

November 21, 2019

BY FAX

The Honorable Ted Cruz, Chair
The Honorable Mazie Hirono, Ranking Member
U.S. Senate Committee on the Judiciary, Subcommittee on The Constitution
224 Dirksen Senate Office Building
Washington, DC 20510

Re: Referral of Karan Bhatia for Potential False Statements Violations

Campaign for Accountability respectfully requests that the Senate Judiciary Committee's Subcommittee on the Constitution refer Karan Bhatia, Vice President for Government Affairs & Public Policy at Google, to the Department of Justice for investigation into whether Mr. Bhatia may have provided false testimony to the committee during a hearing concerning Google's manipulation of search results.

Background

On July 16, 2019, the Subcommittee on the Constitution held a hearing entitled, "Google and Censorship through Search Engines."¹ Mr. Bhatia testified at the hearing on behalf of his employer, Google, Inc. During the hearing, Sen. Marsha Blackburn asked Mr. Bhatia about whether the company maintains blacklists for its search engine.

SEN. BLACKBURN: Has Google ever blacklisted or attempted to blacklist a company, group, individual, or outlet from its advertising partners or its search results for political reasons?²

Mr. Bhatia stated unequivocally that Google does not use blacklists.

BHATIA: No, ma'am, we don't use blacklists, whitelists to influence our search results.³

When Sen. Blackburn pressed him on this specific issue, Mr. Bhatia was clear that Google does not employ blacklists.

SEN. BLACKBURN: For what reason does Google blacklist a company?

¹ <https://www.judiciary.senate.gov/meetings/google-and-censorship-though-search-engines>.

² <https://www.c-span.org/video/?462661-1/senate-judiciary-hearing-google-censorship&start=3196> at 54:45.

³ *Id.*

BHATIA: As I said per your previous question, we do not utilize blacklists or whitelists in our search results to favor political outcomes. It's not, it doesn't happen.⁴

Following the hearing, in response to questions from committee members, Mr. Bhatia submitted written responses for the record. Sen. Ted Cruz asked him to elaborate about Google's use of blacklists:

SEN. CRUZ: At the July 16 hearing, you stated that Google does not maintain either "blacklists," or lists of webpages that a search query will not return, or "whitelists," lists of webpages that a given query must return. If Google quarantines webpages, please explain the difference between a list of quarantined webpages and a blacklist.⁵

Mr. Bhatia declined to correct his testimony. Instead, Mr. Bhatia claimed that Google removes search results in "narrow circumstances."

BHATIA: As described above, there are narrow circumstances in which Google may remove Search results. We reserve the right to remove from Search results sites that exhibit deceptive or manipulative behavior designed to deceive users or game our Search algorithms, including through our Safe Browsing features.⁶

Mr. Bhatia included in his written answers other instances in which Google removes results from searches, highlighting for example child sexual abuse imagery and links to spam or malware.⁷

News Reports Reveal Extensive Use of Blacklists

On November 15, 2019, *The Wall Street Journal* published a major report about Google's manipulation of search results.⁸ The 8,000-word article details how Google "uses blacklists, algorithm tweaks and an army of contractors to shape what you see," and has done so since the early 2000s.⁹

⁴ *Id.*

⁵ *Karan Bhatia Responses to Questions for the Record*, Senate Committee on the Judiciary, Subcommittee on the Constitution, available at <https://www.judiciary.senate.gov/imo/media/doc/Bhatia%20Responses%20to%20QFRs.pdf>.

⁶ *Id.*

⁷ *Id.*

⁸ Kirsten Grind, Sam Schechner, Robert McMillan, and John West, *How Google Interferes With its Search Algorithms and Changes Your Results*, *Wall Street Journal*, available at <https://www.wsj.com/articles/how-google-interferes-with-its-search-algorithms-and-changes-your-results-11573823753>

⁹ *Id.*

Specifically, the *Journal* reported:

Despite publicly denying doing so, Google keeps blacklists to remove certain sites or prevent others from surfacing in certain types of results. These moves are separate from those that block sites as required by U.S. or foreign law, such as those featuring child abuse or with copyright infringement, and from changes designed to demote spam sites, which attempt to game the system to appear higher in results.

The *Journal* explained:

Google still maintains lists of phrases and terms that are manually blacklisted from auto-complete, according to people familiar with the matter.

The company internally has a “clearly articulated set of policies” about what terms or phrases might be blacklisted in auto-complete, and that it follows those rules, according to a person familiar with the matter.

Blacklists also affect the results in organic search and Google News, as well as other search products, such as Web answers and knowledge panels, according to people familiar with the matter.

And:

Engineers known as “maintainers” are authorized to make and approve changes to blacklists. It takes at least two people to do this; one person makes the change, while a second approves it, according to the person familiar with the matter.

Legal Violation

As you know, it is a federal crime to make a materially false, fictitious, or fraudulent statement or representation in response to any investigation or conducted pursuant to the authority of any committee of Congress.¹⁰

The *Journal*'s detailed reporting regarding the longstanding use of blacklists within Google indicates Mr. Bhatia's statement “we don't use blacklists, whitelists to influence our search results” made in response to Sen. Blackburn's question may not have been truthful. Similarly, it appears Mr. Bhatia evaded responding to Sen. Cruz's written question.

In light of the evidence, it appears Mr. Bhatia may have deliberately misled the subcommittee about Google's use of blacklists in violation of the prohibition against making false statements to Congress. The committee should consider issuing a subpoena to Google for

¹⁰ 18 U.S.C. § 1001.

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the lists of blacklisted phrases and terms as well as any policy documents regarding the process by which blacklists are created and maintained to compare with Mr. Bhatia's oral and written responses. If, as it appears, Mr. Bhatia's statements were inconsistent with Google's actual policies, the matter should be referred to the Department of Justice for further investigation.

Conclusion

The public has the right to expect that individuals appearing before congressional committees testify truthfully, whether under oath or not, and failing to testify truthfully is a violation of federal law. Given the committee's repeated questions about Google's manipulation of its search results, Mr. Bhatia understood the subcommittee's intense interest in whether Google uses blacklists to inform its search results. The information revealed by the *Wall Street Journal* indicates that Mr. Bhatia was not forthcoming in his testimony before the subcommittee and may have made false statements. Therefore, we respectfully request that the subcommittee demand all relevant documents from Google and, if appropriate, refer this matter to the Department of Justice to determine whether Mr. Bhatia violated federal law by failing to inform the committee about Google's use of blacklists in its search results.

Sincerely,

A handwritten signature in blue ink, appearing to read "Dan E Stevens", with a long horizontal flourish extending to the right.

Daniel E. Stevens
Executive Director

cc: Corey R. Amundson
Chief, Public Integrity Section
Department of Justice