

Siri | Glimstad

200 Park Avenue, Seventeenth Floor, New York, NY 10166
sirillp.com | P: (212) 532-1091 | F: (646) 417-5967

April 4, 2022

VIA EMAIL

Mr. Sean Edgett
General Counsel
Twitter, Inc.
1355 Market Street, Suite 900
San Francisco, CA 94103
P: (415) 222-9670
sedgett@twitter.com

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

Dear Mr. Edgett:

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

A. Twitter's Policy

Per Twitter's "COVID-19 misleading information policy," a post violates Twitter's policy when it:

- advance[s] a claim of fact, expressed in definitive terms;
- [is] demonstrably false or misleading, based on widely available, authoritative sources; and
- [is] likely to impact public safety or cause serious harm.²

¹ The Article can be found on Twitter at: <https://twitter.com/nytpolitics/status/1508859486810816521?s=12&t=zu6znhXxuyer9p1Jv2T4Aw>.

² <https://help.twitter.com/en/rules-and-policies/medical-misinformation-policy>.

Twitter's Policy further states:

Content that is demonstrably false or misleading and **may lead to significant risk of harm** (such as increased exposure to the virus, or adverse effects on public health systems) may not be shared on Twitter. This includes sharing content that **may mislead people about the nature of the COVID-19 virus; the efficacy and/or safety of preventative measures, treatments, or other precautions to mitigate or treat the disease;** official regulations, restrictions, or exemptions pertaining to health advisories; or the prevalence of the virus or risk of infection or death associated with COVID-19.³

Significantly, Twitter's policy states it applies to "Tweets linking to content from a third-party website that would otherwise violate our policies if the content were posted directly on Twitter."

B. The NYT Article

On March 29, 2022, the NYT posted a link to the Article on Twitter.⁴ The Article casts significant doubt about the CDC's March 29, 2022 decision to authorize a second COVID-19 booster dose for certain Americans, stating "the scientific evidence for fourth [sic] dose is incomplete, at best, and researchers do not agree on whether the shots are needed." The article appears to cast the FDA and CDC as incompetent and its decisions suspect:

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

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

That did not deter the F.D.A. The agency said on Tuesday that adults aged 50 and older could opt for a second booster shot of the vaccines made by Pfizer-BioNTech or Moderna, to be given at least four months after the first booster of any authorized or approved Covid vaccine.⁵

The Article then goes on to emphasize that "[m]any scientists are dubious about today's decision," citing certain "experts" who "pointed out that the limited research so far support a fourth shot only for those older than 65 or who have underlying conditions that put them at high risk." The Article even goes on to state that the single study that "offers the only evidence" supporting a

³ *Id.*

⁴ <https://twitter.com/nytpolitics/status/1508859486810816521?s=12&t=zu6znhXxuyer9p1Jv2T4Aw>.

⁵ <https://www.nytimes.com/explain/2022/03/29/health/second-booster-shots-covid?smtyp=cur&smid=fb-nytimes>.

second booster shot “is deeply flawed.” The article further casts doubt on the need for a second booster, claiming “most people are already well protected from severe illness.”

The Article is in clear violation of Twitter’s policy on COVID-19 misinformation, yet, despite this, the post has not been removed or had a “fact-checking” label applied to it. First and foremost, the article states, “[p]robably only people who are immunocompromised or older than 65” would benefit from a second COVID-19 booster shot. This is **directly contrary** to the CDC’s announcement regarding changes⁶ to its “Interim Clinical Considerations for Use of COVID-19 Vaccines Currently Authorized or Approved in the United States.”⁷ Among those changes were that “people ages 18–49 years who are **not** moderately or severely immunocompromised and who received Janssen COVID-19 Vaccine as both their primary series dose and booster dose may receive a second booster dose using an mRNA COVID-19 vaccine at least 4 months after the first Janssen booster dose.”⁸ Additionally, the CDC announced that “adults aged 50 years or older who are **not** moderately or severely immunocompromised may choose to receive a booster dose using an mRNA COVID-19 vaccines at least 4 months after the first booster dose.”⁹

In suggesting that only those who are “immunocompromised or older than 65” should consider a second booster dose, the NYT article directly contradicts CDC guidance that anyone 50 years of age or older can receive a booster, as well as anyone 18-49, even if not immunocompromised, if 4 months have elapsed since received a Janssen booster. This is in clear violation of Twitter’s policy against content that, according to Twitter, may lead to significant risk of harm, such as “adverse effects on public health systems” as well as its policy against content that “may mislead people about ... the efficacy and/or safety of preventative measures, treatments, or other precautions to mitigate or treat the disease.” Nevertheless, Twitter has failed to remove the Article or to apply a “fact checking” label to it. Twitter is clearly allowing this Article from a prominent news media company to exist on its platform when the Article directly contradicts the CDC, even though Twitter has taken adverse action against countless other users who have posed similar questions or viewpoints that differ from the FDA and CDC recommendations.

