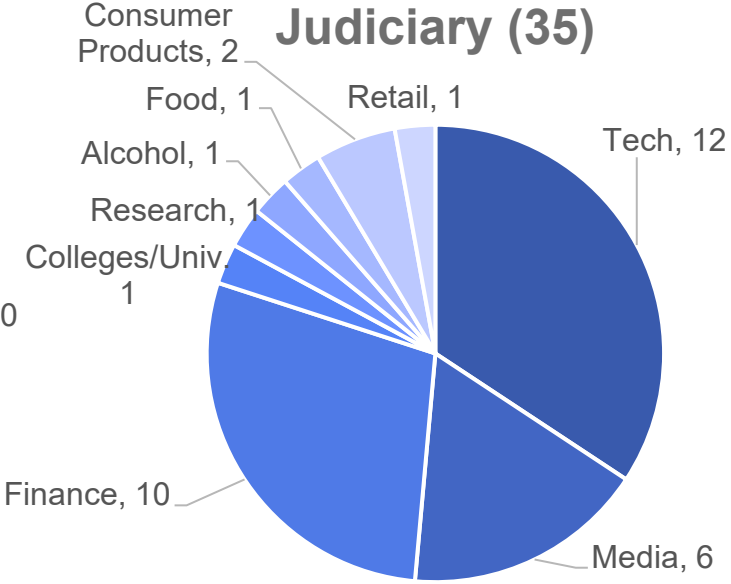
Appendix

Industries Investigated in the 118th Congress (House)

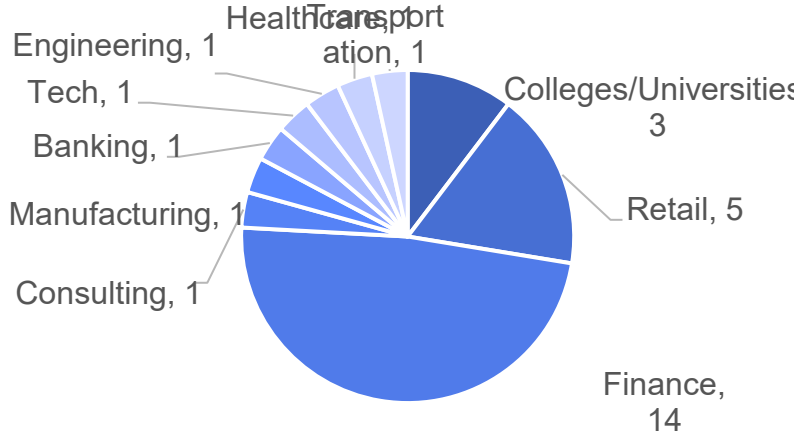
Energy & Commerce (71)



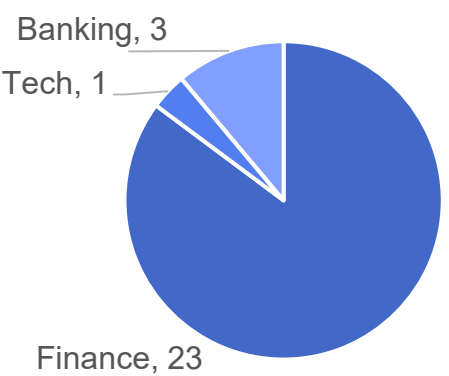
Judiciary (35)



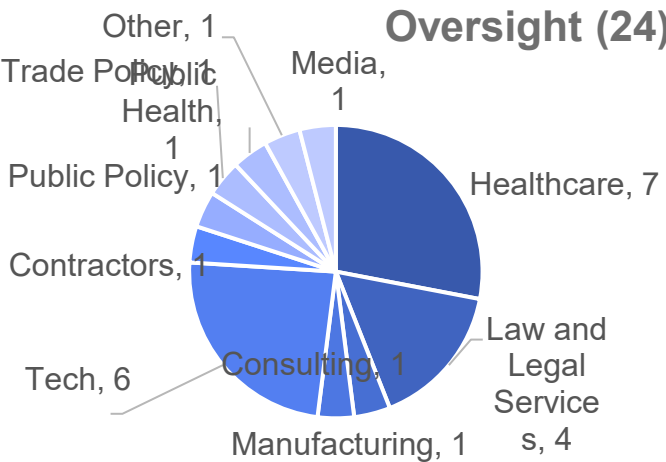
Select Committee on the CCP (30)



Financial Services (27)



