



FEDERAL ELECTION COMMISSION

Washington, DC 20463

MEMORANDUM

TO: The Commission

FROM: Office of the Commission Secretary *LC*

DATE: July 29, 2022

SUBJECT: AO 2022-14 (Google LLC) 27 Individual Comments

Attached are 27 individual comments on AO 2022-14 (Google LLC).

Attachment

RECEIVED

By Office of the Commission Secretary at 3:05 pm, Jul 29, 2022

From: [Michael Dee](#)
To: [AO](#)
Subject: AO 2022-14
Date: Wednesday, July 27, 2022 4:56:18 PM

Please DO NOT go thru with exempting political emails from Spam filters! Gifting the GOP with free access to sling their evil to rational people who want nothing to do with them will not be accepted! I have no desire to stop using Gmail or Google or go thru the trouble of unwinding all the places it is stored for other accounts but if you do proceed that is exactly what I'll do, close my gmail and avoid using Google sites and products going forward.

Thanks,
Michael Dee

From: [Dean Robb](#)
To: [AQ](#)
Subject: AOR 2022-14 (Google LLC)
Date: Thursday, July 28, 2022 4:19:52 PM

Sirs:

I write in strong opposition to AOR 2022-17, the request by Google, LLC to initiate a pilot program to keep political emails from being caught in its spam filters.

This proposed program is a response to pressure applied by Targeted Victory, a mass-mailing provider to almost-exclusively Republican political entities. Targeted Victory has misrepresented the results of a North Carolina State University study that they claimed "proved" that Google was biased against Republicans because more Republican emails than Democrat emails were caught in Google's spam filters. Targeted Victory disseminated this false information to its clients and urged them to take action, conveniently neglecting to share the fact that the study also found that Outlook and Yahoo! (the other major email providers tested) filtered more *Democrat* emails and failed to pass on other caveats to the study's data.

Targeted Victory jumped, without solid evidence, to the conclusion that the facts above were deliberate acts of partisanship and prejudice against Republicans. Their conclusion failed to take into account that a) spam filter algorithms are notoriously inaccurate, and b) that the Targeted Victory emails might have more spam-like qualities to Google's algorithms.

The solve-a-problem-that-doesn't-exist efforts included pressing Republican lawmakers to introduce bills to "stop this censoring of Republican voices", urging several Republican Congresspeople to file complaints with this very body, encouraging a story by Fox News, and creating a phony, astroturf "coalition" named Freedom to Connect. Targeted Victory also applied, and caused to be applied, considerable pressure on Google, all in furtherance of their *commercial* desire to get into more citizens' inboxes.

In addition to being a "solution" to a fabricated "problem", the program as proposed imposes a significant burden on the individual citizen. It would require each person to separately reply to each organization's email with an "unsubscribe" response (which indicates that it was an unwanted and unasked-for email - the very definition of spam). As of Dec 2020, Targeted Victory alone had a reported client list of 162 committees and PACs. Not accounting for growth in their client list nor for any other political email campaigns, this means that a person would have to respond individually to **several hundred** unwanted emails. Given that it's not uncommon for one person to have, or be responsible for, multiple email addresses, this

number could easily be in the **thousands**.

Furthermore, receipt of the rejection email by a sender indicates to the sender that the respective address is a valid email address and can, and will be, added to their mailing list for sale to other emailers - which starts the cycle over again, further burdening the citizen.

Empirical data would further suggest that the alleged bias by Google does not significantly impact the Republican senders of political emails based on their election and fund-raising successes.

In sum, this proposed pilot program is driven by a false narrative driven by a commercial entity working on behalf of Republicans to increase their penetration into Americans' email inboxes. This narrative has been pushed by Targeted Victory and accepted as true by significant numbers of its clients, who have taken action on this phony issue at taxpayer expense. The narrative has been supported by the company by unethical and possibly illegal methods.

If permitted to go forward, this proposed plan would create a substantial, ongoing burden on virtually every American citizen due to the required rejection of every single email permitted by this program. It would further allow email senders to obtain valuable citizen data which will then be used for the sender's financial gain and subject the individual citizen to even more unwanted emails.