The Article is plainly not an opinion piece but, even if it were, Twitter consistently applies fact-checking labels to tweets expressing opinions or describing personal anecdotes.¹⁰ In fact, Twitter has even applied fact-checking labels where users highlight facts in official government data that go against the official government narrative. In one salient example, a user posted a link¹¹ to the United Kingdom’s Office for National Statistics website¹² and quoted the title of an article

⁶ https://www.cdc.gov/vaccines/covid-19/clinical-considerations/covid-19-vaccines-us.html?ACSTrackingID=USCDC_2120-DM78836&ACSTrackingLabel=Updated%20Guidance%3A%20Interim%20Clinical%20Considerations%20for%20Use%20of%20COVID-19%20Vaccines&deliveryName=USCDC_2120-DM78836

⁷ <https://www.cdc.gov/vaccines/covid-19/downloads/summary-interim-clinical-considerations.pdf>

⁸ *Id.* (emphasis added).

⁹ *Id.* (emphasis added).

¹⁰ Attachment 1.

¹¹ <https://twitter.com/einaraskestad/status/1446529589128347654>

¹² https://www.ons.gov.uk/peoplepopulationandcommunity/birthsdeathsandmarriages/deaths/datasets/weeklyprovisionalfiguresondeathsregisteredinenglandandwales?fbclid=IwAR3ANdOTNb8dHcjN8A85iLARcjNeHzQt0R7P30KfNFpsaf5cZ_hjGQ62gSI.

that analyzed the data: “Deaths among Teenage Boys have increased by 63% in the UK since they started getting the Covid-19 Vaccine according to ONS data.”¹³ Twitter labeled the tweet “Misleading,” stating, “Learn why health officials consider COVID-19 vaccines safe for most people,” despite the fact that the data in the tweet was demonstrably true and came from official government sources. In this case where the Article is citing science and experts that contradict official guidance by the CDC and the data it is relying upon, in accordance with its fact-checking policy, Twitter must, at minimum, indicate that the Article is missing context, and direct users to the CDC website.

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

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

Very truly yours,

A handwritten signature in blue ink, appearing to read 'A. Siri'.

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

Enclosure

¹³ <https://dailyexpose.uk/2021/10/04/teen-boy-deaths-increased-by-63-percent-since-they-had-covid-vaccine/>.

Attachment 1

Twitter Labels:



Tweet



Janamejayan
@Janamejayan

My brother who never listened to me got himself triple vaccinated. First he got double vision, then droopy, then unable to swallow and one day he complained he cant breathe and was taken to hospital. He stayed there for 7 days and was told he has AIDS.

Misleading

Learn why health officials consider COVID-19 vaccines safe for most people. [Find out more](#)

1:46 PM · 3/24/22 · [Twitter Web App](#)



Tweet



chloe
@chloethepianist

Jen Psaki is fully vaccinated and boosted but yet got COVID twice. I have not been vaccinated and have not gotten COVID once. Are you sure this vaccine is effective?

Misleading

Learn why health officials recommend a vaccine for most people. [Find out more](#)

This Tweet can't be replied to, shared, or liked.

8:02 PM · 3/22/22 · [Twitter for Android](#)



Tweet



Sebastian Gorka DrG
@SebGorka

More COVID facts the CDC & Biden Administration doesn't want you to hear.



6.6M views

Misleading

Learn why health officials consider COVID-19 vaccines safe for most people. [Find out more](#)

1:30 AM · 8/9/21 · [Twitter Media Studio](#)



Tweet



Roadtoserfdom
@roadtoserfdom3

They're not "vaccine passports," they're movement licenses. It's not a vaccine, it's experimental gene therapy. "Lockdown" is at best completely pointless universal medical isolation and at worst ubiquitous public incarceration.

Call things what they are, not their euphemisms.

Misleading

Learn about the science behind COVID-19 vaccines and how health officials say they work. [Find out more](#)

10:12 PM · 4/4/21 · [Twitter Web App](#)





Tweet



Jo M
@Jo_Milne

Replying to @JamesLynchGTC and @JujuliaGrace

I know of numerous cases. One of which is my Mother. Many doctors are speaking out but being silenced. Ivermectin was deliberately suppressed, a cheap and effective drug. [twitter.com/ai_clayton/sta...](https://twitter.com/ai_clayton/status/1454444444)



Stellion @stellion_ix · 3/4/22

[m.facebook.com/story.php?stor...](https://m.facebook.com/story.php?story_fbid=10158888888888888)

This video will go down in history. For my part, I will never forget the call I received from Tess, immediately after her now infamous Zoom meeting with Andy Hill. It rendered me speechless, for a moment, as the implications sunk in.



Misleading

Learn about emerging treatments for COVID-19



Tweet



einar askestad
@einaraskestad

"Deaths for teenage boys in the United Kingdom have gone up by 63% since the COVID-19 vaccine was recommended for teenagers, with an increase of a stunning 700% in just one week, according to a report from the U.K. Office for National Statistics." [ons.gov.uk/peoplepopulati...](https://ons.gov.uk/peoplepopulationandcommunity/healthandlife/datasets/weeklyprovisionalfiguresondeathsregisteredinenglandandwales)

This Tweet is misleading. Find out why health officials consider COVID-19 vaccines safe for most people.

10:35 AM · 10/8/21 · Twitter Web App



¹ Linking to the following website:

https://www.ons.gov.uk/peoplepopulationandcommunity/birthsdeathsandmarriages/deaths/datasets/weeklyprovisionalfiguresondeathsregisteredinenglandandwales?fbclid=IwAR3ANdOTNb8dHcjN8A85iLARcjNeHzQt0R7P30KfNFpsaf5cZ_hjGQ62gSI