

June 10, 2022

OGC received June 10, 2022 at
4:38pm.

Office of General Counsel
Attn: Lisa Stevenson
1050 First Street, NE
Washington, DC 20463
Email: ao@fec.gov

RECEIVED
By Office of the Commission Secretary at 3:53 pm, Jun 13, 2022

Re: Advisory Opinion Request

Dear Ms. Stevenson:

Pursuant to 52 U.S.C. § 30108, we write to request an advisory opinion on behalf of Platform Venture Studio, Inc. dba Sprinkle (“Requestor”) seeking confirmation of the permissibility of its business plan under the Federal Election Campaign Act of 1971 (the “Act”) and Federal Election Commission (“FEC”) regulations.

FACTUAL BACKGROUND

Sprinkle is an internet platform that seeks to make it easier for people to find and support candidates that align with their interests, policy views, and values. Sprinkle is a project of Platform Venture Studio, Inc. (“Platform Venture Studio”), which is a non-partisan, for-profit incubator of new technology companies. Platform Venture Studio is incorporated under Delaware law and is organized as a C-corporation. Platform Venture Studio dba Sprinkle (hereafter “Sprinkle”) is organized and operates solely for commercial purposes, and it is not owned or operated by or for a candidate, party committee, or political committee.

The organizing principle of Sprinkle is two-fold. First, younger people are significantly under-represented in the political process. Elected officials tend to be far older than young voters; the median age of the 117th Congress is 59 years old, while the median age of Americans is 38 years old. Turnout by younger Americans is far outstripped by turnout of older voters; in the 2020 presidential election, voter turnout among those ages 65 to 74 was 76.0%, while the voter turnout among those ages 18 to 24 was 51.4%. Further, academic research and public opinion polling show that young people are under-represented among individuals who donate to candidates and other political committees. It is perhaps unsurprising that a common complaint about elected officials is that they are generally more responsive to the concerns of older voters than they are to the issues and priorities of younger voters.

Second, traditional methods of contacting voters and raising money are not in line with the way that younger voters organize, spend time, research issues, and engage on matters of interest. Nor have they kept pace with the way that younger voters use technology.

Sprinkle seeks to tackle both of these political economy market realities by providing an innovative, streamlined, and user-focused interface that attracts voters of all ages, with a particular focus on younger voters that might not have made extensive contributions to candidates and political committees in the past. Through unique methods of aggregating information on candidates and the display of clean and appealing graphics, Sprinkle will make it easier than ever for interested individuals to connect with and support candidates that share their values and priorities.

Matching Users with Candidates

Sprinkle will enable its users to quickly and seamlessly identify candidates who prioritize similar issues, share similar positions on issues, and have common backgrounds and biographical characteristics. Sprinkle will provide users with a variety of tools to filter which candidates to track and support, including: (1) the selection of priority issues from a host of issue categories; (2) ideological screening based on vote records, advocacy organization scorecards, endorsements, and ratings by non-partisan organizations; (3) geographic criteria such as running for office in a swing state or battleground district; and (4) biographical identifiers, such as demographic information, past employment, past government or military service, and professional affiliations.

In addition to providing users with a range of different search and filter options, Sprinkle has developed a proprietary algorithm based on publicly available data on candidates that can suggest candidates based on the information that users provide to the platform. The more data points that a user provides on the types of criteria discussed in the preceding paragraph, the better that Sprinkle will be able to target and tailor recommendations to users.

Finally, Sprinkle will utilize machine learning using inputs such as candidate cash-on-hand vs. competitor analysis, prior election results, polling trends, and geographic criteria to help users make impactful decisions with their contributions.

Displaying Campaign Finance Data

Sprinkle's platform will host one-of-a-kind graphic displays of campaign finance data that will enable users to see how campaigns are being funded. Information pulled from publicly available campaign finance reports will be reviewable based on average contribution amount, geographic concentration of donor support, and individual versus organizational support. Such graphic displays will also enable users to tailor searches for candidates based on various campaign finance criteria.

The matching function and campaign finance data displays will enable users to build lists of candidates that they wish to track and potentially support.