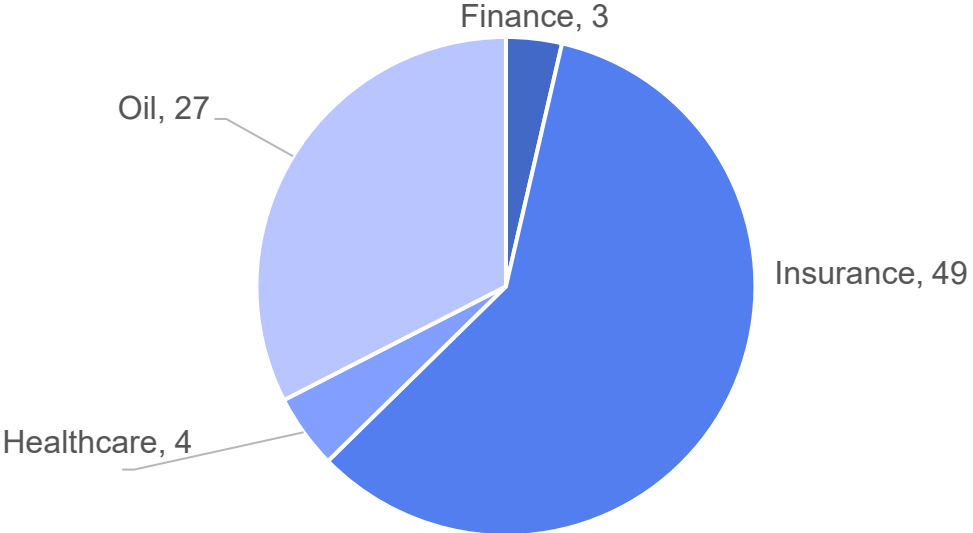
Oversight (24)



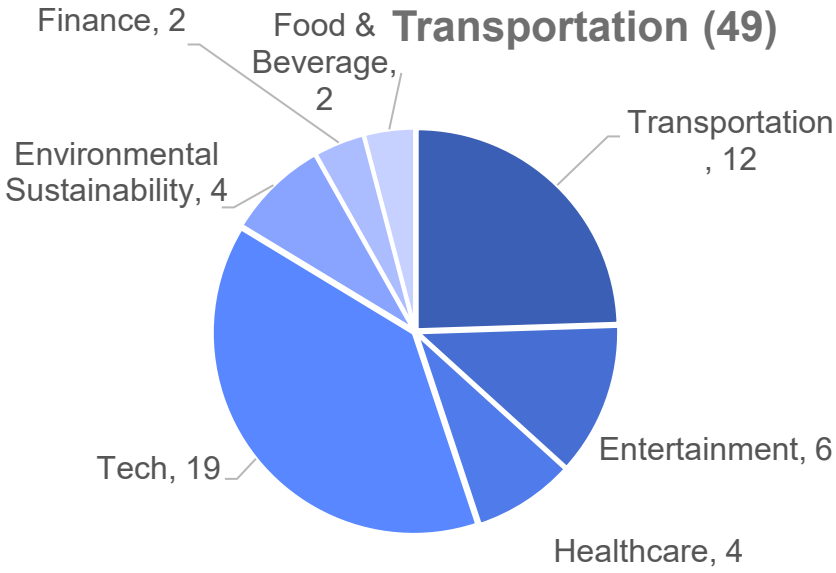
This data includes only investigations made public by the relevant committees, and each company investigated counts as one investigation in the industry.

Industries Investigated in the 118th Congress (Senate)

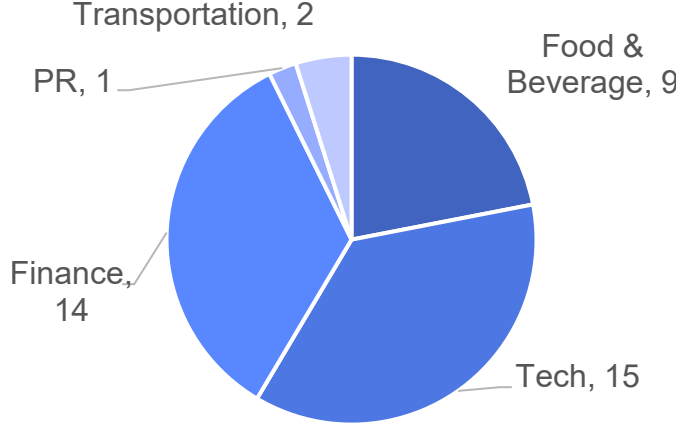
Budget (83)



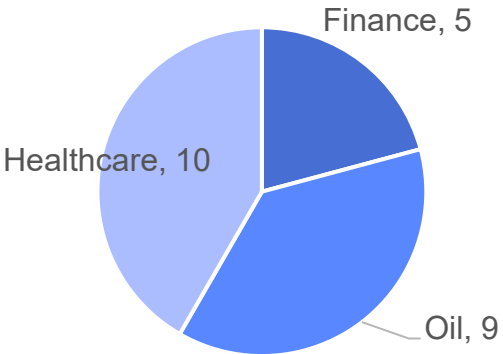
Commerce, Science, and Transportation (49)



Judiciary (41)



Finance (24)



HELP (14)

