

45th Annual UCLA Entertainment Symposium *WEBINAR SERIES*

The Show Must Go On...Line?

Life After Hollywood's
Longest Year

Week 3 Syllabus

June 16, 2021

UCLA School of Law
Ziffren Institute for Media, Entertainment,
Technology & Sports Law

45th Annual UCLA Entertainment Symposium

The Show Must Go On...Line?

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**Ziffren Institute for Media, Entertainment,
Technology & Sports Law**

Life After Hollywood's
Longest Year



WEDNESDAY, JUNE 16, 2021

5:00p - 5:45p PDT

**PUBLIC SPEECH, PRIVATE PLATFORMS: HOW SHOULD GOVERNMENT
RESPOND?**

moderator:

Doug Lichtman

Professor of Law, UCLA School of Law

panelists:

Erich Andersen

General Counsel and Head of Corporate Affairs, ByteDance/TikTok

Sean Edgett

Vice President and General Counsel, Twitter

Jennifer Newstead

Vice President and General Counsel, Facebook

ERICH ANDERSEN

*GENERAL COUNSEL AND HEAD OF CORPORATE AFFAIRS,
BYTEDANCE/TIKTOK*

ERICH ANDERSEN IS GENERAL COUNSEL AND HEAD OF CORPORATE AFFAIRS AT BYTEDANCE/TIKTOK. PRIOR TO JOINING THE COMPANY IN 2020, ERICH SPENT 25 YEARS AT MICROSOFT, WHERE HE ULTIMATELY SERVED AS CORPORATE VICE PRESIDENT AND CHIEF INTELLECTUAL PROPERTY COUNSEL.

ANDERSEN DESCRIBES HIS JOB AT TIKTOK AS PROMOTING GLOBAL EFFORTS TO BALANCE USER AND COMMUNITY SAFETY, ALONGSIDE CREATIVE EXPRESSION. ANDERSEN IS ALSO A PROUD DOUBLE BRUIN, HAVING GRADUATED FROM UCLA IN 1986 AND UCLA LAW IN 1989.

SEAN EDGETT

VICE PRESIDENT AND GENERAL COUNSEL, TWITTER

SEAN EDGETT IS GENERAL COUNSEL AT TWITTER, A ROLE HE HAS HELD SINCE 2018. HE JOINED TWITTER IN 2012 AS A CORPORATE COUNSEL, AND HE HAS HELD A NUMBER OF SENIOR LEADERSHIP ROLES WITHIN TWITTER'S LEGAL ORGANIZATION, INCLUDING ACTING GENERAL COUNSEL; VP, LEGAL & DEPUTY GENERAL COUNSEL; AND SENIOR DIRECTOR, LEGAL. PRIOR TO

JOINING TWITTER, SEAN WAS LEGAL DIRECTOR OF CORPORATE AND SECURITIES FOR NETAPP, INC., A NETWORK STORAGE SOLUTION PROVIDER. EDGETT EARNED HOLDS A B.A. IN COGNITIVE SCIENCE AND A B.A. IN PSYCHOLOGY FROM U.C. SAN DIEGO, AND HE EARNED HIS J.D. FROM UCLA'S NEIGHBOR, PEPPERDINE.

DOUG LIGHTMAN

PROFESSOR OF LAW, UCLA SCHOOL OF LAW

DOUG LIGHTMAN IS PROFESSOR OF LAW AT UCLA, WHERE HE FOCUSES HIS TEACHING AND RESEARCH ON TOPICS RELATING TO LAW AND TECHNOLOGY. HIS AREAS OF EXPERTISE INCLUDE PATENT AND COPYRIGHT, TELECOMMUNICATIONS REGULATION, AND INFORMATION STRATEGY. LIGHTMAN'S WORK HAS BEEN FEATURED, AMONG OTHERS, THE JOURNAL OF LAW & ECONOMICS, THE JOURNAL OF LEGAL STUDIES, THE YALE LAW JOURNAL, AND THE HARVARD BUSINESS

REVIEW. HE REGULARLY ADVISES TECHNOLOGY AND CONTENT COMPANIES ON ISSUES OF LEGAL STRATEGY, AND HE MANAGES A LITIGATION FINANCE FUND THAT BACKS PLAINTIFFS WHO OTHERWISE WOULD BE OUTGUNNED IN THE PRICEY US LEGAL SYSTEM. LIGHTMAN HOLDS AN EE/CS DEGREE FROM DUKE, AND A JD FROM YALE.

JENNIFER NEWSTEAD

VICE PRESIDENT AND GENERAL COUNSEL, FACEBOOK

JENNIFER NEWSTEAD HAS SERVED AS FACEBOOK'S VICE PRESIDENT AND GENERAL COUNSEL SINCE JUNE 2019. BEFORE THAT, SHE SPENT A YEAR AS LEGAL ADVISER OF THE UNITED STATES DEPARTMENT OF STATE AND WAS A PARTNER IN THE LAW FIRM OF DAVIS, POLK & WARDWELL. EARLIER IN HER CAREER, JENNIFER SERVED IN OTHER SENIOR GOVERNMENT ROLES, INCLUDING AS GENERAL COUNSEL OF THE

WHITE HOUSE OFFICE OF MANAGEMENT AND BUDGET, AS A PRINCIPAL DEPUTY ASSISTANT ATTORNEY GENERAL AT THE DEPARTMENT OF JUSTICE, AND AS AN ASSOCIATE WHITE HOUSE COUNSEL. NEWSTEAD HOLDS AN A.B. IN GOVERNMENT FROM HARVARD UNIVERSITY AND A J.D. FROM YALE LAW SCHOOL, BUT SHE SECRETLY WISHES THAT SHE, TOO, WAS A BRUIN.

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PUBLIC SPEECH, PRIVATE PLATFORMS: HOW SHOULD GOVERNMENT RESPOND?

OUTLINE OF TOPICS/ISSUES

WHERE TELEVISION STATIONS, RADIO BROADCASTS AND NEWSPAPERS MIGHT HAVE BEEN THE PRIMARY INFORMATION SOURCES FOR A PRIOR GENERATION, TODAY MANY OF US GATHER OUR NEWS AND CULTURAL INSIGHTS FROM ONLINE INTERACTIONS HOSTED BY PLATFORMS LIKE FACEBOOK, TWITTER, TIKTOK, AND PARLER. THUS, THESE PLATFORMS HAVE FOUND THEMSELVES EMBROILED IN ENDLESS CONTROVERSY. MANY WORRY THEY FILTER TOO MUCH INFORMATION, OR NOT ENOUGH. OTHERS WONDER IF THE PROTECTIONS OFFERED BY SECTION 230, WHICH GENERALLY PROVIDES IMMUNITY FOR WEBSITE PLATFORMS FROM THIRD-PARTY CONTENT, ARE MITIGATING THE PROBLEM OR ONLY EXACERBATING IT. THIS FRANK CONVERSATION WILL FOCUS ON THE LEGAL RULES THAT GOVERN INFORMATION PLATFORMS AND THE STRATEGIES THAT MIGHT BEST PROMOTE THOUGHTFUL, HONEST AND DIVERSE ENGAGEMENT ON TOPICS OF PUBLIC IMPORTANCE.

CONTINUING EDUCATION CREDITS

MCLE. UCLA SCHOOL OF LAW IS A STATE BAR OF CALIFORNIA APPROVED MCLE PROVIDER. BY ATTENDING THE 45TH ANNUAL UCLA ENTERTAINMENT SYMPOSIUM WEBINAR SERIES ON JUNE 16, 2021, YOU MAY EARN MINIMUM CONTINUING LEGAL EDUCATION CREDIT IN THE AMOUNT OF UP TO **1.5 HOURS OF GENERAL CREDIT** (0.75 HOUR OF GENERAL CREDIT FOR PUBLIC SPEECH, PRIVATE PLATFORMS: HOW SHOULD GOVERNMENT RESPOND? AND 0.75 HOUR OF GENERAL CREDIT FOR THE WORLD OF INFLUENCERS – BIG BUSINESS, BIG DEALS AND MORE).

IN ORDER TO RECEIVE CREDIT, **YOU MUST WATCH THE ENTIRE PRESENTATION AND VERIFY YOUR PARTICIPATION.** DURING EACH OF THE TWO PRESENTATIONS OF EACH WEEKLY WEBINAR, **A UNIQUE CODEWORD WILL BE ANNOUNCED.** EACH ATTENDEE WILL NEED TO CLICK THE LINK THAT WAS INCLUDED IN THE JOIN IN LINK EMAIL FOR THE APPLICABLE WEEKLY WEBINAR AND INPUT THE UNIQUE CODES. CERTIFICATES AND EVALUATION FORMS WILL BE EMAILED SEPARATELY, UPON SUCCESSFUL VERIFICATION OF YOUR ATTENDANCE. IF YOU HAVE ANY QUESTIONS AND/OR ISSUES, PLEASE EMAIL MCLE@LAW.UCLA.EDU. **YOU ARE REQUIRED TO SUBMIT THE COMPLETED ATTENDANCE FORM WITHIN FIVE DAYS AFTER THE LAST DAY OF THE MONTH IN WHICH THE WEBINAR TAKES PLACE TO RECEIVE YOUR CERTIFICATE OF PARTICIPATORY ATTENDANCE.** YOU MAY ALSO RETURN A COMPLETED EVALUATION TO MCLE@LAW.UCLA.EDU.

UCLA SCHOOL OF LAW CERTIFIES THAT THIS ACTIVITY CONFORMS TO THE STANDARDS FOR APPROVED EDUCATION ACTIVITIES PRESCRIBED BY THE RULES AND REGULATIONS OF THE STATE BAR OF CALIFORNIA GOVERNING MINIMUM CONTINUING LEGAL EDUCATION.

CE FOR ACCOUNTANTS: THE PROVIDER OF THIS PROGRAM FOLLOWS THE CE GUIDELINES SPECIFIED IN THE CALIFORNIA BOARD OF ACCOUNTANCY REGULATIONS. THE PROGRAM MAY QUALIFY FOR 1.5 HOURS OF NON-TECHNICAL CREDIT. YOU MUST SIGN IN ON THE OFFICIAL RECORD OF ATTENDANCE FOR CALIFORNIA CE MAINTAINED BY THIS PROVIDER IN ORDER TO QUALIFY FOR CALIFORNIA CE CREDITS.