Candidate Pages

Sprinkle will host a dedicated page for each candidate for federal office who has registered an authorized committee with the Commission. Users will be able to obtain additional information on these pages regarding the specific candidates they may wish to support. Candidate pages will provide useful information about the candidate's positions on issues, biographical indicators, and other information that may be useful to users. Sprinkle will not restrict access to its website based on a candidate's political affiliation.

Sprinkle will create the scaffolding for each candidate page, which will share a common look and feel for purposes of user interface, and will populate candidate pages with data and information from publicly available sources (e.g., the candidate's partisan affiliation, status as incumbent or challenger, fundraising results, etc.).

Candidates will have the option and opportunity to amend or provide content for their own candidate pages, in order to better enable users to make informed decisions about which candidates to follow and support. All candidates will be provided equal opportunity to request changes to their candidate pages, subject to limits that Sprinkle will establish for the displayed content, such as but not limited to a character limit for a quote or a biographical introduction to the candidate.

Sprinkle will not allow candidates to upload any content to Sprinkle that is for purposes other than enhancing the quality and accuracy of information about the candidate that is available to Sprinkle's users. For instance, Sprinkle will not allow candidates to upload any content that would solicit contributions to the candidate or other political committees through events or other donation mechanisms that are outside of Sprinkle's platform. Accordingly, this functionality will further Sprinkle's commercial purpose by enhancing the utility of its website and the information it provides to users to help them identify candidates they wish to support, but will not result in a service being provided to the candidates.

Contribution Interface

Each Sprinkle candidate page will contain a link allowing users to contribute to the candidate. Sprinkle will partner with Stripe, Inc. ("Stripe"), a payment processor that has significant experience handling contributions and complying with federal campaign finance rules. Sprinkle itself will not process contributions, deposit contributions into a merchant account in its name, or forward contributions to candidate committees. Rather, to ensure contributions by Sprinkle users conform in all respects to the Act and Commission regulations, Sprinkle will contract with Stripe to provide these and other services. Neither Sprinkle nor Stripe will exercise any direction or control over any user's choice of recipient candidates.¹

¹ For purposes of this Advisory Opinion Request, all factual assertions about the plans and conduct of Sprinkle are equally true and valid with respect to the plans and conduct of Platform Venture Studio.

Sprinkle will assess an approximate 10% total fee from each Sprinkle user contribution. Stripe will deduct the fee amount from each user's contribution prior to forwarding the remainder of the contribution to the recipient committee. Sprinkle and Stripe will calculate the exact amount of the fee in a commercially reasonable manner in accordance with market conditions with respect to all recipients, regardless of the candidate's political affiliation or any other criteria.

The amount of the fee will be set to cover all costs that Sprinkle and Stripe incur in performing the payment processing, including all fees and costs of financial institutions involved in the transaction, cover all costs of Sprinkle and Stripe, and provide a reasonable profit to both Sprinkle and Stripe. Accordingly, Sprinkle and Stripe – and not the recipient candidate – will pay the fees and costs to financial institutions that participate in the transactions. Neither Sprinkle nor Stripe, in connection with the work performed for Sprinkle, will contract to provide services to candidate committees. Rather, all services will be performed on behalf of users utilizing Sprinkle's website who wish to contribute to federal candidates.

LEGAL ANALYSIS

Each aspect of Sprinkle's business plan is consistent with the Act and Commission regulations, and the Commission should confirm that Sprinkle's planned operations are consistent with federal campaign finance law.

I. Sprinkle's Services Do Not Result in Impermissible Contributions by Sprinkle

Sprinkle is not a political committee, nor will it solicit campaign contributions, process contributions, deposit contributions into a merchant account in its name, or forward contributions to authorized federal candidate committees or other committees registered with the Commission. Instead, Sprinkle will incorporate the contribution software interface designed by Stripe, an experienced payment processor, that includes elements that have been previously approved by the Commission.²

Each component of the contribution platform that will be utilized by Sprinkle is substantively the same as the business plan the Commission approved in Advisory Opinion 2011-06. This includes requiring each user to provide payment processing information, along with other information the recipient political committee must maintain or report, including the user's name, mailing address, employer, and occupation. The platform will not process contributions that exceed the contribution limits established by Commission regulation.