Please, reject AOR 2022-14 for the good of the United States.

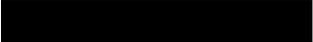
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Dean Robb
Virginia Beach, VA

From: [Paula Killen](#)
To: [AQ](#)
Subject: DON" T Do it.
Date: Thursday, July 28, 2022 2:44:28 PM

Political ads need to be checked based on the incredible amount of lying that's overtaken our political landscape. From the Big Lie to Fake News, don't be part of it.

Paula Killen



From: [PM Daeley](#)
To: [AQ](#)
Subject: Google political ad spam filter
Date: Thursday, July 28, 2022 4:41:17 PM

The FED should not approve this proposal by Alphabet, Inc., parent company to Google. It is imperative that the possible recipient of advertising or other marketing/ promotional materials be the decision-maker on what lands in their inbox. The public is subjected to an overwhelming amount of political advertising during the lead up to national and local elections. We do not need to be stripped of our ability to control what and how we view these advertisements.

Sincerely,
Patricia M. Daeley

From: [Walt Kaechele](#)
To: [AQ](#)
Subject: Google spam bypass
Date: Thursday, July 28, 2022 3:20:29 PM

As if Google needs another money making scheme at the expense of the public through more deceitful advertising, brings two things to mind: one, Google needs to find better ways to make revenue and two; tell Google to go to hell!

From: [dale tucker](#)
To: [AO](#)
Subject: Google to allow fund-raising email to by pass spam filters - No! Just No!
Date: Thursday, July 28, 2022 4:20:07 PM

I know who I want to support and do NOT need unwanted solicitations from political parties in my email or my browsing results.

Thx, D.

Dale S. Tucker



From: [Michelle Marques](#)
To: [AO](#)
Subject: I Strongly Oppose Google's Request: "AO 2022-14."
Date: Thursday, July 28, 2022 1:31:59 PM

Hello,

The Federal Election Commission should not let political email bypass spam filtering. This will open the floodgates to an overwhelming amount of spam. Political campaigns are notorious for sharing and buying email databases and it is far too easy for someone to be added to a political campaign list without their consent. Please use common sense and do not allow this proposal by Google to go forward. The risk especially to the elderly population who are more likely to respond to manipulative spam messages is very great. By doing this, you could be responsible for countless vulnerable seniors sending all of their money to greedy politicians. That would be the legacy of your board's decision and you would be wholly responsible for it.

Do the right thing.

Michelle Marques
KSRO Radio News Director
Santa Rosa, California

From: [Brenda Chaney](#)
To: [AQ](#)
Date: Thursday, July 28, 2022 4:02:00 PM

No political fundraising emails. My life seems to revolve around deleting political texts. I dont want to give up the few minutes of free time I still have to deleting fundraising ads on Gmail.
Brenda Chaney

From: [rochelle busbey](#)
To: [AQ](#)
Date: Thursday, July 28, 2022 1:45:29 PM

Please do not allow political fundraising emails to go directly to my in box! So much junk already!!

From: [DORIS SHERRY](#)
To: [AQ](#)
Subject: No
Date: Thursday, July 28, 2022 1:25:58 PM

No political ads

Cathy Sherry



From: [Carolynn Kohout](#)
To: [AQ](#)
Subject: Re: Google's request for unsolicited political emails to Gmail users, not ID'ed as spam
Date: Thursday, July 28, 2022 10:55:47 AM

Dear Reader;
Re: Google's pilot program,
- which seeks to deliver more unsolicited political emails to Gmail users
- instead of marking them as spam.

The issue is before the FEC.

Google has asked the commission,
- whether a program like the one it has proposed,
would have to be treated as a prohibited, in-kind donation to campaigns.

Strengthen regulations on political communications.

My concern: this request encourages greater emotional and political divides

- in populations that are already divided,
- where people can't amiably agree to disagree,
thus, all political emails need to be off-limits to Inboxes,
- regardless of party.

Neither scapegoating nor finger pointing is appropriate.