IN ORDER TO RECEIVE CREDIT, **YOU MUST WATCH THE ENTIRE PRESENTATION AND VERIFY YOUR PARTICIPATION.** DURING EACH OF THE TWO PRESENTATIONS OF EACH WEEKLY WEBINAR, **A UNIQUE CODEWORD WILL BE ANNOUNCED.** EACH ATTENDEE WILL NEED TO CLICK THE LINK THAT WAS INCLUDED IN THE JOIN IN LINK EMAIL FOR THE APPLICABLE WEEKLY WEBINAR AND INPUT THE UNIQUE CODES. FURTHER, A THIRD ATTENDANCE POLL WILL BE TAKEN AT RANDOM THROUGHOUT THE DURATION OF THE EVENT. **YOU ARE REQUIRED TO PARTICIPATE IN THE ATTENDANCE POLL AND SUBMIT THE COMPLETED ATTENDANCE FORM TO MCLE@LAW.UCLA.EDU WITHIN FIVE DAYS AFTER THE LAST DAY OF THE MONTH IN WHICH THE WEBINAR TAKES PLACE TO RECEIVE YOUR CERTIFICATE OF ATTENDANCE.** YOU MAY ALSO RETURN A COMPLETED EVALUATION TO MCLE@LAW.UCLA.EDU.

"Disinformation Nation: Social Media's Role in
Promoting Extremism and Misinformation" (2021),
<https://www.congress.gov/event/117th-congress/house-event/111407>.

**Hearing Before the United States House of Representatives
Committee on Energy and Commerce
Subcommittees on Consumer Protection & Commerce and Communications & Technology**

March 25, 2021
Testimony of Mark Zuckerberg
Facebook, Inc.

I. Introduction

Chairs Pallone, Schakowsky, and Doyle, Ranking Members McMorris Rodgers, Latta, and Bilirakis, and members of the Committee,

I want to start by extending my deepest condolences to the families of the Capitol police officers who lost their lives in the wake of January 6 and my appreciation to the many officers who put themselves at risk to protect you. Their bravery stands as an example to us all. My heart also goes out to those of you who lived through the awful events of that day. The Capitol attack was a horrific assault on our values and our democracy, and Facebook is committed to assisting law enforcement in bringing the insurrectionists to justice.

I look forward to discussing the role that misinformation and disinformation play in our country's information ecosystem and the work Facebook is doing to reduce harmful content on our platform. Facebook's mission is to give people the power to build community and bring the world closer together. Our services enable more than three billion people around the world to stay connected with friends and family, discover what's going on in the world, and entertain and express themselves. We build products people use to share ideas, have fun, offer support, connect with neighbors, celebrate milestones, promote small businesses and non-profits, and discuss important topics, including family, careers, health, politics, and social issues.

It's important to note that the vast majority of what people see on Facebook is neither political nor hateful. Political posts make up only about 6 percent of what people in the United States see in their News Feed, and the prevalence of hateful content people see on our service is less than 0.08 percent. While we work hard to prevent abuse of our platform, conversations online will always reflect the conversations taking place in living rooms, on television, and in text messages and phone calls across the country. Our society is deeply divided, and we see that on our services too.

We are committed to keeping people safe on our services and to protecting free expression, and we work hard to set and enforce policies that meet those goals. We will continue to invest extraordinary resources into content moderation, enforcement, and transparency.

II. Our Efforts to Combat Misinformation

People want to see accurate information on Facebook, and so do we. That's why we have made

fighting misinformation and providing people with authoritative information a priority for the company. We have recalibrated our products and built global partnerships to combat misinformation on a massive scale.

We created an industry-leading fact-checking program. We work with 80 independent third-party fact-checkers certified through the non-partisan International Fact-Checking Network to curb misinformation on Facebook and Instagram. If content is rated false by one of these third-party fact-checkers, we put a warning label on it. And based on one fact-check, we're able to kick off similarity detection methods that identify duplicates of debunked stories. When content is rated false, we significantly reduce its distribution; on average, this cuts future views by more than 80 percent. If people do try to share the content, we notify them of additional reporting, and we also notify people if content they have shared in the past is later rated false by a fact-checker. Group admins are notified each time a piece of content rated false by fact-checkers is posted in their Group, and they can see an overview of this in the Group Quality tool. We use information from fact-checkers to improve our technology so we can identify misinformation faster in the future.

We also work to reduce the incentives for people to share misinformation to begin with. Since a lot of the misinformation that spreads online is financially motivated spam, we focus on disrupting the business model behind it. We take action against Pages that repeatedly share or publish content rated false, including reducing their distribution and, if necessary, removing their ability to monetize. And we've enhanced our recidivism policies to make it harder to evade our enforcement. We've also taken steps to reduce clickbait and updated our products so people see fewer posts and ads in News Feed that link to low-quality websites.

As well as taking steps to fight misinformation, we also use our platform to proactively connect people to authoritative information. We have directed over 2 billion people to our Covid-19 Information Center, and over 140 million people to our Voting Information Center. This is an important component of our work to build a healthier information ecosystem.

As one of the leading platforms where people share information and express themselves, misinformation is an ongoing challenge for us. With millions of Americans using our services every day, there will always be things we miss. However, I believe we do more to address misinformation than any other company, and I am proud of the teams and systems we have built.

Below is an overview of this work in two important contexts: Covid-19 and the 2020 presidential election.

A. Covid-19 and Vaccine Misinformation

Since Covid-19 was declared a global public health emergency, Facebook has been working to connect people to authoritative information from health experts and keep harmful misinformation about Covid-19 from spreading on our apps. As part of our efforts, we have focused on:

- Promoting reliable information by launching a Covid-19 Information Center which we showed at the top of the Facebook News Feed and on Instagram, and that we direct people to when they search for information about Covid-19. We have connected over 2 billion people to authoritative information through this resource.

- Combating Covid-19 misinformation by removing over 12 million pieces of false content, including from foreign leaders; barring entities that have repeatedly shared false information; removing exploitative ads spreading panic about the virus or mistruths about cures for financial gain; and promoting authoritative and science-based search results.
- Providing aggregated data on symptoms and travel patterns to public health officials, researchers, and nonprofits to help them calibrate the public health response.
- Supporting newsgathering by investing \$100 million to assist local news and journalists and funding a \$1 million grant program to support fact-checkers covering the virus.

In April 2020, we started showing messages in News Feed to people who liked, commented on, or reacted to posts with Covid-19 misinformation that we later removed for violating our policy. We've redesigned these notifications to make them more personalized and to more clearly connect people with authoritative information. Now people will see a thumbnail of the post and more information about where they saw it, how they engaged with it, why it was false, and why we removed it. People will then be able to see more facts in our Covid-19 Information Center and take other actions such as unfollowing the Page or Groups that shared this content.

We are also continuing to improve search results on our platforms. When people search for vaccine or Covid-19 related content on Facebook, we promote relevant, authoritative results and provide third-party resources to connect people to expert information about vaccines.

In the Appendix are some of the alerts people see on Facebook that are designed to keep them informed and limit misinformation about Covid-19.

1. Covid-19 Vaccines

In addition to our work to combat misinformation about Covid-19 generally, we're running the largest worldwide campaign to promote authoritative information about Covid-19 vaccines specifically by:

- Providing \$120 million in ad credits to help health ministries, non-profits, and UN agencies reach billions of people around the world with Covid-19 vaccine and preventive health information.
- Providing training and marketing support to help governments and health organizations move quickly and reach the right people with the latest vaccine information.
- Providing data to inform effective vaccine delivery and educational efforts to build trust in Covid-19 vaccines.
- Helping people find where and when they can get vaccinated, similarly to how we helped people find information about voting during elections.

We're also focused on removing misinformation on Facebook and Instagram about Covid-19 and vaccines. In December, we began removing false claims about Covid-19 vaccines that could lead to imminent harm, including false claims about the safety, efficacy, ingredients, or side effects of the vaccines. Last month, we expanded the list of false claims we will remove to include additional debunked claims about Covid-19 and vaccines following consultations with leading health

organizations, including the World Health Organization. We already reject these claims in advertisements and prohibit any ads that discourage vaccines.

Groups, Pages, and accounts on Facebook and Instagram that repeatedly share these debunked claims may be removed altogether. In some instances, we are also requiring Group admins to temporarily approve all posts from other admins or members who have violated our Covid-19 policies. Claims about Covid-19 or vaccines that do not violate these policies may remain eligible for review by our independent third-party fact-checkers. If a claim is then identified as false, it will be labeled and will be demoted in News Feed.

B. Election Misinformation and Support for the Democratic Process

Facebook stands for giving people a voice, and it was important to us that everyone could make their voice heard during the election. While we were only a small piece of the broader election ecosystem, we announced a series of policies in advance to help protect the integrity of the election and support our democratic process.

As part of this effort, we worked hard to combat misinformation and voter suppression. We partnered with election officials to remove false claims about polling conditions and displayed warnings on more than 150 million pieces of content after review by our independent third-party fact-checkers. We put in place strong voter suppression policies prohibiting explicit or implicit misrepresentations about how or when to vote as well as attempts to use threats related to Covid-19 to scare people into not voting. We also removed calls for people to engage in poll watching that used militarized language or suggested that the goal was to intimidate, exert control, or display power over election officials or voters, and we stopped recommending civic Groups.

As the ballots were counted, we deployed additional measures that we announced in advance of the election to help people stay informed:

- We partnered with Reuters and the National Election Pool to provide reliable information about election results in the Voting Information Center and notified people proactively as results became available. We added labels to posts about voting by candidates from both parties and directed people to reliable information about results.
- We attached an informational label to content that sought to delegitimize the outcome of the election or discuss the legitimacy of voting methods.
- We strengthened our enforcement against militias, conspiracy networks, and other groups to help prevent them from using our platform to organize violence or civil unrest in the period after the election.

Based on what we learned in 2016 about the risk of coordinated online efforts by foreign governments and individuals to interfere in our elections, we invested heavily in our security systems and monitored closely for any threats to the integrity of elections from at home or abroad. We invested in combatting influence operations on our platforms, and since 2017, we have found and removed over 100 networks of accounts for engaging in coordinated inauthentic behavior. We also blocked ads from state-controlled media outlets in the US to provide an extra layer of protection against various types of foreign influence in the public debate ahead of the election.

Finally, we proactively supported civic engagement on our platform. We ran the largest voting information campaign in American history. Based on conversion rates we calculated from a few states we partnered with, we estimate that we helped 4.5 million people register to vote across Facebook, Instagram, and Messenger—and helped about 100,000 people sign up to be poll workers. We launched a Voting Information Center to connect people with reliable information on deadlines for registering and voting and details about how to vote by mail or vote early in person, and we displayed links to the Voting Information Center when people posted about voting on Facebook. 140 million people visited the Voting Information Center on Facebook and Instagram since it launched. We are encouraged that more Americans voted in 2020 than ever before and that our platform helped people take part in the democratic process.

III. Our Efforts to Address Polarization and Divisive Content

Facebook’s mission is to bring people together, and we stand firmly against hate and the incitement of violence. We have industry-leading policies that prohibit such content on our platforms, and we invest billions of dollars and work tirelessly to improve and enforce these policies. We are proud of the work we have undertaken to address harmful content on Facebook, from our robust content review and enforcement program to our industry-leading Community Standards Enforcement Report, which includes hard data that we hope can inform public discourse and policymaking about these issues.