The Sprinkle website will also display disclaimers and other required information. For instance, the website will display "best efforts" language that indicates that candidates and committees that are registered with the Commission are obligated to collect and report the name, address, employer, and occupation of all contributors. The interface will not allow users to make contributions, unless

² See FEC Adv. Op. 2011-06.

they enter this information on the website. Further, the Sprinkle website will require users to attest to certain facts to confirm that users are eligible to make contributions and to ensure compliance with the Act's contribution limits and source restrictions. For instance, the Sprinkle website will display text substantively similar to the following and will require users to check a box or take some other type of affirmative step agreeing to the language:

I confirm that the following statements are true and accurate: (1) I am not a federal contractor; (2) I am at least 18 years old; (3) I am either a U.S. citizen or lawful permanent resident of the United States; (4) I am making this contribution from my own funds, and funds are not being provided to me by another person or entity for the purpose of making this contribution; (5) I am making this contribution with my own personal credit or debit card and not with a corporate or business card or a card issued to another person.³

User contributions will be deposited in a bank account belonging to Stripe that is completely segregated from the payment processor's corporate operating funds and Sprinkle's corporate operating funds. No contributions to federal committees will be deposited into a Sprinkle bank account.

Per Stripe's agreement with each user, Sprinkle will deduct a fee from each contribution before it is forwarded to the recipient committee. Sprinkle and Stripe have not determined the rate of this fee, but they expect it will be approximately 10% of the contribution amount. The fee rate will be set to cover all costs incurred by Sprinkle and Stripe in providing the services, including any credit card processing fees and other bank fees, and to provide both entities with a reasonable profit. Stripe will then transmit the remaining amount of the contributions to the recipient committees as instructed by the user no later than ten days after the user authorizes the contribution to the recipient candidate.

Neither Sprinkle nor Stripe will exercise any direction or control over users' contributions deposited in Stripe's segregated account. Stripe will provide the recipient committee with a downloadable data file containing the donation date and amount, contributor's name, mailing address, occupation, and employer name.

Sprinkle and Stripe will not be contractually engaged with candidate committees or any other political committees in connection with providing contribution processing and forwarding services to Sprinkle, except that Stripe might contract with candidate committees on a limited basis to facilitate the electronic deposit of funds that have been raised for them.⁴ Instead, Sprinkle will have a relationship with users who wish to utilize Sprinkle and Stripe's services to contribute to candidates found through Sprinkle's website. To that end, Sprinkle will have Terms of Service and an agreement with each user which will govern Sprinkle's commercial relationship with each user.

³ 11 C.F.R. §§ 110.4(b), 110.19, 110.20(b), 115.2.

⁴ See FEC Adv. Op. 2014-07.

Further, Sprinkle will be contractually engaged with Stripe to provide services. In sum, Sprinkle is offering and providing services to users and is not providing services or anything of value to any recipient committees.

Repeatedly, the Commission has approved of business plans that are materially indistinguishable from the plans that Sprinkle will pursue. In each of these circumstances, the Commission has found that the entity would be providing services only to users of a platform or payment processing service, not to any political committee, and thus the business plan would not result in impermissible contributions to any political committee.⁵ All contribution processing components and other elements of the Sprinkle proposal, including the proposal to create candidate pages that may be supplemented by candidates, are substantively identical to other business plans the Commission has approved in the past.⁶ Therefore, Sprinkle respectfully requests that the Commission confirm Sprinkle's services in matching users with candidates and utilizing payment processor services to process and forward users' contributions do not result in impermissible contributions by Sprinkle to federal candidate committees or in any other violation of the Act or Commission regulations.

II. Sprinkle's Planned Business Model Does Not Result in the Impermissible Sale or Use of FEC Data

Federal campaign finance law limits the use of information contained in periodic public statements and reports that political committees and others file with the Commission. The Act provides that "any information copied from such reports or statements may not be sold or used by any person for the purpose of soliciting contributions or for commercial purposes, other than using the name and address of any political committee to solicit contributions from such committee."⁷ Sprinkle proposes to use information from reports filed with the Commission in various, limited ways, all of which will serve the purpose of enhancing information available to users and none of which violate the restriction on the use of data in Section 104.15 of the Commission's regulations.