The human condition: Some individuals in all political parties use

- simplified, dramatic emotional persuasion
designed to scare easily-impressed individuals
to do their bidding/giving donations...*.

These individuals need boundaries.

Consequences:

- 1- Gmail could stoke apathy;
- 2- turn the public off to getting more engaged in politics; thus

3- not support political engagement.

We need a more aware and participating public, not the reverse.

Spam filter concerns:

1. Potential for the policy to degrade user experience -

The public does not want emails coming into their inboxes they

1) have not sign up for and

2) do not have time to digest.

I get 50 emails every day, including Sunday.

It currently uses up a tremendous amount of time

- to delete donation requests and emails I did not request.

I don't have time to mark/delete

- dozens, hundreds, or thousands of emails as spam.

2. Politicians bypassing Gmail spam filters and do-not-call lists.

This is like an exemption from the Telephone Consumer Protection Act (TCPA).

NOT OK!

Political parties would be overstepping legal boundaries,

thus nullifying the TCPA.

Political emails, as Google is requesting,

are not Opt-out,

which means they are the definition of SPAM.

3. Leads to misinformation spreading.

Ignoring the human tendency for

- 1) "bad actors" registering to run for office;
 - 2) becoming exempt from spam filters; and
 - 3) positioning themselves to *scam unsuspecting users
- who have trusted Google to filter out malicious content.

4. Note history: emails were implicated as part of what caused the January 6 riot,

- pushing an election fraud conspiracy.

Sincerely,

Carolynn Kohout

Hillsboro, Oregon

From: [Mary Griffin](#)
To: [AQ](#)
Subject: Spam evasion
Date: Thursday, July 28, 2022 1:28:47 PM

Please do not let Google allow political fundraising emails to bypass spam filters. I already get far too many requests for money on line, on my phone and in messaging apps.

This trivializes the electoral process further.

Thank you.

--

M Griffin



From: [Kris Marohn](#)
To: [AQ](#)
Subject: Spam
Date: Thursday, July 28, 2022 2:36:09 PM

Do NOT allow Google or anyone else to send anything to anyone by ignoring spam filters. We have them for a reason. We don't want or like spam.

Kris Marohn



From: dan maceda
To: [AQ](#)
Subject: Gmail political spam
Date: Thursday, July 28, 2022 10:53:00 AM

Please stop Gmail from allowing political spam
there is already too much spam of all kinds.
Dan Maceda

From: Dennis Hammermeister
To: [AQ](#)
Subject: political adds bypassing spam filters
Date: Thursday, July 28, 2022 2:29:49 PM

Are you nuts?

I don't know of one person who likes getting these political endorsement adds asking for a donation.

Let the spam filters do their job.

If you make an exception for political adds, what's next?

No spam filters for sexual adds?

Grow up people.

You can't yell fire in a theater!

From: Christian Odger-Smythe
To: [AO](#)
Subject: Request AO 2022-14
Date: Thursday, July 28, 2022 9:44:10 PM

To whom it may concern,

I find the idea of political emails being exempt from filtering into the spam folder utterly appalling and would urgently call for the denial of any such request.

Sincerely,
A Concerned Gmail User

From: Judith Simmons
To: [AQ](#)
Subject: spam is disturbing
Date: Thursday, July 28, 2022 6:05:31 PM

NO, No,No!! Google needs to withdraw their attempt at being bipartisan 'cause it's all about greed.

From: [Paul Winer](#)
To: [AQ](#)
Subject: AO 2022-14
Date: Friday, July 29, 2022 11:15:16 AM

This is absurd. Do not allowed this additional control by politicians to divide out nation.

Paul Winer

From: [gmliii](#)
To: [AO](#)
Subject: Comments in Opposition to Advisory Opinion Request No. 2022-14
Date: Friday, July 29, 2022 9:02:10 AM

[Inasmuch as your system appears to not have accepted my attached .pdf file, I am resubmitting my comments.]

Dear Chairperson Dickerson:

I write to request the Federal Election Commission (“FEC” or “Commission”) deny Advisory Opinion Request 2022-14 (the “AO Request”) by Google LLC to permit spam on its platform exclusively from federally registered political committees.