A. Efforts to Keep Hate and Violence Off Our Platform

We have taken major steps to keep our community safe. While our enforcement efforts are not perfect and there is always more work to be done, we have built industry-leading policies, teams and systems to keep hate and violence off our platform.

Our Dangerous Organizations and Individuals policy prohibits content calling for or advocating violence, and we ban organizations and individuals that proclaim a violent mission. We remove language that incites or facilitates violence, and we ban Groups that proclaim a hateful and violent mission from having a presence on our apps. We also remove content that represents, praises, or supports them. We believe this policy has long been the broadest and most aggressive in the industry.

In August 2020, we expanded this policy further to address militarized social movements and violence-inducing conspiracy networks such as QAnon. To date, we have banned over 250 white supremacist groups and 890 militarized social movements, and we have been enforcing our rules that prohibit QAnon and militia groups from organizing on our platform. We have also continued to enforce our ban on hate groups, including the Proud Boys and many others.

Moving quickly to find and remove dangerous organizations such as terrorist and hate groups takes significant investment in both people and technology. That’s why we have tripled the size of our teams working in safety and security since 2016 to over 35,000 people. Our team of experts includes 300 professionals who work exclusively or primarily on preventing terrorist and violent

content from appearing on our platform and quickly identifying and removing it if it does. These professionals possess expertise ranging from law enforcement and national security to counterterrorism intelligence and radicalization.

Four years ago, we developed automated techniques to detect content related to terrorist organizations such as ISIS, al Qaeda, and their affiliates. We've since expanded these techniques to detect and remove content related to other terrorist and hate groups. We are now able to detect and review text embedded in images and videos, and we've built media-matching technology to find content that's identical or near-identical to photos, videos, text, and audio that we've already removed. Our work on hate groups focused initially on those that posed the greatest threat of violence at the time; we've now expanded this to detect more groups tied to different hate-based and violent extremist ideologies. In addition to building new tools, we've also adapted strategies from our counterterrorism work, such as leveraging off-platform signals to identify dangerous content on Facebook and implementing procedures to audit the accuracy of our AI's decisions over time.

B. Actions to Address Content That Violates Community Standards in Groups

People turn to Facebook Groups to connect with others who share their interests and to build community. This is particularly important in the midst of the Covid-19 crisis, which makes connecting both more important and more challenging than ever. However, we recognize the importance of keeping violent and hateful content out of Groups and have taken significant steps towards that goal.

We remove Groups that represent QAnon, even if they contain no violent content. And we do not allow militarized social movements—such as militias or groups that support and organize violent acts amid protests—to have a presence on our platform. In addition, last year we temporarily stopped recommending US civic or political Groups, and earlier this year we announced that policy would be kept in place and expanded globally. We've instituted a recommendation waiting period for new Groups so that our systems can monitor the quality of the content in the Group before determining whether the Group should be recommended to people. And we limit the number of Group invites a person can send in a single day, which can help reduce the spread of harmful content from violating Groups.

We also take action to prevent people who repeatedly violate our Community Standards from creating new Groups. Our recidivism policy stops the administrators of a previously removed Group from creating another Group similar to the one removed, and an administrator or moderator who has had Groups taken down for policy violations cannot create any new Groups for a period of time. Posts from members who have violated any Community Standards in a Group must be approved by an administrator or moderator for 30 days following the violation. If administrators or moderators repeatedly approve posts that violate our Community Standards, we'll remove the Group.

Our enforcement effort in Groups demonstrates our commitment to keeping content that violates these policies off the platform. In September, we shared that over the previous year we removed about 1.5 million pieces of content in Groups for violating our policies on organized hate, 91 percent of which we found proactively. We also removed about 12 million pieces of content in

Groups for violating our policies on hate speech, 87 percent of which we found proactively. When it comes to Groups themselves, we will remove an entire Group if it repeatedly breaks our rules or if it was set up with the intent to violate our standards. We took down more than one million Groups for violating our policies in that same time period.

IV. Updating the Rules of the Internet

In my testimony above, I laid out many of the steps we have taken to balance important values including safety and free expression in democratic societies. We invest significant time and resources in thinking through these issues, but we also support updated Internet regulation to set the rules of the road. One area that I hope Congress will take on is thoughtful reform of Section 230 of the Communications Decency Act.

Over the past quarter-century, Section 230 has created the conditions for the Internet to thrive, for platforms to empower billions of people to express themselves online, and for the United States to become a global leader in innovation. The principles of Section 230 are as relevant today as they were in 1996, but the Internet has changed dramatically. I believe that Section 230 would benefit from thoughtful changes to make it work better for people, but identifying a way forward is challenging given the chorus of people arguing—sometimes for contradictory reasons—that the law is doing more harm than good.

Although they may have very different reasons for wanting reform, people of all political persuasions want to know that companies are taking responsibility for combatting unlawful content and activity on their platforms. And they want to know that when platforms remove harmful content, they are doing so fairly and transparently.

We believe Congress should consider making platforms' intermediary liability protection for certain types of unlawful content conditional on companies' ability to meet best practices to combat the spread of this content. Instead of being granted immunity, platforms should be required to demonstrate that they have systems in place for identifying unlawful content and removing it. Platforms should not be held liable if a particular piece of content evades its detection—that would be impractical for platforms with billions of posts per day—but they should be required to have adequate systems in place to address unlawful content.

Definitions of an adequate system could be proportionate to platform size and set by a third-party. That body should work to ensure that the practices are fair and clear for companies to understand and implement, and that best practices don't include unrelated issues like encryption or privacy changes that deserve a full debate in their own right.

In addition to concerns about unlawful content, Congress should act to bring more transparency, accountability, and oversight to the processes by which companies make and enforce their rules about content that is harmful but legal. While this approach would not provide a clear answer to where to draw the line on difficult questions of harmful content, it would improve trust in and accountability of the systems and address concerns about the opacity of process and decision-making within companies.

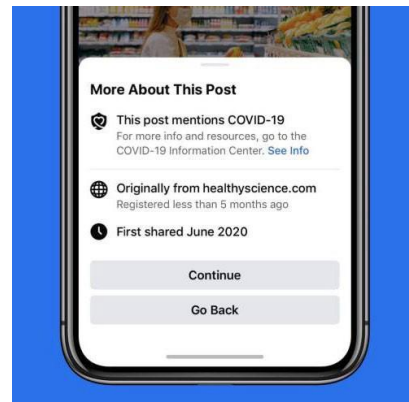
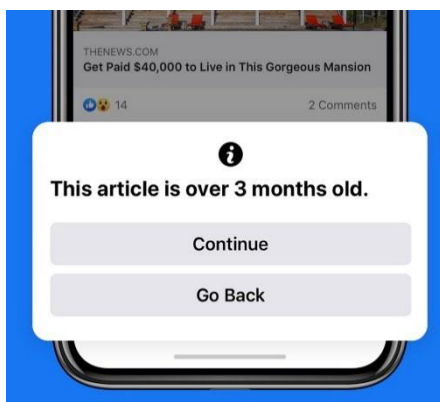
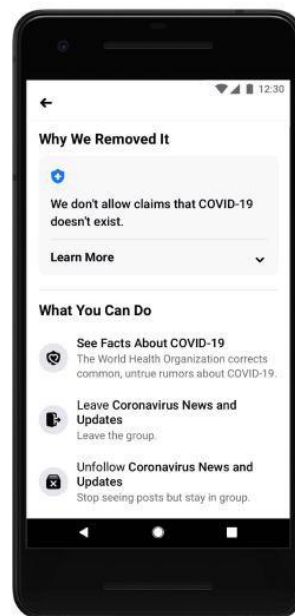
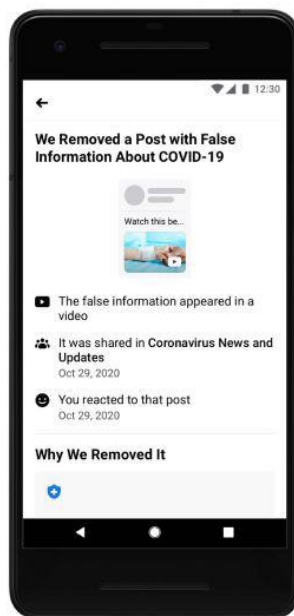
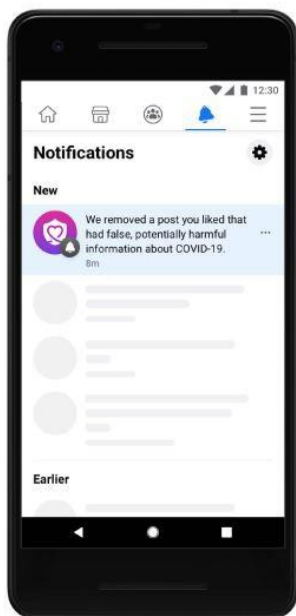
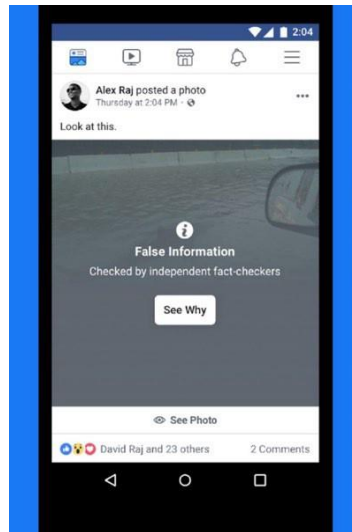
Ultimately it is up to Congress and the new Administration to chart the path forward. Facebook stands ready to be a productive partner in the discussion about Section 230 reform—as well in important and urgent conversations about updating the rules for privacy, elections, and data portability.

V. Conclusion

Every day we see people using our services to come together and do good—forming supportive communities, raising money for good causes, drawing attention to important issues, creating opportunities for themselves, or simply being there for one another in times of need.

Facebook is successful because people around the world have a deep desire to connect and share, not to stand apart and fight. This reaffirms our belief that connectivity and togetherness are ultimately more powerful ideals than division and discord—and that technology can be part of the solution to the deep-seated challenges in our society. We will continue working to ensure our products and policies support this ambition.

APPENDIX: Facebook Efforts to Combat Covid-19 Misinformation



"Disinformation Nation: Social Media's Role in Promoting Extremism and Misinformation" (2021),
<https://www.congress.gov/event/117th-congress/house-event/111407>.

**Written Testimony of Sundar
Pichai Chief Executive Officer,
Alphabet**

**United States House Committee on Energy and Commerce
"Disinformation Nation: Social Media's Role In Promoting
Extremism And Misinformation"**

**March 25,
2021**

**Chairman Doyle, Ranking Member Latta, Chairwoman Schakowsky,
Ranking Member Bilirakis, Full Committee Chair Pallone and Full
Committee Ranking Member McMorris Rodgers, thank you for the
opportunity to appear before you today.**

This month, the worldwide web turned 32. Over the past three decades, we've seen the web inspire the best in society, by expanding knowledge, powering businesses, and providing opportunities for expression, discovery, and connection—no matter who you are, or where you live.

