

ONE HUNDRED EIGHTEENTH CONGRESS

Congress of the United States

House of Representatives

COMMITTEE ON THE JUDICIARY

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WASHINGTON, DC 20515-6216

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judiciary.house.gov

March 2, 2024

Mr. Daniel F. Donovan
King & Spalding LLP
1700 Pennsylvania Avenue, NW
Washington, DC 20006-4707

Re: Alphabet

Dear Mr. Donovan:

The Committee on the Judiciary is conducting oversight of how and to what extent the Executive Branch has coerced or colluded with companies and other intermediaries to censor lawful speech.¹ Congress has an important interest in protecting and advancing fundamental free speech principles. To develop effective legislation, such as the possible enactment of new statutory limits on the Executive Branch's ability to work with Big Tech to restrict the circulation of content and deplatform users, the Committee must first understand how and to what extent the Executive Branch coerced and colluded with companies and other intermediaries to censor speech. To this end, we have asked for communications between Alphabet and the Executive Branch, internal Alphabet communications discussing communications from the Executive Branch, and Alphabet communications with third parties that may have been working with the Executive Branch, in addition to other key information.

As a part of this oversight, on February 15, 2023, after efforts to obtain the voluntary compliance of your client, Alphabet, the Committee issued a subpoena for relevant documents, with a return date of March 23, 2023.² Alphabet's rolling productions were insufficiently responsive to the Committee's request, so the Committee again wrote to Alphabet on May 8, 2023, reasserting the requests.³

Since the Committee issued the subpoena, we have obtained evidence that the federal government has coerced or colluded with technology, social media, and other companies,

¹ Ryan Tracy, *Facebook Bowed to White House Pressure, Removed Covid Posts*, WALL ST. J. (July 28, 2023).

² Letter from Rep. Jim Jordan to Sundar Pichai, CEO, Alphabet (Feb. 15, 2023) (attaching subpoena).

³ Letter from Rep. Jim Jordan to Daniel Donovan (May 8, 2023).

including Alphabet, to moderate content online.⁴ In particular, the Committee obtained documents showing how the federal government has pressured Alphabet to censor certain content, including content that did not violate YouTube’s content moderation policies.⁵

In light of new reporting regarding how Alphabet intentionally biased its AI model, Gemini, by giving it instructions that distort the results shared with Americans who use the model as a source for information, we write to inform you that the Committee views the subpoena as covering material relating to this technology.⁶

Recent reporting alleges that the Executive Branch, most notably the Biden White House, may have influenced the development of Alphabet’s Gemini AI model.⁷ On October 30, 2023, President Biden issued an Executive Order on the “Safe, Secure, and Trustworthy Development and Use of Artificial Intelligence,” which claimed to serve as an overarching guide to how the Biden Administration will approach issues like AI development and deployment.⁸ The Executive Order states that its guidelines will purportedly “advance[] equity.”⁹ A recent report by the company’s Gemini Team stated that its new AI tool was evaluated by external groups, which were selected based on their alignment with the Biden White House Executive Order and “White House Commitments.”¹⁰ Alphabet claimed that it worked with these external groups “to help identify areas for improvement,” including “societal risk,” such as alleged “representational harms.”¹¹

⁴ See, e.g., Jim Jordan (@Jim_Jordan), X, (July 27, 2023, 12:03 PM), https://twitter.com/Jim_Jordan/status/1684595375875760128; Jim Jordan (@Jim_Jordan), X, (July 28, 2023, 12:03 PM), https://twitter.com/Jim_Jordan/status/1684957660515328001; Jim Jordan (@Jim_Jordan), X, (Aug. 3, 2023, 11:00 AM), https://twitter.com/Jim_Jordan/status/1687116316073930752; Jim Jordan (@Jim_Jordan), X, (Sept. 5, 2023, 6:17 PM), https://twitter.com/Jim_Jordan/status/1699184930331267539; Jim Jordan (@Jim_Jordan), X, (Nov. 30, 2023, 8:44 AM), https://twitter.com/Jim_Jordan/status/1730221179632226337; Jim Jordan (@Jim_Jordan), X, (Dec. 1, 2023, 2:26 PM) https://twitter.com/Jim_Jordan/status/1730669728002142706; Rep. Jim Jordan (@Jim_Jordan), Twitter (Feb. 5, 2024, 5:44 PM), https://twitter.com/Jim_Jordan/status/1754637204146581783; see also Ryan Tracy, *Facebook Bowed to White House Pressure, Removed Covid Posts*, WALL ST. J. (July 28, 2023).