In the AO Request at issue, Google proposes to create a pilot program whereby registered political participants will be able to send email while avoiding Google’s general spam filters, free of charge. Google suggests that this would “improve the user experience”. I fail to see how flooding users’ inboxes with political spam improves the users’ experience.

Google’s assertion is at the very least doubtful; worse, it is an outright falsity. Moreover, it is contrary to law. ^[1]

Federal law bars Google, a corporation, from making contributions to influence federal elections, 52 U.S.C. § 30118(a), including by the “provision of...services without charge or at a charge that is less than the usual and normal charge,” 11 C.F.R. § 100.52(d)(1). In contrast, the law permits a corporation to engage in a “bona fide commercial activity” with registered political entities, even if such activity confers a benefit on the entity. AO 2008-10 (Voter Voter) at 6. A bona fide commercial activity is one offered “on the same terms and conditions available to all similarly situated persons in the general public.” AO 2004-06 (Meetup) at 1.

This AO Request is, on its face, not available to “all similarly situated persons in the general public.” Id. Rather, it is available only to “authorized candidate committees, political party committees, and leadership political action committees that are registered with the Federal Election Commission during the 2022 election cycle.” The current plan is intended to permit Google to provide a unique service to only registered political entities and, even among them, one that serves the needs of only one political party.

Google’s stated purposes fail to adequately justify its decision to confer this unique benefit on registered political entities, separate from Google’s millions of other users. Google’s purported desire to “test whether users received more email [than] they want”^[2] does not support providing special exemptions for registered political entities for this special benefit. Rather, a useable test would need to engage in random sampling, not a selective benefit provided to particular spammers.

There are at least several benign explanations for the alleged filtering of Republican emails:

- Users mark previously-received emails as spam thus creating a rule that labels future communications as spam;
- Republican emails are in fact spam; and
- Republican emails include words, terms and phrases that trigger Google automated spam filter – the same as for every other email sender.

With regard to the third explanation above, it seems that rather than edit their communications to avoid Google’s spam filters that apply equally across the board, Republicans simply want to continue to send spam or spam-like emails under a special exemption. Their audacity is shocking.

The reality of the situation, though unstated, seems clear: Google seeks to cave to demands of Republican politicians who have fabricated tales of bias at Google in order to bypass the Google spam filter that apply to everyone else. ^[3]
For example, the *New York Times* reported that the Trump Campaign used misleading and potentially fraudulent

fundraising practices in its email solicitations. Shane Goldmacher, How Trump Steered Supporters Into Unwitting Donations, NY Times, Apr. 3, 2021, <https://www.nytimes.com/2021/04/03/us/politics/trump-donations.html>. Politico reported that the Trump campaign used misleading subject lines and spam-like senders. Danya Hajjaji, Donald Trump Campaign Emails Use Misleading Subject Lines, Spam-Like Senders, *Newsweek*, Dec. 31, 2021, <https://www.newsweek.com/trump-campaign-emails-use-misleading-subject-lines-spam-like-senders-1664579>. One would expect any truly political neutral algorithm to have a disparate impact. Indeed, Google itself has explained that the disparate filtering is likely the result of users' behavior marking mail as spam. Birnbaum and Levine, GOP senators' private meeting with Google turns tense over email bias claims (attributing statement to Kent Walker, Google's chief legal officer, explaining impact was due to "past user behavior").

This is furthered by the fact that at least four Attorneys General are currently investigating fraudulent and misleading political fundraising practices. Given this reality, now is not the time for the FEC to make it easier for political fundraisers to evade spam protections and send unwanted emails to every Gmail user. ^[4]

The real impact of the AO Request would be to override user decisions about emails or senders who send spam. Having already marked incoming emails as spam, this AO Request would force Gmail users to again receive emails they have already opted out of. This quashing of users' choices by Google in favor of disgruntled Republicans does not level the playing field—rather it will confer a benefit on one political party by overriding users' already-made decisions. This is indeed the very definition of an activity intended to influence federal elections.