I joined Google in 2004 because I believed the internet was the best way to bring the benefits of technology to more people, and I believe that still today.

I am proud that Americans can turn to Google for help in moments that matter, whether they're looking for COVID vaccine information on Search and Maps, working and learning from home using Google Workspace or Google Classroom, learning new skills on YouTube, or using our digital tools to grow their businesses. In 2020, our

products helped 2 million US businesses, publishers, and others generate \$426 billion in economic activity. And we helped billions of people find comfort and connection in an otherwise awful year.

Beyond our products, we were proud to announce last week our plans to invest over \$7 billion in data centers and offices across 19 states, and create at least 10,000 full-time Google jobs in the U.S. That's in addition to the 84,000 employees we currently employ across the country. And according to an Oxford Economics report, YouTube's creative ecosystem supported the equivalent of 345,000 full time jobs in 2019.

We are energized by the opportunity to help people at scale, and we are humbled by the responsibility that comes with it. We have thousands of people focused on everything from cyber attacks, to data privacy, to today's topic: misinformation.

Our mission at Google is to organize the world's information and make it universally accessible and useful. Core to that mission is providing trustworthy content and opportunities for free expression across our platforms, while limiting the reach of harmful misinformation.

It's a large, dynamic challenge without easy answers. More than 500 hours of video are uploaded to YouTube every minute, and approximately 15% of the searches on Google each day are new to us. Eighteen months ago most people hadn't heard of COVID-19; sadly, coronavirus was the top trending search of 2020.

Responding to the events of January 6th

Staying ahead of these challenges and keeping users safe and secure on our platforms is a top priority. We saw how high those stakes can be on January 6, 2021, when a mob stormed the U.S. Capitol. This was an unprecedented and tragic event, and Google strongly condemns these violent attacks on our democracy, and mourns the lives lost.

In response, our teams worked to raise up authoritative news sources across our products. Teams at YouTube quickly took down any live streams or videos that

violated our incitement to violence policies, and on January 7th, we began issuing strikes to those in violation of our presidential election integrity policy. In the Play Store, we removed apps for violating our policies on inciting violence. We also prohibited advertisers from running ads that referenced the 2020 election or topics related to the Capitol riots in the scope of our Sensitive Events policy.

Doing our part to contribute to the integrity of the US 2020 election

We were able to act quickly because of the investments we made to prepare for the 2020 elections. Last year, teams across Google and YouTube worked around the clock to contribute to election preparedness, by helping voters find authoritative information about the election; by working with campaigns to equip them with best-in-class security features and helping them connect with voters; and by protecting our platforms from abuse.

Helping voters find authoritative information on our services

This U.S. election cycle saw all-time highs in searches on Google for civics-related topics. Anticipating that need, we worked to launch features that would help people find the information to participate in the democratic process, including how to register and how to vote in their states.

Consistent with our approach to prior election cycles, we showed “how to register” and “how to vote” reminders to all our U.S. users directly on Google Search, Maps and YouTube. These reminders were seen over 2 billion times across our products. As the election neared, we helped people find polling and ballot drop off locations: from mid-October through Election Day, we added more than 125,000 voting locations in Google Maps. Across our products, these features were seen nearly 500 million times.

Finally, starting on Election Day, we worked with the Associated Press to provide real-time election results for relevant searches on Google. These results had over six

times more views in 2020 than in 2016. Similarly, on YouTube, we launched an election results information panel that showed on top of search results and under videos with election-related content. It pointed to our election results page on Google, and over time, we expanded it to include an additional link pointing to a page on the US Cybersecurity and Infrastructure Security Agency (CISA) website that debunked incorrect claims made about the integrity of the elections. Once the safe harbor deadline for state certification passed, we updated this YouTube Election Results Information Panel again to point to the National Archives Office of the Federal Register page of record for the 2020 electoral college vote. Collectively, our election information panels on YouTube have been shown over 8 billion times.

Working with campaigns

We also helped campaigns and elected officials effectively use Google and YouTube products to reach voters and enhance their election security. As part of our Civics Outreach Virtual Training Series, Google held 21 training sessions for over 900 candidates, campaigns, public officials, and nonprofit leaders. Overall, we held 45 group and individual trainings to help more than 2,900 election workers learn to use Google tools to amplify their message and better connect with voters through events like digital town halls, debates and virtual campaign rallies.

In addition, as a part of our Election Cybersecurity Initiative with the University of Southern California's Annenberg School, nearly 4,000 elected officials, secretaries of state, campaign staffers, political party representatives, and state election directors in all 50 states received training on ways to secure their information and protect their campaigns against cyberattacks.

At the start of the 2020 election season, we partnered with Defending Digital Campaigns (DDC), a nonprofit and nonpartisan organization, to give any eligible federal campaign access to free Titan Security Keys—the strongest form of two-factor authentication. This collaboration is a part of our Advanced Protection

Program, which protects high-risk individuals, such as election officials, campaigns, and journalists, who have access to high visibility and sensitive information. In the lead up to the 2020 elections, DDC distributed more than 10,000 Titan Security key bundles to more than 140 U.S. federal campaigns. We recently expanded our support for DDC to provide eligible campaigns and political parties, committees, and related organizations, at both the federal and state levels, with knowledge, training and resources to defend themselves from security threats.

Protecting our platforms from abuse

In the years leading up to the 2020 election, we made numerous enhancements to protect the integrity of elections around the world and better secure our platforms. Among them, we introduced strict policies and processes for identity verification for advertisers who run election-related advertising on our platform; we launched comprehensive political ad libraries in the U.S. and in other countries around the world; we developed and implemented policies to prohibit election-related abuse such as voter suppression and deceptive practices on platforms like YouTube, Google Ads, Google Maps and Google Play; our Threat Analysis Group (TAG) launched a quarterly bulletin to provide regular updates on our work to combat coordinated influence operations across our platforms and flagged phishing attempts against the presidential campaigns; and we worked closely with government agencies, including the FBI's Foreign Influence Task Force, and other companies to share information around suspected election interference campaigns.

On YouTube, throughout 2020, we identified and removed content that was misleading voters about where or how to vote, to help ensure viewers saw accurate information about the upcoming election. After December 8th, which marked the "safe harbor" deadline for states to certify their election, in accordance with our Presidential Election Integrity policy we began to remove content uploaded on or after December 9th that misled people by alleging that widespread fraud or errors changed the outcome of the 2020 U.S. presidential election. In addition, we continued

to enforce our broader policies – for instance, from October to December 2020, we removed 13,000 YouTube channels for promoting violence and violent extremism; 89% of videos removed for violating our violent extremism policy were taken down before they had 10 views.

This work was in addition to improvements in the ranking systems we use to reduce the spread of harmful misinformation on YouTube: in January 2019, we announced that we would begin reducing recommendations of borderline content or videos that could misinform viewers in harmful ways but that do not violate YouTube Community Guidelines. Since then, we've launched numerous changes to reduce recommendations of borderline content and harmful misinformation, and we continue to invest in this work: our models review more than 100,000 hours of videos every day to find and limit the spread of borderline content.

Our work is never done, and we continue to learn and improve from one election cycle to the next, and continue to evolve our policies. That principle has guided our approach to new and evolving challenges, including COVID-19 misinformation.

Addressing the challenge of COVID-19 misinformation

This past year we've also focused on providing quality information during the pandemic. Since the outbreak of COVID-19, teams across Google have worked to provide quality information and resources to help keep people safe, and to provide public health, scientists and medical professionals with tools to combat the pandemic. We've launched more than 200 new products, features and initiatives—including the Exposure Notification API to assist contact tracing—and have pledged over \$1 billion to assist our users, customers and partners around the world.

Today, when people search on Google for information for COVID-19 vaccines in the United States, we present them with a list of authorized vaccines in their location, with information on each individual vaccine from the FDA or CDC, as relevant. We also provide them with information about vaccination locations near them in Google

Search and Google Maps, when that information is available. On YouTube, we launched COVID-19 information panels directing viewers to the CDC's information about the virus and, later on, about vaccines. These information panels are featured on the YouTube homepage, and on videos and in search results about the pandemic. Since March 2020, they have been viewed over 400 billion times. And we continue to work with YouTube creators to pair them with health experts who can get the facts to a wide range of audiences – we promote this content in our “ask the experts” feature.

Another way we've been helping is by offering over \$350 million in Ad Grants to help more than 100 government agencies and non-profit organizations around the world run critical public service announcements (PSAs) about COVID-19. Grantees can use these funds throughout 2021 for things like vaccine education and outreach campaigns.

In parallel to our efforts to elevate authoritative information about the pandemic and vaccines, we have worked across our services to combat harmful misinformation about these topics. Across our products, we've had long-standing policies prohibiting harmful and misleading medical or health-related content. When COVID-19 hit, our Trust and Safety team worked to stop a variety of abuses stemming from the pandemic, including phishing attempts, malware, dangerous conspiracy theories, and fraud schemes. We took quick action to remove content that promoted inaccurate or misleading claims about cures, masks, and vaccines; our teams have removed 850,000 videos related to dangerous or misleading COVID-19 medical information, and in total, we blocked nearly 100 million COVID-related ads throughout 2020. Our teams have also been planning for new threats and abuse patterns related specifically to COVID-19 vaccines. For example, in October, we expanded our COVID-19 medical misinformation policy on YouTube to remove content about vaccines that contradicts consensus from health authorities, such as the Centers for Disease Control or the World Health Organization (WHO).

Developing Clear and Transparent Policies

We were able to act quickly and decisively because of the significant investments we have made over years, not only to make information useful and accessible, but also to remove and reduce the spread of harmful misinformation. Across all of this work, we strive to have clear and transparent policies and enforce them without regard to political party or point of view. We work to raise up authoritative sources, and reduce the spread of misinformation in recommendations and elsewhere. Teams across the company work in a variety of roles to help develop and enforce our policies, monitor our platforms for abuse, and protect users from everything from account hijackings and disinformation campaigns to misleading content and inauthentic activity. And we don't do this work alone; we work closely with experts to stay ahead of emerging threats.

Supporting innovation in journalism and the development of new business models

At Google, we believe that a vibrant news industry is vital to tackling misinformation on a societal scale. We invested millions to support COVID-19 related fact checking initiatives, providing training or resources to nearly 10,000 journalists. In addition to helping journalists tackle misinformation, we have long been committed to supporting newsrooms and journalists in the United States and abroad. Over the past 20 years, we have collaborated closely with the news industry and provided billions of dollars to support the creation of quality journalism in the digital age.

We share a strong interest in supporting a diverse and sustainable ecosystem of quality news providers. Our products are designed to elevate high quality journalism and connect consumers to diverse news sites — from global media companies to smaller digital startups.