First, Sprinkle will display aggregated campaign finance data on its website in order to provide useful information to its users and to other interested parties that wish to visit its website. The website will show numbers of donors that support particular candidates, the total amount of funds the candidate has raised, the geographic distribution or concentration of donors, the candidate's average donation amount, and the relative proportion of individual contributions as a percentage of total contributions received. None of the aggregated data will allow users or others to access identifiable information about any particular donor or enable political committees or others to engage in fundraising activity.

⁵ See, e.g., FEC Adv. Op. 2019-04; FEC Adv. Op. 2014-07; FEC Adv. Op. 2012-22.

⁶ *Id.*

⁷ 11 C.F.R. § 104.15(a).

The Commission has repeatedly approved similar proposals to display aggregated data in order to provide users or other third parties with interesting and useful arrays of campaign finance data. For instance, in Advisory Opinion 2012-22, a commercial website with candidate pages proposed to use campaign finance data to display candidate fundraising totals. In Advisory Opinion 2014-07, a commercial website proposed to use campaign finance data to display aggregated campaign finance data to enable users to make informed decisions about which candidates to support. In response to both requests, the Commission concluded that the use of campaign finance data did not violate the “sale or use” restriction in 11 C.F.R. § 104.15(a). The Commission reasoned that since the displayed data “concerns political committees, rather than individual contributors,” the website could use information compiled from reports without violating the Act or Commission regulations.⁸ Sprinkle’s use of such aggregate data is indistinguishable from the uses approved in Advisory Opinion 2012-22, Advisory Opinion 2014-07, and Advisory Opinion 2017-08. Therefore, Sprinkle respectfully requests that the Commission confirm this element of Sprinkle’s proposed business plan is not prohibited by the regulation at 11 C.F.R. § 104.15(a).

Second, Sprinkle will incorporate into its matching algorithm relevant campaign finance data in order to tailor candidate recommendations to the interests and policy preferences provided by users. As with the first element of Sprinkle’s proposed use of information from reports filed with the Commission, the aggregated data to be used in Sprinkle’s algorithm will not allow users or others to access identifiable information about any particular donor or enable political committees or others to engage in fundraising activity. As a result, the privacy and donor harassment concerns that animated Congress’ inclusion of restrictions on the use of report information are not implicated in Sprinkle’s proposed business model.⁹

Sprinkle’s proposed business model is designed to help users find and identify candidates to support. The use of campaign finance data for Sprinkle’s algorithm is solely intended to further this purpose and will not entail any use of sale of campaign finance data to enable political committees or commercial entities to find new fundraising leads or lists of donors. No individual contributor information will be provided to users, political committees, or any third parties. Nor will any searches enable users or third parties to access individual donor information.

The Commission has also repeatedly affirmed that commercial entities like Sprinkle may use aggregated information from reports filed with the Commission in order to improve the operation of an algorithm to match users with candidates based on information provided to the website. For instance, in Advisory Opinion 2015-12, the Commission approved the use of aggregated contributor data to match users to candidates and corporations with similar values. The Commission reached a similar determination in Advisory Opinion 2014-07 and Advisory Opinion 2017-08, which involved a proposal to score publicly traded companies based on aggregated contributions and expenditures by political committees. Here, as in those opinions, Sprinkle will

⁸ FEC Adv. Op. 2012-22.

⁹ See FEC Adv. Op. 2004-24; 117 Cong. Rec. S30057 (daily ed. Aug. 5, 1971) (statement of Sen. Bellmon).

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not disclose individual contact information or use past contribution history to solicit contributions or other services.¹⁰

Since Sprinkle's proposed business plan would involve materially identical uses of information from Commission reports and would not implicate privacy interests or enable others to generate solicitations, Sprinkle respectfully requests that the Commission confirm that this part of Sprinkle's proposed business plan does not violate the restriction on the use or sale of data from Commission reports.

CONCLUSION

Sprinkle seeks confirmation that it can implement each element of its proposed business model as described in this request in compliance with the requirements of the Act and Commission regulations.

Thank you for your consideration of this request.

Regards,



David Lazarus
Counsel to Sprinkle

¹⁰ FEC Adv. Op. 2017-08.