Further, the AO Request would not be an application of "establish[ed] objective business criteria" in a way that had an unintended disparate impact, AO 2017-16 (Stein and Gottlieb) at 6 (vendors need not "make its services available to committees representing all political ideologies" as long as decision rested on "objective business criteria"), or even a decision to do business with only one ideological side but in exchange for commercially reasonable compensation, *cf.* 11 C.F.R. § 100.52(d)(1). Rather, it is a direct benefit conferred on political campaigns for the purpose of providing a greater value to one campaign over another. It would be no more "non-partisan," AO Request 13, than a proposal to offer, free of charge and equally to all political parties, a service to make campaign ads supporting the Democratic presidential nominee.

It is equally plausible, if not highly likely, that Google is heavily motivated by a desire to avoid the possibility of harmful legislation and other retaliatory moves by capitulating to demands of one political party, but even that motivation does not make Google's proposal lawful. ^[5] To the contrary, it is Google trying to buy off a political party to avoid arguably adverse future regulation. The desire to obtain good will, and the desire to avoid ill-will, does not establish that the corporation's activities are *bona fide* commercial activities that do not intend to influence elections.

If Google is concerned that its current spam filter may be blocking desired mail service, it is of course free to implement changes. But it should not and cannot create a carve out that is intended to benefit a single political party, even if it is only motivated by Google's fear of political retribution. Rather than provide a *bona fide* commercial service that is available to all "similarly situated" entities, Google is proposing to provide a service that in intent and in effect favors one "particular candidate, party or speaker." *Cf.* AO Request 2.

I therefore request that the Commission **REJECT** AO Request 2022-14.

^[1] Regrettably, under its current leadership, the FEC seems to place little import on the statutes governing its activities. See, e.g., the FEC's recent troubling practice of proposing significant actions without providing reasonable or legally mandated periods for public comment. For example, recently, the FEC adopted an interim rulemaking, Agenda Item 22-19-A1-Revised, without permitting any time for public comment. See Letter from Allen Dickerson Re: Interim Final Rule Removing 11 C.F.R. § 109.10(e)(1)(vi) – Revised, June 7, 2022 (submitted for consideration at June 8, 2022 hearing), <https://www.fec.gov/resources/cms-content/documents/mtgdoc-22-19-A1.pdf>.

^[2] AO Request at 6–7.

^[3] See Emily Birnbaum and Marianne Levine, "GOP senators' private meeting with Google turns tense over email bias claims", Politico, May 19, 2022, <https://www.politico.com/news/2022/05/19/google-meeting-republican-senators-emails-00033834>. Google has been

under pressure since a recent study found that Google's spam filters "mark a higher percentage of [politically] right emails as spam." Hassan Iqbal, Usman Mahmood Khan, Hassan Ali Khan, Muhammad Shahzad, A Peek into the Political in Email Spam Filtering Algorithms During Us Election 2020, 4 (Mar. 31, 2022), <https://arxiv.org/pdf/2203.16743.pdf>. In response, Republicans in Congress have introduced legislation to permit their candidates to evade spam filters. See Kevin McCarthy, Leader McCarthy, Rep. Lesko, and GOP Leaders Introduce Bill to Combat Big Tech's Biased Algorithms (June 21, 2022) <https://republicanleader.house.gov/leader-mccarthy-rep-lesko-and-gop-leaders-introduce-bill-to-combat-big-techs-biased-algorithms/>; see also Scott, Thune, Senate Republicans Introduce Political BIAS Emails Act (June 16, 2022), <https://www.scott.senate.gov/media-center/press-releases/scott-thune-senate-republicans-introduce-political-bias-emails-act>. Republicans have accused Google of bias and a desire to influence elections in favor of Democrats. See Max Greenwood, Republicans file FEC complaint over alleged Google censorship of fundraising emails, *The Hill*, Apr. 27, 2022, <https://thehill.com/homenews/campaign/3468075-republicans-file-fec-complaint-over-alleged-google-censorship-of-fundraising-emails/>.