We are proud that our services help people all over the world find relevant, authoritative news about issues that matter to them. Each month, people click

through from Google Search and Google News results to publishers' websites more than 24 billion times — that's over 9,000 clicks per second. This free traffic helps new publishers increase their readership, build trust with readers and earn money through advertising and subscriptions. We also recently announced a new investment in Google News Showcase and committed \$1 billion over the next three years to pay publishers to produce editorially curated content experiences and for limited free user access to paywalled content. In less than one year, we have been able to partner with over 500 publications across more than a dozen countries, spanning global, national, regional, metro and local publications.

Our commitment to the future of news extends beyond our products and services. We launched the Google News Initiative to support journalistic innovation and the emergence of new business models. Since 2018, we have committed \$61 million in funding to support more than two thousand news partners across the United States and Canada. As part of this initiative, we have also helped more than 447,200 journalists develop knowledge and skills in digital journalism through in person and online trainings through the Google News Lab. And when the pandemic hit, we turned our resources to support local news organizations and fact-checkers — contributing \$10.6 million to over 1,800 local newsrooms across the U.S. and Canada through our Journalism Emergency Relief Fund and committing \$6.5 million to combat Covid-19 misinformation. We look forward to continuing this work with our partners in the news industry to ensure a thriving and healthy future for journalism.

The role of Section 230 in fighting misinformation

These are just some of the tangible steps we've taken to support high quality journalism and protect our users online, while preserving people's right to express themselves freely. Our ability to provide access to a wide range of information and viewpoints, while also being able to remove harmful content like misinformation, is made possible because of legal frameworks like Section 230 of the Communications Decency Act.

Section 230 is foundational to the open web: it allows platforms and websites, big and small, across the entire internet, to responsibly manage content to keep users safe and promote access to information and free expression. Without Section 230, platforms would either over-filter content or not be able to filter content at all. In the fight against misinformation, Section 230 allows companies to take decisive action on harmful misinformation and keep up with bad actors who work hard to circumvent their policies.

Thanks to Section 230, consumers and businesses of all kinds benefit from unprecedented access to information and a vibrant digital economy. Today, more people have the opportunity to create content, start a business online, and have a voice than ever before. At the same time, it is clear that there is so much more work to be done to address harmful content and behavior, both online and offline.

Regulation has an important role to play in ensuring that we protect what is great about the open web, while addressing harm and improving accountability. We are, however, concerned that many recent proposals to change Section 230—including calls to repeal it altogether—would not serve that objective well. In fact, they would have unintended consequences—harming both free expression and the ability of platforms to take responsible action to protect users in the face of constantly evolving challenges.

We might better achieve our shared objectives by focusing on ensuring transparent, fair, and effective processes for addressing harmful content and behavior. Solutions might include developing content policies that are clear and accessible, notifying people when their content is removed and giving them ways to appeal content decisions, and sharing how systems designed for addressing harmful content are working over time. With this in mind, we are committed not only to doing our part on our services, but also to improving transparency across our industry.

I look forward to sharing more about our approach with you today, and working together to create a path forward for the web's next three decades.

"Disinformation Nation: Social Media's Role in Promoting Extremism and Misinformation" (2021),
<https://www.congress.gov/event/117th-congress/house-event/111407>.

**WRITTEN TESTIMONY OF TWITTER CEO JACK DORSEY (@JACK)
U.S. HOUSE COMMITTEE ON ENERGY &
COMMERCE MARCH 25, 2021**

Twitter's purpose is to serve the public conversation. While much has changed in the world since we started fifteen years ago, we believe our mission is more important than ever.

Every day Twitter grapples with complex considerations on how to address extremism and misinformation. How do we prevent harm, while also safeguarding free expression and the right of diverse individuals to express a range of views? How do we develop policies that can be built at scale and adapt rapidly, especially given diverse regulatory models around the world? What role should our company play in determining these pivotal questions? What information should we rely on when making decisions? How do we earn the trust of those who use our service?

These are even harder questions in an increasingly polarized world, which has consequently heightened concerns about information sources. Quite simply, a trust deficit has been building over the last several years, and it has created uncertainty — here in the United States and globally. That deficit does not just impact the companies sitting at the table today but exists across the information ecosystem and, indeed, across many of our institutions.

This Committee has expressed interest in what we are doing to combat "falsehoods about the COVID-19 vaccine" and "debunked claims of election fraud." We have [COVID-19](#) and [vaccine misinformation](#) policies, as well as a [COVID information hub](#). Our [civic integrity](#) and [platform manipulation](#) policies are available on our [Help Center](#), along with information on our bans on [state-controlled media](#) advertising and [political advertising](#). As a follow-up to our [preliminary post-election update](#), we are conducting a review of the 2020 U.S. election, the findings of which we intend to share.

Our efforts to combat misinformation, however, must be linked to earning trust. Without trust, we know the public will continue to question our enforcement actions. I believe we can earn trust by focusing on the following: enhancing transparency, ensuring procedural fairness, enabling algorithmic choice, and strengthening privacy.

Building & Earning Trust

Every day, millions of people around the world Tweet hundreds of millions of Tweets, with one set of rules that applies to everyone and every Tweet. We strive to implement policies impartially and at scale. We built our policies primarily around the promotion and protection of three fundamental human rights — freedom of expression, safety, and privacy.

At times, these rights can conflict with one another. As we develop, implement, and enforce our policies, we must balance these rights. Additionally, our policies must be adaptable to changes in

behavior and evolving circumstances. This is why we must be transparent, embrace procedural fairness and choice, and protect privacy.

Transparency

While Twitter has made significant progress with respect to transparency, we know that we can do more to strengthen our efforts. People who use our service should understand our processes how potential violations of our rules are reported and reviewed, how content-related decisions are made, and what tools are used to enforce these decisions. Publishing answers to questions like these will continue to make our internal processes both more robust and more accountable to the people we serve.

Twitter's open nature means our enforcement actions are plainly visible to the public, even when we cannot reveal the private details behind individual accounts that have violated our rules. We use a combination of machine learning and human review to assess potential violations of the Twitter Rules. We take a behavior-first approach, meaning we look at how accounts behave before we review the content they are posting. If an account owner breaks our Rules and may be required to delete a Tweet, we have worked to build better in-app notices to communicate with both the account that reports a Tweet and the account that posted it with additional information about our actions. In January, we published our biannual update to the [Twitter Transparency Center](#), with additional data about actions we have taken to disrupt state-backed information operations, to enforce our COVID-19 policy, and take action on Tweets that violate our Rules.

In addition to ensuring transparency around our decisions, we are seeking ways to enhance transparency around how we develop our content moderation policies. In recent months, for example, there have been increased questions about how we should address policy violations from world leaders. As a result, we are currently re-examining our approach to world leaders and are soliciting [feedback](#) from the public. Our feedback period is currently open and our survey will be available in more than a dozen languages to ensure a global perspective is reflected.

Procedural Fairness (Accountability & Reliability)

Twitter is focused on advancing procedural fairness in our decision-making. We strive to give people an easy, clear way to appeal decisions we make that they think are not right. Mistakes in enforcement — made either by a human or an automated system — are inevitable and why we strive to make appeals easier. We believe that all companies should be required to provide those who use their service with straightforward processes to appeal decisions that impact them.

Algorithmic Choice

We believe that people should have transparency or meaningful control over the algorithms that affect them. We recognize that we can do more to provide algorithmic transparency, fair machine learning, and controls that empower people. The machine learning teams at Twitter are studying techniques and developing a roadmap to ensure our present and future algorithmic models uphold a high standard when it comes to transparency and fairness.

We also provide people control over algorithms that affect their core experience on Twitter. We have invested heavily in building systems that organize content to show individuals relevant

information that improves their experience. With 192 million people last quarter using Twitter daily in dozens of languages and countless cultural contexts, we rely upon machine learning algorithms to help us organize content by relevance to provide a better experience for the people who use our service.

Privacy

We have always believed that privacy is a fundamental human right. We believe that individuals should understand the personal data that is shared with companies and have the tools to help them control their information. To help people better understand their options, we have created the [Twitter Privacy Center](#), which acts as a hub for information about our privacy and data protection work.

We are constantly working to improve the controls people have to manage their personal data and experience on Twitter. In addition, we continue to support efforts to pass strong federal privacy legislation to safeguard important privacy rights.

Innovations to Address Misinformation

We also recognize that addressing harms associated with misinformation requires innovative solutions. Content moderation in isolation is not scalable, and simply removing content fails to meet the challenges of the modern Internet. This is why we are investing in two experiments — [Birdwatch](#) and [Bluesky](#). Both are aimed at improving our efforts to counter harmful misinformation.

Birdwatch

In January, we launched the “Birdwatch” pilot, a community-based approach to misinformation. Birdwatch is expected to broaden the range of voices involved in tackling misinformation, and streamline the real-time feedback people already add to Tweets. We hope that engaging diverse communities here will help address current deficits in trust for all. More information on Birdwatch can be found [here](#). We expect data related to Birdwatch will be publicly available at [Birdwatch Guide](#), including the algorithm codes that power it.

Bluesky

Twitter is also funding Bluesky, an independent team of open source architects, engineers, and designers, to develop open and decentralized standards for social media. This team has already created an initial review of the ecosystem around protocols for social media to aid this effort. Bluesky will eventually allow Twitter and other companies to contribute to and access open recommendation algorithms that promote healthy conversation and ultimately provide individuals greater choice. These standards will support innovation, making it easier for startups to address issues like abuse and hate speech at a lower cost. Since these standards will be open and transparent, our hope is that they will contribute to greater trust on the part of the individuals who use our service. This effort is emergent, complex, and unprecedented, and therefore it will take time. However, we are excited by its potential and will continue to provide the necessary exploratory resources to push this project forward.

Conclusion

As we look to the future, I agree with this Committee that technology companies have work to do to earn trust from those who use our services. For Twitter, that means tackling transparency, procedural fairness, algorithmic choice, and privacy. I think that this approach will be a growing trend across all companies and organizations, both big and small. I look forward to your questions.

45th Annual UCLA Entertainment Symposium

The Show Must Go On...Line?

UCLA School of Law
Ziffren Institute for Media, Entertainment,
Technology & Sports Law

Life After Hollywood's
Longest Year



WEDNESDAY, JUNE 16, 2021

5:55p - 6:40p PDT

THE WORLD OF INFLUENCERS – BIG BUSINESS, BIG DEALS AND MORE

moderator:

Keri S. Bruce

Partner, Reed Smith LLP

panelists:

Jenna Gambaro

Commercial Endorsements Business Affairs Executive, CAA

Stacy K. Marcus

Partner, Reed Smith LLP and Chief Negotiator of the Joint Policy Committee, the multi-employer collective bargaining unit that negotiates against SAG-AFTRA

KERI S. BRUCE

PARTNER, REED SMITH LLP

KERI S. BRUCE IS A PARTNER IN THE ENTERTAINMENT AND MEDIA INDUSTRY GROUP. KERI REPRESENTS NATIONAL AND MULTI-NATIONAL CLIENTS AND TRADE ORGANIZATIONS IN MATTERS RELATING TO ADVERTISING, MARKETING, MEDIA, PROMOTIONS, TRADE PRACTICES, INTELLECTUAL PROPERTY AND TECHNOLOGY.

