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April 4, 2022

VIA EMAIL

Ms. Jennifer Gillian Newstead
Meta Platforms, Inc.
One Hacker Way
MPK 64
Menlo Park, CA 94025
P: (650) 269-4458
E: jnewstead@fb.com

Re: *New York Times Article "Should You Get Another Covid Booster?"*

Dear Ms. Newstead:

On behalf of our client, Informed Consent Action Network (“**ICAN**”), we write concerning an article by the New York Times (“**NYT**”) titled, “Should You Get Another Covid Booster?” (the “**Article**”) posted on Meta Platforms, Inc. (“**Meta**”).¹ Despite the fact that the Article goes against Meta’s policy on COVID-19 misinformation, it has not removed, reduced the visibility of, or applied a fact-checking label to the post. This is seemingly in contradiction to myriad other posts by other users that have been removed or otherwise adversely affected by Meta’s policies.

A. Meta’s Policy

Meta’s “COVID-19 and Vaccine Policy Updates & Protections” makes clear that it prohibits “[c]ontent calling to action, advocating, or promoting that others not get the COVID-19 vaccine” and “[c]ontent coordinating interference with the administration of the COVID-19 vaccine.”²

Further, Meta states that Claims about the efficacy of COVID-19 vaccines also violate its policy, including:

¹ The Article can be found on Meta at: <https://www.facebook.com/nytimes/posts/10152900315984999>.

² <https://www.facebook.com/help/230764881494641/>.

- Claims that COVID-19 vaccines are not effective in preventing severe illness or death from COVID-19 (see Common Questions below for how we define the term “effective”)³

Meta’s policy indicates that it reduces distribution of “[c]ontent that otherwise does not violate our COVID-19 or vaccine policies above but that implicitly discourages vaccination by advocating for alternatives or celebrating those who refuse vaccination. This includes ... encouraging vaccine refusals without citing medical rationales or guidance.”⁴

Pertinent here, Meta’s policy applies to third party websites:

In special circumstances, we will also remove content containing links to off-platform content when we’re made aware that our services are being abused to evade enforcement or drive traffic to off-platform information that violates our COVID-19 and vaccine misinformation rules.

- Ex: A user posts a website with violating content that is encouraging users to post on Facebook in ways that might evade our enforcement.

...

As with our other COVID-19 and vaccine misinformation policies, Pages, Groups, profiles and Instagram accounts that post this content may incur penalties, such as reduced distribution or removal.⁵

B. The NYT Article

On March 29, 2022, the NYT posted a link to the Article on Meta.⁶ The Article casts significant doubt about the CDC’s March 29, 2022 decision to authorize a second COVID-19 booster dose for certain Americans, stating “the scientific evidence for fourth [sic] dose is incomplete, at best, and researchers do not agree on whether the shots are needed.” The Article appears to cast the FDA and CDC as incompetent and its decisions suspect:

Two weeks ago, Pfizer asked the F.D.A. to authorize a second booster shot of its vaccine — that is, a fourth dose — for people aged 65 and older. Two days later, Moderna followed suit, but with a broader request to authorize a second booster for all adults over 18.

³ *Id.*

⁴ *Id.*

⁵ *Id.*

⁶ <https://www.facebook.com/nytimes/posts/10152900315984999>.

Even before these requests, the leaders of these companies appeared on television shows arguing for another round of boosters for everyone – but without much evidence to back up their claims.

That did not deter the F.D.A. The agency said on Tuesday that adults aged 50 and older could opt for a second booster shot of the vaccines made by Pfizer-BioNTech or Moderna, to be given at least four months after the first booster of any authorized or approved Covid vaccine.⁷

The Article then goes on to emphasize that “[m]any scientists are dubious about today’s decision,” citing certain “experts” who “pointed out that the limited research so far support a fourth shot only for those older than 65 or who have underlying conditions that put them at high risk.” The Article even goes on to state that the single study that “offers the only evidence” supporting a second booster shot “is deeply flawed.” The Article further casts doubt on the need for a second booster, claiming “most people are already well protected from severe illness.”

The Article is in clear violation of Meta’s COVID-19 misinformation policy, yet, despite this, it has not been removed nor had a “fact-checking” label applied to it. First and foremost, the Article states, “[p]robably only people who are immunocompromised or older than 65” would benefit from a second COVID-19 booster shot. This is **directly contrary** to the CDC’s announcement regarding changes⁸ to its “Interim Clinical Considerations for Use of COVID-19 Vaccines Currently Authorized or Approved in the United States.”⁹ Among those changes were that “people ages 18–49 years who are **not** moderately or severely immunocompromised and who received Janssen COVID-19 Vaccine as both their primary series dose and booster dose may receive a second booster dose using an mRNA COVID-19 vaccine at least 4 months after the first Janssen booster dose.”¹⁰ Additionally, the CDC announced that “adults aged 50 years or older who are **not** moderately or severely immunocompromised may choose to receive a booster dose using an mRNA COVID-19 vaccines at least 4 months after the first booster dose.”¹¹

In suggesting that only those who are “immunocompromised or older than 65” should consider a second booster dose, the Article directly contradicts CDC guidance that anyone 50 years of age or older can receive a booster, as well as anyone 18-49, even if not immunocompromised, if 4 months have elapsed since received a Janssen booster. This violates Meta’s policy against content that “implicitly discourages vaccination by encouraging vaccine refusals without citing medical rationales or guidance,” or content that “coordinat[es] interference with the administration of the COVID-19 vaccine.”

⁷ <https://www.nytimes.com/explain/2022/03/29/health/second-booster-shots-covid?smtyp=cur&smid=fb-nytimes>.

