



FEDERAL ELECTION COMMISSION

Washington, DC 20463

MEMORANDUM

TO: The Commission

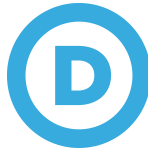
FROM: Office of the Commission Secretary *LC*

DATE: August 4, 2022

SUBJECT: AO 2022-14 (Google LLC) Organizational comment from DNC

Attached is the organizational comment from DNC on AO 2022-14 (Google LLC). This matter will be discussed on the Open Meeting of August 11, 2022.

Attachment



RECEIVED

By Office of the Commission Secretary at 8:52 am, Aug 04, 2022

August 3, 2022

VIA EMAIL

Office of General Counsel
Attn: Lisa J. Stevenson, Esq.
Federal Election Commission
1050 First Street NE
Washington, DC 20463
ao@fec.gov

RE: Advisory Opinion Request 2022-14

Dear Ms. Stevenson,

I am writing to register the Democratic National Committee's strong objection to Google's proposal to launch a pilot program exempting emails from federal candidates, party committees, and leadership PACs from its spam filters. This program will undermine the Commission's stated goal to protect political donors from deceptive solicitations by increasing the likelihood that such solicitations will reach donors' inboxes.¹ With Google's spam filter removed, participating committees will be incentivized to employ the abusive fundraising tactics that Google's spam filters would have otherwise caught, with the knowledge that this behavior will not be curtailed, but rather rewarded. Donors will be harmed, and confidence in our democracy and its leaders will be undermined.

The increase in misleading and predatory email tactics is well documented. For example, in recent years, Republican campaigns, party committees, and leadership PACs—the very entities Google proposes to exempt from its spam filters—have engaged in a variety of fundraising practices designed to mislead donors, including but not limited to:

- Pre-checked boxes that trick donors into unknowingly making recurring contributions²;
- Promises that if a donor contributes by a certain deadline, their contribution will be “matched” up to *thirteen times* the donor's contribution amount, when no such matching will actually occur³;

¹ Legislative Recommendations of the Federal Election Commission (May 6, 2021), <https://www.fec.gov/resources/cms-content/documents/legrec2021.pdf> (discussing misleading fundraising practices that the Commission would like Congress to address).

² Andrew Solender, *GOP Continues Trump Campaign's 'Deceptive' Online Fundraising Tactics*, FORBES (Apr. 7, 2021), <https://www.forbes.com/sites/andrewsolender/2021/04/07/gop-continues-trump-campaigns-deceptive-online-fundraising-tactics/?sh=730562f34a18>.

³ Shane Goldmacher (@ShaneGoldmacher), Twitter (12:32 PM, May 6, 2022), <https://twitter.com/ShaneGoldmacher/status/1522615268387827716>; Shane Goldmacher (@ShaneGoldmacher), Twitter (2:30 PM, July 6, 2022), <https://twitter.com/ShaneGoldmacher/status/1544750588692398080>; Shane Goldmacher (@ShaneGoldmacher), Twitter (10:35 AM, Jan. 1, 2022), <https://twitter.com/ShaneGoldmacher/status/1477302516996087809>.



- Fundraising sweepstakes where no entrant receives the advertised prize⁴;
- Solicitations that misrepresent how contributed funds will be used⁵; and
- Solicitations based on outright lies about legislation and public policy.⁶

The volume and effect of these deceptive solicitations is substantial. For example, the Trump campaign, the Republican National Committee, and their joint fundraising committees were forced to refund tens of millions of dollars in contributions — many of which were received because donors did not see pre-checked recurring contribution boxes on the committees’ fundraising pages, which are heavily promoted via email.⁷

Google’s proposal will exacerbate this problem, to the detriment of voters and our democracy. By Google’s own metrics, its spam filters block approximately 99.9% of spam, but it now proposes allowing committees to dodge this critical filter to reaching its users even though, as Google acknowledges, “in recent elections, there have been efforts to undermine the electoral process with misinformation in various forms of communication.”⁸ Its proposal does nothing to stop the Republican Party’s predation on unsuspecting small-dollar donors, instead capitulating to a Republican pressure campaign and clearing the way for more of these inexcusable tactics.⁹

Finally, it should be noted that while Google claims that it has crafted this pilot program to “address concerns about Google’s approach on Gmail spam filtering,”¹⁰ it is clear from the thousands of comments submitted since its request was made public that Google’s actual customers are not asking for this. That is because this program will place the burden on Google’s users themselves to protect their inboxes from unwanted political spam emails, many of which will contain the deceptive solicitations described above. I therefore urge the Commission to reject this irresponsible and unnecessary program.

⁴ Shane Croucher, *Trump Campaign's Meal Contests Are 'Out-and-out Fraud' if Nobody Wins, Says Ex-White House Lawyer*, NEWSWEEK (Nov 6, 2019),

<https://www.newsweek.com/trump-2020-campaign-contests-president-fraud-meal-1470100>; William Vaillancourt, *Trump Held a Contest for Small-Dollar Donors to Have Dinner With Him. No One Won*, ROLLING STONE (Mar. 11, 2022),

<https://www.rollingstone.com/politics/politics-news/trump-fundraising-donor-dinner-new-orleans-con-1320246/>.

⁵ ; Deepa Shivaram, *The Jan. 6 committee says the Trump campaign ripped off donors. But was it illegal?*, NPR (June 6, 2022), <https://www.npr.org/2022/06/16/1105279623/jan-6-committee-trump-campaign-legal-defense-fund>.

⁶ Maggie Astor, *Now in Your Inbox: Political Misinformation*, N.Y. TIMES (Dec. 13, 2021),

<https://www.nytimes.com/2021/12/13/us/politics/email-political-misinformation.html>.

⁷ Shane Goldmacher, *How Trump Steered Supporters Into Unwitting Donations*, N.Y. TIMES (Apr. 3, 2021),

<https://www.nytimes.com/2021/04/03/us/politics/trump-donations.html>.

⁸ Request at 4, 7.

⁹ Emily Birnbaum & Marianne Levine, *GOP senators’ private meeting with Google turns tense over email bias claims*, POLITICO (May 5, 2019),

<https://www.politico.com/news/2022/05/19/google-meeting-republican-senators-emails-00033834>; Susan Ferrechio, *Republicans target political bias in Google spam filter*, WASH. TIMES (Jun. 16, 2022),

<https://www.washingtontimes.com/news/2022/jun/16/gop-clash-silicon-valley-escalates-new-bills-filte/>.

¹⁰ *Id.* at 6.



Sincerely,

Sam Cornale
Executive Director
Democratic National Committee