SHE PROVIDES CLIENTS WITH TRANSACTIONAL SUPPORT, PRACTICAL ADVICE AND TRAINING TO DEVELOP POLICIES AND PROGRAMS AND MAKE DECISIONS TO EFFECTIVELY MARKET THEIR PRODUCTS AND SERVICES, WHILE REDUCING RISK AND REMAINING COMPETITIVE IN TODAY'S BUSINESS WORLD.

SHE IS A LEGAL ADVISOR TO THE ASSOCIATION OF NATIONAL ADVERTISERS AND ALSO REPRESENTS CLIENTS IN A WIDE ARRAY OF INDUSTRIES, INCLUDING BEAUTY, FASHION, LUXURY-GOODS, RETAIL, CONSUMER PACKAGED GOODS, RESTAURANTS, FINANCIAL SERVICES, ADVERTISING, MEDIA, PUBLISHING, AUTOMOTIVE, TECHNOLOGY AND SPORTS.

KERI'S EXPERIENCE COVERS A BROAD ARRAY OF AREAS, INCLUDING, TALENT AGREEMENTS AND CELEBRITY ENDORSEMENTS; ADVERTISING AND MEDIA AGENCY AGREEMENTS; VENDOR AGREEMENTS; TECHNOLOGY, SPONSORSHIP, LICENSING, AND STRATEGIC ALLIANCE AGREEMENTS; EMERGING TECHNOLOGY PLATFORMS; INTELLECTUAL PROPERTY ISSUES, INCLUDING COPYRIGHT, TRADEMARK AND RIGHT OF PRIVACY AND PUBLICITY; SOCIAL MEDIA COMPLIANCE; RIGHTS OF ADVERTISERS PURSUANT TO COLLECTIVE BARGAINING AGREEMENTS

WITH PERFORMING UNIONS; COMMERCIAL CO-VENTURES AND OTHER CHARITABLE SALES PROMOTIONS; LOYALTY PROGRAMS; CLAIM SUBSTANTIATION; SWEEPSTAKES; CONTESTS; PROMOTIONAL INCENTIVES, SUCH AS GIFT CARDS, REBATES AND COUPONS; AND GENERAL ADVERTISING REVIEW.

ADDITIONALLY, SHE HAS EXPERIENCE WORKING WITH LOCAL COUNSEL AROUND THE WORLD TO DEFEND FOREIGN FALSE ADVERTISING INVESTIGATIONS.

KERI IS A FREQUENT SPEAKER ON ADVERTISING AND MARKETING ISSUES.

PRIOR TO BECOMING AN ATTORNEY, KERI SPENT SEVEN YEARS WORKING IN THE ADVERTISING INDUSTRY ON THE AGENCY SIDE, LEADING THE DEVELOPMENT AND PRODUCTION OF ADVERTISING STRATEGIES AND CAMPAIGNS FOR BOTH START-UP AND GLOBAL BRANDS IN THE CONSUMER PACKAGED GOODS, WINE, TECHNOLOGY AND FINANCIAL SERVICES INDUSTRIES. HER KNOWLEDGE OF THE ADVERTISING AND MARKETING INDUSTRIES GIVES HER A UNIQUE UNDERSTANDING INTO CLIENTS' OBJECTIVES AND THE EVER-CHANGING MEDIA LANDSCAPE.

HONORS AND AWARDS

- RANKED IN CHAMBERS USA FOR NATIONWIDE ADVERTISING: TRANSACTIONAL & REGULATORY (2019-2020)
- RECOGNIZED AS A "RISING STAR" BY SUPER LAWYERS (2016-2018)

JENNA GAMBARO

COMMERCIAL ENDORSEMENTS BUSINESS AFFAIRS EXECUTIVE, CAA

JENNA GAMBARO IS A COMMERCIAL ENDORSEMENTS BUSINESS AFFAIRS EXECUTIVE AT LEADING ENTERTAINMENT AND SPORTS AGENCY CREATIVE ARTISTS AGENCY (CAA). BASED IN THE LOS ANGELES OFFICE, GAMBARO WORKS ON BEHALF OF THE AGENCY'S CLIENTS IN THE AREAS OF ON-CAMERA, PRINT, PERSONAL APPEARANCES, VOICE-OVER, AND SOCIAL MEDIA-DRIVEN CAMPAIGNS, BOTH DOMESTICALLY AND INTERNATIONALLY.

GAMBARO BEGAN HER CAREER AT CAA IN 2002.

GAMBARO GRADUATED FROM PORTLAND STATE UNIVERSITY WITH A DEGREE IN BUSINESS/MARKETING AND WENT ON TO RECEIVE HER LAW DEGREE FROM SOUTHWESTERN LAW SCHOOL.

GAMBARO CURRENTLY SERVES ON THE BOARD OF TRUSTEES FOR THE WEBB SCHOOLS OF CALIFORNIA AND THE BOARD OF DIRECTORS OF POINT FOUNDATION.

STACY K. MARCUS

PARTNER, REED SMITH LLP AND CHIEF NEGOTIATOR FOR THE JOINT
POLICY COMMITTEE

STACY IS A PARTNER IN THE ENTERTAINMENT AND MEDIA INDUSTRY GROUP. STACY ADVISES CLIENTS ON ALL FACETS OF ADVERTISING AND ENTERTAINMENT LAW, INCLUDING, CELEBRITY ENDORSEMENT, INFLUENCER AND TALENT AGREEMENTS, SAG-AFTRA ISSUES, DIGITAL AND SOCIAL MEDIA MARKETING, AGENCY-CLIENT AGREEMENTS, BRANDED ENTERTAINMENT DEALS, MEDIA BUYING AGREEMENTS, MUSIC LICENSING, SWEEPSTAKES AND PROMOTIONS, AND CORPORATE SPONSORSHIPS. HER CLIENTS INCLUDE BOTH GLOBAL AND REGIONAL ADVERTISERS, LUXURY RETAILERS, MEDIA COMPANIES, AND DIGITAL PLATFORMS. STACY IS ALSO THE CHIEF NEGOTIATOR FOR THE JOINT POLICY COMMITTEE ON BROADCAST TALENT UNION RELATIONS, THE MULTI-EMPLOYER BARGAINING UNIT FOR THE ADVERTISING INDUSTRY THAT NEGOTIATES THE MULTI-BILLION DOLLAR COMMERCIALS COLLECTIVE BARGAINING AGREEMENTS WITH SAG-AFTRA AND THE AMERICAN FEDERATION OF MUSICIANS.

STACY IS SPEAKING ON A PANEL AT THE CANNES LION CONFERENCE ON 17 JUNE AT THE FOX BUSINESS BUNGALOW ON THE CANNES CROISSETTE ON "THE GLOBAL MOVEMENT FOR GENDER EQUALITY IN ADVERTISING & MEDIA: A PANEL DISCUSSION WITH #SEEHER." FIND OUT HOW TODAY'S BIGGEST BRANDS ARE CHANGING HOW WOMEN AND GIRLS ARE PORTRAYED IN MEDIA.

STACY IS A MEMBER OF THE SOCIAL AND DIGITAL MEDIA TASK FORCE. SHE CO-AUTHORED THE ADVERTISING & MARKETING CHAPTER OF THE SOCIAL MEDIA WHITE PAPER ENTITLED "A LEGAL GUIDE TO THE COMMERCIAL

RISKS AND REWARDS OF THE SOCIAL MEDIA PHENOMENON," AND WAS A CO-EDITOR FOR THE ENTIRE PAPER.

PRIOR TO JOINING REED SMITH, STACY ASSISTED IN THE DEFENSE OF FTC, STATE ATTORNEYS GENERAL AND CLASS ACTION CONSUMER PROTECTION ACTIONS INVOLVING DECEPTIVE TRADE PRACTICES, CAN-SPAM, STATE SPAM LAWS AND FEDERAL TELEMARKETING RULES, SUCH AS THE 900 NUMBER RULE, TDDRA AND THE TCPA.

HONORS AND AWARDS

- NAMED IN VARIETY'S LEGAL IMPACT REPORT 2020
- SELECTED THROUGH PEER REVIEW FOR INCLUSION IN THE BEST LAWYERS IN AMERICA® FOR ADVERTISING LAW, 2019-2021
- RANKED IN CHAMBERS USA FOR NATIONWIDE ADVERTISING: TRANSACTIONAL & REGULATORY, 2018-2020
- LISTED AS A NEXT GENERATION PARTNER IN THE LEGAL 500 USA FOR ADVERTISING AND MARKETING: TRANSACTIONAL AND REGULATORY, 2017-2020
- NAMED ONE OF VARIETY'S ELITE DEALMAKERS OF NEW YORK, 2019
- NAMED ONE OF NEW YORK SUPER LAWYERS IN THE AREA OF FIRST AMENDMENT, MEDIA AND ADVERTISING LAW 2013 - 2017
- NAMED ON 2011'S AND 2012'S LIST OF NEW YORK SUPER LAWYERS RISING STARS IN THE AREA OF FIRST AMENDMENT, MEDIA AND ADVERTISING LAW

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THE WORLD OF INFLUENCERS – BIG BUSINESS, BIG DEALS AND MORE

OUTLINE OF TOPICS/ISSUES

INFLUENCER MARKETING CONTINUES ITS EXPLOSIVE GROWTH AND IS EXPECTED TO BE WORTH \$13.8 BILLION IN 2021 – UP FROM \$9.7 BILLION IN 2020. HEAR FROM THE EXPERTS WHO REPRESENT MAJOR BRANDS AND INFLUENCER TALENT ABOUT THE CHALLENGING ASPECTS OF INFLUENCER DEALS AND WHAT HAS CHANGED IN THE PAST YEAR. LEARN ABOUT THE NEW SAG-AFTRA INFLUENCER AGREEMENT; FAKE FOLLOWERS AND BRAND SAFETY CONCERNS; EXCLUSIVITY AND OTHER BUSINESS AND REGULATORY ISSUES THAT ARE TOP OF MIND FOR THESE DEAL MAKERS AND THEIR CLIENTS.

CONTINUING EDUCATION CREDITS

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**2021 Influencer-Produced Sponsored Content Agreement
("The Influencer Agreement")**

Project Title/Product: _____

Advertiser: _____

Influencer Name (as identified in deal memo): _____

Social Media/YouTube Channel(s): _____

Producer (Influencer's company): _____

Corporate Structure: Corporation _____ LLC _____ Fed ID# _____ State: _____

Contact Person (if other than Influencer): _____

Address: _____

City _____ State _____ Zip _____

Phone: _____ Email: _____

Please attach contract (e.g. agreement, deal memo, insertion order, etc.) between the Producer (for services of the Influencer) and Advertiser.