⁸ https://www.cdc.gov/vaccines/covid-19/clinical-considerations/covid-19-vaccines-us.html?ACSTrackingID=USDC_2120-DM78836&ACSTrackingLabel=Updated%20Guidance%3A%20Interim%20Clinical%20Considerations%20for%20Use%20of%20COVID-19%20Vaccines&deliveryName=USCDC_2120-DM78836

⁹ <https://www.cdc.gov/vaccines/covid-19/downloads/summary-interim-clinical-considerations.pdf>

¹⁰ *Id.* (emphasis added).

¹¹ *Id.* (emphasis added).

Moreover, the Article violates Meta’s policy against “contributing to the risk of individuals ... refusing an associated vaccine” – specifically, a second COVID-19 booster – by claiming that the evidence for them is dubious and weak. It does so even more blatantly in highlighting that there “[m]aybe” drawbacks to getting a second booster, such as “fever, headache, fatigue and joint aches,” which ““when you get older, aren’t always trivial,”” as well as “diminishing results.”

As Meta indicates, “Public health infrastructure is at the core of the global fight to combat COVID-19.”¹² But despite this, Meta has failed to remove the Article or apply a label to it, despite the fact that Meta apparently relies on the CDC as the source of accurate COVID-19 information, insofar as it has publicly stated it is “directing people to information from the Centers for Disease Control and Prevention.”¹³ Meta is clearly allowing this Article from a prominent news media company to exist on its platform when the Article directly contradicts America’s key public health infrastructure organization – the CDC – even though Meta has taken action against countless other users who have posed similar questions or viewpoints that differ from the FDA and CDC recommendations.¹⁴

In fact, Meta has applied a fact-checking label even where the information a user posted about a research study is accurate if “overall, research has been murky.” In one salient example, a physician posted a link to a study, noting, “Mortality rate from Covid close to zero when Vitamin D is at 50 ng/ml.”¹⁵ Despite the fact that the user’s post was demonstrably true according to the study cited,¹⁶ Meta applied a fact-checking label from its fact-checking partner Politifact, which rated it as “false” because the claim “ignores that, overall, research has been murky on the impact vitamin D has on immunity, and, more recently, whether it improves COVID-19 outcomes.” In this case where the Article is citing science and experts that contradict official guidance by the CDC and the data it is relying upon, Meta’s policies call for a fact check yet none appears to be applied.

C. Meta Must Explain Why It Is Inconsistently and Unfairly Enforcing Its COVID-19 Policies Among Users

Surely, all Meta users should be subject to the same policies. Please explain why the New York Times is permitted to violate Meta’s policies whereas other users are not.

Very truly yours,



Aaron Siri, Esq.
Elizabeth A. Brehm, Esq.

Enclosure

¹² <https://www.facebook.com/help/230764881494641/>.

¹³ <https://about.fb.com/news/2020/12/coronavirus/#mark-post>.


¹⁴ Attachment 1.

¹⁵ *Id.*

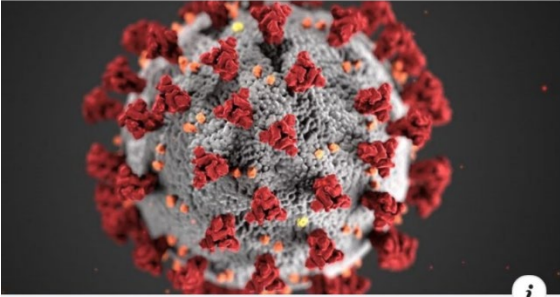
¹⁶ <https://www.medrxiv.org/content/10.1101/2021.09.22.21263977v1>.

Attachment 1

Meta Labels:

 **Walter Olson**
May 7 at 1:57 PM · 🌐

Veteran science journalist Nicholas Wade examines the evidence and concludes that there is a plausible case that the novel coronavirus jumped to humans by way of a lab accident at the Wuhan Institute of Virology. During the early weeks of the crisis, scientists in two respected journals had sought to discourage speculation about a lab origin, but Wade says in one case the dismissal was based on badly oversimplified assumptions, while the other publication, in The Lancet, suf... [See More](#)



NICHOLASWADE.MEDIUM.COM
Origin of Covid—Following the Clues
The Covid-19 pandemic has disrupted lives the world over for ...

Missing Context. Independent fact-checkers say this information could mislead people.


[See Why](#)


Missing Context

A Post Shared by Your Page Is Missing Context


Independent fact-checkers at **PolitiFact** say that information in a post shared by American Principles Project is missing context and could mislead people. We've added a notice to the post.

From Independent Fact-Checkers

 PolitiFact **Fact-Check**
PolitiFact - Ad watch: Conservative PAC claims Gary Peters would 'destroy girls' sports'

 **Dr. Poppy**
October 1, 2021 · 🌐

Mortality rate from Covid close to zero when Vitamin D is at 50 ng/ml.
<https://www.medrxiv.org/content/10.1101/2021.09.22.21263977v1>

 MEDRXIV.ORG
COVID-19 mortality risk correlates inversely with vitamin D3 status, and a...
Background Much research shows that blood calcidiol (25(OH)D3) levels correlate strongly with SARS-CoV-2 infection severity. There is open...

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 **Rebekah Robinson**
This is important to know and work on. I had to take a sick child to the ER in December 2020. They were taking blood and I asked if that included assessing Vitamin D levels. The attending nurse looked at me with a sneer and actually told me Vitamin D w... [See more](#)

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¹ Linking to the following study: <https://www.medrxiv.org/content/10.1101/2021.09.22.21263977v1>.