⁵ See Rep. Jim Jordan (@Jim_Jordan), X (Nov. 30, 2023, 8:44 AM), https://twitter.com/Jim_Jordan/status/1730221179632226337; Rep. Jim Jordan (@Jim_Jordan), X (Dec. 1, 2023, 2:26 PM), https://twitter.com/Jim_Jordan/status/1730669728002142706.

⁶ See, e.g., Nico Grant, *Google Chatbot’s A.I. Images Put People of Color in Nazi-Era Uniforms*, THE N.Y. TIMES (Feb. 22, 2024); Chris Pandolfo, *Google to pause Gemini image generation after AI refuses to show images of White people*, FOX BUSINESS (Feb. 22, 2024).

⁷ See, e.g., Gemini Team, *Gemini: A Family of Highly Capable Multimodal Models*, at 20 (submitted Dec. 19, 2023), available at <https://arxiv.org/pdf/2312.11805.pdf> (citing the White House’s “Voluntary AI Commitments” (July 2023)); Jamie Joseph, *Sen. Tom Cotton torches Google AI system as ‘racist, preposterously woke, Hamas-sympathizing’*, FOX NEWS (Feb. 23, 2024); see also *FACT SHEET: President Biden Issues Executive Order on Safe, Secure, and Trustworthy Artificial Intelligence*, THE WHITE HOUSE, (Oct. 30, 2023); Emilia David, *More companies commit to the White House AI safety accord*, THE VERGE (Sept. 12, 2023); Makena Kelly, *Meta, Google, and OpenAI reveal their safety plans following White House summit*, THE VERGE (July 21, 2023).

⁸ Exec. Order 14,110 (Oct. 30, 2023).

⁹ *Id.*, at Sec. 2(d), Sec. 7.

¹⁰ Gemini Team, *Gemini: A Family of Highly Capable Multimodal Models*, at 38 (2024), available at https://storage.googleapis.com/deepmind-media/gemini/gemini_1_report.pdf (citing the White House’s “Voluntary AI Commitments” (July 2023); *FACT SHEET: President Biden Issues Executive Order on Safe, Secure, and Trustworthy Artificial Intelligence*, THE WHITE HOUSE, (Oct. 30, 2023)).

¹¹ *Id.*; see also *id.* at 29, 33-35.

Recent reporting has revealed the result of these so-called “improvements” to the Gemini models, showcasing Gemini’s clear bias.¹² These examples reinforce the Committee’s serious concerns about the Executive Branch engaging in censorship by proxy—using surrogates to censor, suppress, or discourage speech in a manner that the government is unable to do itself.¹³ Additionally, news outlets have reported that the lead of the Gemini program, Jack Krawczyk, and the Director of Google’s Responsible Innovation team, Jen Gennai, expressed significant racial and political bias.¹⁴ Given that Alphabet has censored First Amendment-protected speech as a result of government agencies’ requests and demands in the past, the Committee is concerned about potential First Amendment violations that have occurred with respect to Alphabet’s Gemini model.¹⁵

The purpose of this letter is to inform you that communications and documentation pertaining to the Executive Branch and other third-parties relating to the creation, training, and deployment of the Gemini AI models are within the scope of the Committee’s subpoena. The subpoena requires Alphabet to produce, among other things, material concerning Alphabet’s engagement with the Executive Branch and Alphabet’s decisions and policies regarding content moderation.¹⁶ The subpoena is continuing in nature, and the instructions and definitions accompanying the subpoena make clear that documents and information related to Gemini, an artificial intelligence chatbot technology, are within the scope of the subpoena.¹⁷ Thus, to aid the Committee’s oversight obligations, we ask that you please produce all documents and information related to Gemini that are responsive to the terms of the Committee’s subpoena. These include, but are not limited to, the following:

- All documents and communications relating to the inputs and content moderation for Gemini’s AI image generation, including those relating to promoting or advancing diversity, equity, or inclusion;

¹² See, e.g., Nico Grant, *Google Chatbot’s A.I. Images Put People of Color in Nazi-Era Uniforms*, THE N.Y. TIMES (Feb. 22, 2024); Chris Pandolfo, *Google to pause Gemini image generation after AI refuses to show images of White people*, FOX BUSINESS (Feb. 22, 2024); Catherine Thorbecke and Clare Duffy, *Google halts AI tool’s ability to produce images of people after backlash*, CNN (Feb. 22, 2024).

¹³ See, e.g., STAFF OF SELECT SUBCOMM. ON THE WEAPONIZATION OF THE FEDERAL GOVERNMENT OF THE H. COMM. ON THE JUDICIARY, 118TH CONG., THE WEAPONIZATION OF ‘DISINFORMATION’ PSEUDO-EXPERTS AND BUREAUCRATS: HOW THE FEDERAL GOVERNMENT PARTNERED WITH UNIVERSITIES TO CENSOR AMERICANS’ POLITICAL SPEECH, (Comm. Print Nov. 6, 2023); Jim Jordan (@Jim_Jordan), X, (Sept. 5, 2023, 6:17 PM), https://twitter.com/Jim_Jordan/status/1699184930331267539.

¹⁴ See, e.g., Thomas Barrabi, *‘White privilege is f-king real’: Google Gemini product lead’s old tweets allegedly resurface amid ‘woke’ AI image fiasco*, N.Y. POST (Feb. 22, 2024); Zach Jewell, *Founder Of Google’s ‘AI Responsibility’ Initiative Discussed Treating Minority Employees Differently, Has Pushed ‘Anti-Racism,’ Matt Walsh Reveals*, THE DAILY WIRE (Feb. 22, 2024).

¹⁵ See Rep. Jim Jordan (@Jim_Jordan), X (Nov. 30, 2023, 8:44 AM), https://twitter.com/Jim_Jordan/status/1730221179632226337; Rep. Jim Jordan (@Jim_Jordan), X (Dec. 1, 2023, 2:26 PM), https://twitter.com/Jim_Jordan/status/1730669728002142706.

¹⁶ Document Subpoena for Mr. Sundar Pichai before the House Committee on the Judiciary (Feb. 15, 2023).

¹⁷ *Id.*

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- All documents and communications relating to the inputs and content moderation for Gemini's AI text generation, including those relating to promoting or advancing diversity, equity, or inclusion;
- All documents and communications between or among Alphabet and the Executive Branch of the United States Government referring or relating to the creation, development, training, or deployment of artificial intelligence and large language models, or the inputs and content moderation for Gemini's AI relating to the promotion or demotion of certain content as defined in the subpoena; and
- All documents and communications referring or relating to Alphabet's communications with any person(s) outside the Executive Branch of the United States Government regarding the making of decisions or policies referring or relating to the creation, development, training, or deployment of artificial intelligence and large language models, or the inputs and content moderation for Gemini's AI relating to the promotion or demotion of certain content as defined in the subpoena.

Please produce all documents and information as soon as possible but no later than 5:00 p.m. on March 16, 2024.

In addition, we request that Jack Krawczyk, Google's Senior Director of Product for Gemini, and Jen Gennai, Director of Google's Responsible Innovation team, appear for transcribed interviews with the Committee. Please have Mr. Krawczyk and Ms. Gennai contact the Committee staff as soon as possible but no later than 5:00 p.m. on March 16, 2024, to schedule the date of their transcribed interviews. They may reach the Committee staff at (202) 225-6906 to schedule their transcribed interviews. If either or both are represented by private counsel, we ask that their attorneys respond promptly to the Committee on their behalf.

If you have any questions about this request, please contact Committee staff at (202) 225-6906. Thank you for your client's prompt attention to this matter.

Sincerely,

A handwritten signature in blue ink that reads "Jim Jordan". The signature is stylized and cursive.

Jim Jordan
Chairman

cc: The Honorable Jerrold L. Nadler, Ranking Member