This Influencer-Produced Sponsored Content Agreement ("Influencer Agreement") is entered into between SAG-AFTRA and the Producer identified above with respect to content created by the Influencer and sponsored by the Advertiser named above.

This Influencer Agreement only covers content featuring the Influencer, that is self-produced by the Influencer, through the Producer, and released or exhibited on the Influencer's and/or Advertiser's own websites, Social Media, and/or YouTube Channel(s).

The following are not permitted under this Agreement: streamed or recorded on-camera or voiceover content that is not self-produced and/or that falls under the jurisdiction of any other SAG-AFTRA contract. Excluded Services, as defined below, are not included within the scope of this Agreement

This Agreement may not be used to circumvent the terms and conditions of any other SAG-AFTRA agreement or membership rule.

Producer has represented to SAG-AFTRA, as a basis for coverage under this Agreement, that the Project is bona fide influencer-Produced content produced for exhibition on the Influencer's and/or Advertiser's website, Social Media, and/or YouTube Channel(s). Based upon these representations and the other representations herein, and in reliance thereon, SAG-AFTRA offers Producer the following special terms and conditions for the Project:

1. Definitions

For purposes of this Agreement, capitalized terms shall have the definitions below:

"Influencer" has its colloquial understanding and, for the purposes of this contract, shall refer to the individual specifically identified above.

"Influencer-Produced Sponsored Content" is content self-produced by an Influencer that features an advertiser's product or service and that is created for digital distribution on the Influencer's and/or the Advertiser's own Social Media and/or YouTube Channel/s. Content written, filmed or produced for the advertiser by any party other than the featured Producer/Influencer (i.e. production company, ad agency, PR agency, etc.) shall not be covered by this Agreement.

"Producer" refers to the above-named company controlled and operated by or on behalf of the named Influencer(s) that is producing the Influencer-Produced Content covered by this Agreement.

"Social Media and/or YouTube Channel" shall refer to an Influencer's or advertiser's own channel or account on a social media platform (including, but not limited to, Facebook, Instagram, Snapchat, TikTok, Tumblr, Twitter, and LinkedIn) or on YouTube.

"Compensation for Covered Services" refers to that portion of the total compensation set forth in the contract with the Advertiser that is attributable to Influencer's on-camera and/or voiceover services ("Covered Services"), subject to the minimum set forth in Section 4. It does not include compensation attributable to Excluded Services. Compensation for Covered Services also includes: (i) bonuses (such as bonuses for achieving a minimum key performance indicators (KPIs), when received, and (ii) the value of products received (except where the value is de minimis).

"Excluded Services" refers to services Influencer may perform for the Advertiser other than on-camera and/or voiceover services in the Influencer-Produced Sponsored Content. Excluded Services include services performed in producing, creating, and distributing the Influencer-Produced Sponsored Content that fall outside the scope of this Agreement, such as creative, editing, distribution, and print work. In addition, Excluded Services includes any other services to be performed under any contract between Influencer or Producer and the Advertiser unrelated to the Influencer-Produced Sponsored Content (for example, but not as a limitation, tweets, print content).

2. Recognition; Scope; Coverage

Producer hereby recognizes SAG-AFTRA as the exclusive collective bargaining agent for Influencers for their on-screen image and/or voiceover work in connection with Influencer-Produced Sponsored Content for the Project or Product identified above.

3. Restrictions; Limitations.

This Agreement may not be used for Influencer-Produced Sponsored Content being produced for a campaign involving any signatory and/or JPC authorizer advertiser or advertising agency to the 2019 SAG-AFTRA Commercials Contract or any successor agreement.

The Influencer-Produced Sponsored Content must be set-forth in a standalone contract and may not be included in a contract that also provides for services covered under any other SAG-AFTRA contract (for example, television commercials or motion pictures).

This Agreement only applies to Influencer-Produced Sponsored Content produced and wholly owned by Producer or Influencer and not to work being performed as a “work made for hire,” as that term is defined under 17 U.S.C. §101 for the Advertiser, an advertising agency, or any other party.

4. Compensation

Influencer’s Compensation for Influencer-Produced Sponsored Content may be freely bargained.

5. Pension & Health Contributions

Producer shall make contributions of 19% on Influencers Compensation for Covered Services directly to the SAG-Producers Pension Plan and the SAG-AFTRA Health Plan (or any successor plan/s) in the manner prescribed by the Plans. Compensation for Covered Services shall be based on a standard allocation of at least 20% of Influencer’s gross, total compensation for the Influencer-Produced Sponsored Content. The parties may negotiate for how the contribution will be deducted from or paid in addition to the gross compensation, provided that the compensation and contribution amounts are clearly and separately stated in the Influencer’s contract.

For purposes of example: If the Influencer’s total compensation is \$10,000 dollars, at least \$2,000 ($\$10,000 \times 20\%$) shall be deemed to be Compensation for Covered Services. The Pension and Health Plan contribution would be at least \$380 ($\$2,000 \times 19\%$).

SAG-AFTRA, individually and on behalf of the Pension and Health Plans, reserves the right to challenge the reasonableness of any allocation under this Section 4. Influencer/Producer agrees to provide any documents SAG-AFTRA or the Pension and Health Plans deems reasonably necessary to verify the amounts set forth by Influencer/Producer. Any dispute hereunder will be arbitrable.

6. Use in Other Media

The Influencer-Produced Sponsored Content may only be used as set forth in this Agreement. Prior to entering into any agreement with an Advertiser or other party for use of the Influencer-Produced Sponsored Content on any channel or platform or in any other medium (e.g. television or industrial use), Producer or Influencer must notify SAG-AFTRA. If the intended use is in any other media covered by a SAG-AFTRA collective bargaining agreement, Producer must bargain the terms and conditions of use with SAG-AFTRA.

7. Maximum Period of Use (“MPU”)

1-year from the date of first posting on any Social Media or YouTube Channel unless a longer MPU is agreed in the contract between the Producer and/or Influencer and the Advertiser and approved by SAG-AFTRA.

Any use beyond the MPU shall be subject to the Influencer’s consent and payment to be negotiated between the Producer and Advertiser. If the Influencer-Produced Sponsored Content appears on a website, social media platform, or on YouTube after the expiration of the MPU but is not relevant to any current campaign and remains in the feed tied to its original posting date, no further payment shall be required provided that Producer complies with the Union’s request, if made, to remove it.

8. Verification of Qualification for Agreement

Producer agrees to provide any information SAG-AFTRA requests for the purpose of determining a Project’s eligibility for this Agreement and to verify compliance with the terms of this Agreement, including, but not limited to, the contract in place between Advertiser and Producer or Influencer for the services of the Influencer(s), and all contracts relating to the provision of such services. Whether the content is Influencer-Produced Sponsored Content eligible for this Agreement is at SAG-AFTRA's sole discretion.

If Producer or Influencer has made any misrepresentations regarding eligibility for this Agreement, or if SAG-AFTRA otherwise determines that a project was inappropriately produced under this Agreement, SAG-AFTRA, in its sole discretion, may reclassify the Project to the appropriate SAG-AFTRA Agreement. Producer agrees that if SAG-AFTRA reclassifies the project, all terms and conditions of the SAG-AFTRA Agreement that SAG-AFTRA deems applicable to the Project will apply to the Project as if the Project was signed to that Agreement as of the date of this Agreement.

Producer agrees to provide SAG-AFTRA any information it requests in order to determine the Influencer-Produced Sponsored Content’s continuing eligibility for this Agreement.

9. Prohibitions – Stunts; Hazardous/Dangerous Conditions; Nudity

Content produced pursuant to this Agreement may not contain stunts or hazardous/dangerous conditions. Content produced pursuant to this Agreement may not contain nudity or sexually

explicit content, except to the extent such content is necessary to demonstrate the Advertiser's product or service.

10. COVID-19 Safety

Producer agrees that it is aware of and will take reasonable efforts to ensure Influencer will meet or exceed any industry-applicable health and safety standards relating to COVID-19, consistent with local, state and federal regulations, orders, guidance, or other requirements (including, but not limited to, social distancing and shelter in place orders) that may be applicable in the production of the Influencer-Produced Sponsored Content.

11. Union Security

Producer agrees that any Influencer it employs to perform Covered Services is or shall be a member of SAG-AFTRA in good standing or will apply for membership on the thirtieth (30th) day following the beginning of their first employment in SAG-AFTRA's jurisdiction, and thereafter Influencer will maintain such membership in good standing as a condition of employment.

Producer agrees to report to SAG-AFTRA in writing within 15 business days of the first employment of a nonmember of SAG-AFTRA, giving the non-member's name, Social Security number, and their first date of employment.

It is understood that it would be impossible to accurately fix the actual damages suffered by SAG-AFTRA by reason of a breach by a Producer of this section 11. It is therefore agreed that Producer will pay to SAG-AFTRA, as liquidated damages, the sum of \$320.00 for each breach by Producer of this section 11.

12. Term

This Agreement shall be valid through the expiration of Producer's agreement with the Advertiser.

13. No Waiver of Applicable Laws

Nothing in this Agreement waives or limits Influencer's or Producer's obligations to comply with any laws or regulations otherwise applicable to the Influencer's services. This may include, but is not limited to, laws related to workers compensation, minimum wages, and the employment of minors.

Nothing in this Agreement supersedes or limits any right or remedy an Influencer might have at law or otherwise relating to their work on the Project, including relating to any unauthorized use of their name, likeness, image, voice, performance or any other personal attribute.

14. Arbitration

Any dispute, claim, or grievance arising from or relating to the interpretation or application of this agreement shall be submitted to arbitration before a single arbitrator administered by the

American Arbitration Association under its Expedited Labor Arbitration Rules. The parties further agree to accept the arbitrator's award as final and binding on them.

All arbitrations will be held in SAG-AFTRA's office in Los Angeles, unless the parties agree otherwise; provided that if Influencer or Producer is based in New York and a majority of the witnesses reside in or around New York, the arbitration may be held in New York. Where the in-person attendance of witnesses is not necessary, the parties can agree to proceed with a document-only arbitration.

15. Miscellaneous

This Agreement may be signed in counterparts, each of which will be deemed an original and all of which together will make one agreement. SAG-AFTRA reserves the right to revoke this Agreement as set forth herein. Any signature transmitted electronically, including any typed signature on an electronic version of this Agreement, is valid and binding to the same extent as an original signature.

The parties agree that this agreement may be electronically signed. The parties agree that the electronic signatures appearing on this agreement reflect their consent to be bound and are the same as handwritten signatures for the purposes of the validity, enforceability and admissibility of this agreement. If you do not want to sign this agreement electronically, please notify us at influencer@sagaftra.org and we will provide you with a different format.