[4] Steve Thompson and Amy B. Wang, "Attorneys general in 4 states looking into online fundraising practices of both major parties," *The Washington Post*, July 8, 2021, available at: https://www.washingtonpost.com/local/md-politics/attorney-generals-donations-winner-act-blue/2021/07/08/671a6af6-e045-11eb-ae31-6b7c5c34f0d6_story.html.

[5] Republican Senator John Thune introduced the "Political Bias in Algorithm Sorting Emails Act of 2022" on June 15, 2022". See <https://www.kennedy.senate.gov/public/2022/6/kennedy-thune-introduce-political-bias-emails-act-to-hold-big-tech-accountable-for-political-bias>. The legislation would prohibit email services like Google from using algorithms that are biased against conservatives while increasing transparency for political campaigns using these Big Tech platforms.

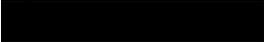
From: [keith badgett](#)
To: [AQ](#)
Date: Thursday, July 28, 2022 9:21:12 PM

I don't want political adds to bypass my spam filters.

From: [Lynn Gullick](#)
To: [AQ](#)
Subject: Political ads in email permitted by Google
Date: Thursday, July 28, 2022 7:02:52 PM

DO NOT PERMIT GOOGLE TO OVERRUN OUR INBOX. Please vote against this Google proposal. It would negatively effect our ability to do business, to interact family and friends and to have any privacy on our phones.

This Google cowardice and complacency toward its customers privacy and ability to do business can not be permitted.

Lynn Gullick


From: [Mike Blum](#)
To: [AO](#)
Subject: AO 2022-14 (Google LLC)
Date: Friday, July 29, 2022 1:22:02 PM

As someone who occasionally send bulk mail to our mailing list and is frequently surprised by the open rates, I understand the knee jerk reaction the GOP seems to have about solicitations being sent to SPAM. But I do NOT want to see any steps taken to go back to the garbage heap of SPAM that Gmail successfully conquered. Making exceptions for political solicitations is gross. And I don't believe for a nanosecond that the GOP are somehow being picked on. Please keep SPAM filters strong. Reject this pilot program idea!

-Mike Blum



From: [Robert Feit](#)
To: [AQ](#)
Subject: AO 2022-14
Date: Friday, July 29, 2022 12:48:46 PM

PLEASE do not allow Google to allow unsolicited political emails to skip spam filters and go to my inbox. We're inundated as is with political (and other) advertising, this would just add to the misery.

From: [Carla H](#)
To: [AO](#)
Subject: AO 2022-14
Date: Friday, July 29, 2022 12:38:12 PM

I want political emails to be identified as SPAM unless I manually say it is not.

Thanks for the opportunity to speak,
~ Carla ~

From: [a b](#)
To: [AO](#)
Subject: Comment on AO 2022-14
Date: Friday, July 29, 2022 12:19:15 PM

I have just recently learned of this proposal from Google. I am AGAINST, in the strongest possible terms, the FEC allowing political SPAM to just be sent through to people's email inboxes. These emails are more than just nuisances - they are obnoxious. If politicians want to get through to more people, maybe they should just write/speak to people in normal (honest, simple not truth twisted language) tones and terms. Thank you.
Anne Bucciere

From: Pat Smith
To: [AQ](#)
Subject: Political fundraising emails are spam
Date: Friday, July 29, 2022 11:22:06 AM

Political fundraising emails are spam and should be treated as such. Don't let Google convince you otherwise. Our inboxes need less spam, not more.

From: [Karl Forest](#)
To: [AO](#)
Subject: AO 2022-14 Public Comment Against
Date: Monday, July 18, 2022 1:30:36 AM

My name is Karl Forest and I am a registered voter living at [REDACTED]
[REDACTED]. I depend on Google Mail. I would like to communicate my opinion
opposing a proposal from Google to allow any FEC-registered political committee emails to
no longer automatically be assigned to my Spam folder.

I believe this is clearly a political move and will allow political committees to pay to
circumvent automatic assignment to my spam folder. This will result in a flood of unwanted
email I will have to manually identify as spam. Please leave the current filtering into spam as
it currently works.

I am against this proposal. Please deny it.

Thank you for your consideration.

Karl Forest