If any portion of this Agreement is deemed unenforceable, it will be modified to the limited extent necessary to make it and the remainder of the agreement enforceable; if it cannot be so modified, Influencer/Producer and SAG-AFTRA will negotiate a substitute provision with substantially the same effect.

Section headings are descriptive only and not to be construed in interpreting the Agreement.

Any provisions which by their terms or nature are intended to survive termination of this Agreement will survive any termination of this Agreement.



2021 Waiver for Influencer-Produced Sponsored Content ("The 2021 Influencer Waiver")

This 2021 Influencer Waiver (the "Waiver") is available to signatory and JPC authorizer advertising agencies and advertisers. This Waiver covers *bona fide* Influencer-Produced Sponsored Content as defined below.

This Waiver may not be used to circumvent the terms and conditions of any SAG-AFTRA collective bargaining agreement or membership rule. This Waiver may not be used when the Influencer's contract with the advertiser also includes services covered under another SAG-AFTRA collective bargaining agreement (for example, television commercials or motion pictures). Other non-covered services, such as print and personal appearances, are permitted.

While the JPC and SAG-AFTRA each reserve all rights with respect to the definition of a "commercial", and whether all or any Influencer-Produced Sponsored Content is a "commercial" as defined under Section 4 of the Commercials Contract, except as otherwise provided herein, the terms and conditions of the Commercials Contract shall apply. Capitalized terms used but not defined herein shall have the meanings ascribed to them in the Commercials Contract.

1. Definitions

For purposes of this Waiver, capitalized terms shall have the definitions below:

"Influencer" has the meaning commonly understood in the advertising industry, and shall refer generally to an individual engaged to create Influencer-Produced Sponsored Content pursuant to the terms of this Waiver and who has amassed a substantial social media following and who creates and appears in Influencer-Produced Sponsored Content.

"Influencer-Produced Sponsored Content" is audiovisual content self-produced by an Influencer to promote an advertiser's product or service created only for digital distribution on the Influencer's and/or agency's and/or advertiser's website, on social media and/or on YouTube. Content written, filmed or produced by any party engaged by the advertiser or agency (other than the Influencer) (i.e., production company, ad agency, PR firm, etc.) shall not be covered by this Waiver. For purposes of clarity, the advertiser or agency may provide the Influencer with notes, suggested messaging, or other guidance relating to the content as long as it is not scripting the content in its entirety.

"Covered Services" refers only to the Influencer's on-camera and/or voiceover services for Influencer-Produced Sponsored Content.

2. Compensation

Producer and Influencer may freely bargain Influencer's Compensation for Covered Services.

3. Pension & Health Contributions - Standard Allocation

Producers shall contribute to the SAG-AFTRA Health Plan and SAG-Producers Pension Plan (the “Plans”) an amount equal to 19% of all gross compensation for Covered Services, unless they are a JPC authorizer in which case the contribution rate shall be 18.5%.

For the purpose of calculating the pension and health contribution (the “Contribution”), the standard allocation of gross compensation for Covered Services is twenty percent (20%). Provided a Producer allocates in accordance with this Waiver, such allocation shall be rebuttably presumed to be proper. The parties may negotiate how the contribution will be deducted from or paid in addition to the gross compensation, provided that the compensation and contribution amounts are clearly and separately stated in the Influencer’s contract.

For purposes of example, only, if the Influencer’s total compensation is \$10,000.00 dollars, a minimum of \$2,000.00 dollars shall be deemed to be the minimum attributable Compensation for Covered Services. The contribution to the Plans shall be \$380.00 for a signatory and \$370.00 for a JPC authorizer.

4. Use in Other Media

If Producer wants to use Influencer-Generated Sponsored Content produced under this Waiver in any other manner, or to distribute it on any other channel or platform or in any other medium (e.g. television or industrial use), Producer shall notify Influencer of its intended use. Any Influencer-Produced Sponsored Content produced under this Waiver subsequently used in whole or part in any other media covered by a SAG-AFTRA collective bargaining agreement requires payment of no less than the full use fees for that medium (e.g., television or industrial use). Consent of the Influencer is required prior to any television use.

5. Maximum Period of Use (“MPU”)

The MPU shall be 1 year from the date of first posting.

Producer must negotiate with Influencer for any use past the MPU, in accordance with Section 30.D. of the Commercials Contract. However, if the Influencer-Produced Sponsored Content appears on a website, social media platform, or on YouTube after the expiration of the MPU, but is not relevant to any current campaign and remains in the feed tied to its original posting date, no further payment shall be required provided that Producer complies with the Influencer’s request, if made, to remove it. For purposes of clarity, SAG-AFTRA may convey the request to the advertiser or agency on behalf of the Influencer.

6. Required Notice to Influencer

Producer must notify Influencer or Influencer’s professional representative(s) at or before the time of hire that Producer intends to utilize this Waiver.

7. Prohibitions – Stunts; Hazardous/Dangerous Conditions; Nudity

Content produced pursuant to this Waiver may not contain stunts or hazardous/dangerous conditions. Content produced pursuant to this Waiver may not contain nudity or sexually explicit content, except to the extent such content is necessary to demonstrate the advertiser's product or service.

8. No Waiver of Applicable Laws

Nothing herein waives or limits any rights Influencer may have that are outside the scope of this Waiver or the Commercials Contract.

9. Term

This waiver expires on March 31, 2022, unless otherwise agreed or extended by the bargaining parties.

Questions regarding this Waiver can be directed to:

SAG-AFTRA:
influencer@sagaftra.org
LA - 323-549-6858
NY - 212-827-1454

JPC:
Kim Stevens at kstevens@jointpolicycommittee.org
Beth Haynes at bhaynes@jointpolicycommittee.org



Joint FAQs on the 2021 Influencer Waiver

1. Q: What if the Influencer is a SAG-AFTRA member?
A: *You may utilize the 2021 Influencer Waiver for union members or non-union members who are creating Influencer-Produced Sponsored Content. You should be sure to file the proper paperwork for non-union members (Station 12, Taft Hartley), but like the Low Budget Digital Waiver, there should be no fines.*
2. Q: Does the waiver allow us to ask for exclusivity from the Influencers?
A: *Yes. The parties can specifically bargain for exclusivity – meaning that it is not automatic unless you specifically discuss it and negotiate it with the Influencer.*
3. Q: Can the Influencer-Produced Sponsored Content include people other than the Influencer?
A: *Yes. You should consult with your legal counsel regarding how to draft your Influencer agreement to address payment and rights of publicity.*
4. Q: Can I use the waiver if the influencer-Produced Sponsored Content will be used in paid digital media?
A: *Yes. Influencer-Produced Sponsored Content may be used in paid social advertising (e.g., sponsored posts, boosted posts, and through whitelisting). For use in other types of paid digital advertising (e.g., pre-roll, banner ads, ads on third-party websites), you must pay the additional Internet or New Media use (as applicable) at no less than scale under the Commercials Contract.*
5. Q: How do we engage and pay for use of the Influencer-Produced Sponsored Content in an industrial manner?
A: *If you negotiated for industrial use in the Influencer's multi-service contract, no additional payment is due. If you did not negotiate for industrial use, you must pay the additional use due at no less than scale under the Commercials Contract and amend the Influencer's agreement to add the right to industrial use payment and pay the required P&H.*
6. Q: If we use Influencer-Produced Sponsored Content in media other than what the waiver includes (e.g., industrial, pre-roll, television, etc.), can we apply the use fees to the amount guaranteed to the Influencer?
A: *Yes. However, as with any multi-service contract, you must make sure that the use fees that you apply do not exceed the amount of compensation allocated to covered services. In that event, you would either have to pay out the use fees in addition OR modify the amount of compensation allocated to covered services to accommodate the application of the use fees – just like you would with any multi-service contract.*
7. Q: Can the agency or advertiser edit the Influencer-Produced Sponsored Content?
A: *Yes, the agency and/or advertiser may mechanically edit (aka lift) the Influencer-Produced Sponsored Content to create shorter versions that are used in the same media permitted hereunder.*

SAG-AFTRA Influencer Agreement and Influencer Waiver: **JPC Overview**



There are actually 2 agreements

Standalone Influencer Agreement

- Influencer is the signatory
- Influencer must have a loan out
- Must engage directly with a non-signatory advertiser
- Influencer owns the content

Influencer Waiver under the Commercials Contract

- Available to advertiser signatories and agency signatories to the Commercials Contract
- No requirement for the influencer to have a loan out
- No requirement that the influencer own the content



The nuts and bolts of the waiver: Definitions



"Influencer" has the meaning commonly understood in the advertising industry, and shall refer generally to an individual engaged to create Influencer-Produced Sponsored Content pursuant to the terms of this Waiver and who has amassed a substantial social media following and who creates and appears in Influencer-Produced Sponsored Content.

"Influencer-Produced Sponsored Content" is audiovisual content self-produced by an Influencer to promote an advertiser's product or service created only for digital distribution on the Influencer's and/or agency's and/or advertiser's website, on social media and/or on YouTube. Content written, filmed or produced by any party engaged by the advertiser or agency (other than the Influencer) (i.e., production company, ad agency, PR firm, etc.) shall not be covered by this Waiver. For purposes of clarity, the advertiser or agency may provide the Influencer with notes, suggested messaging, or other guidance relating to the content as long as it is not scripting the content in its entirety.

"Covered Services" refers only to the Influencer's on-camera and/or voiceover services for Influencer-Produced Sponsored Content.

The nuts and bolts: Compensation/P&H

Compensation: Free bargaining

Allocation: 20% BUT the parties may negotiate how the contribution will be deducted from or paid in addition to the gross compensation, provided that the compensation and contribution amounts are clearly and separately stated in the Influencer's contract.

Contribution Rate: 19% or 18.5% for JPC authorizers



The nuts and bolts: Other terms

Use in Other Media: Notice and full use fees. Consent required for TV.

MPU: One year from the date of first posting. However, if the Influencer-Produced Sponsored Content appears on a website, social media platform, or on YouTube after the expiration of the MPU, but is not relevant to any current campaign and remains in the feed tied to its original posting date, no further payment shall be required provided that Producer complies with the Influencer's request, if made, to remove it.

Notice: You must notify the influencer or his or her agent at or before the time of hire that you intend to produce under the waiver. Notice or approval from the union is NOT required.

No stunts, hazardous work, nudity or sexually explicit content.

You may hire union or nonunion influencers. If you hire a nonunion influencer you must Taft Hartley, but will not receive a preference fine.

What does this mean for me?

If you are a signatory advertiser or agency, there are 3 possible scenarios:

1. Hire a union influencer. **Produce under the waiver.**
2. Hire a nonunion influencer. Decide that what is being produced is not a “commercial,” therefore, you treat it entirely nonunion and **do NOT produce under the waiver.**
3. Hire a nonunion influencer. Decide you don’t want to worry about the “grey area” of content versus commercial and want to take zero risk. **Produce under the waiver.**



Contact Us



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