

Submission

Meta Oversight Board Review of Permanent Account Bans

National Association of People with HIV Australia (NAPWHA) and the Not Safe for Health consortium at Swinburne University Social Innovation Research Institute

This submission was prepared by:

Mx Daniel Reeders, Senior Project Officer and Aaron Cogle, Executive Director (NAPWHA)

Dr Kath Albury, ARC Future Fellow (2022-2026) and Professor of Media and Communication, Digital Platforms and Society Program, Social Innovation Research Institute, Swinburne University.

Introduction

We welcome the invitation by the Meta Oversight Board to submit a public comment on the question of permanent bans for users who repeatedly violate Meta's Community Standards for conduct on Facebook and Instagram. This submission addresses the first question posed by the Board: 'How best to ensure due process and fairness to people whose accounts are penalized or permanently disabled.' We note the cases the Board is considering 'featured anti-gay slurs against prominent politicians and content depicting a sex act, alleging misconduct against minorities' and we address these practices.

The submission is based around a case study from the 'Not Safe for Health' research led by Prof Albury, which studies the experience of an organisation, NAPWHA, that promotes HIV prevention and HIV-positive wellbeing on platforms including Facebook and Instagram. The organisation's posts are frequently subject to the kind of abuse described in the invitation to comment, but it operates under the constant risk of being permanently suspended without appeal, due to the weaponisation of the content complaints mechanism against minority users.

Case study

About NAPWHA

NAPWHA is the National Association of People with HIV Australia, a peak body representing member organisations that represent and serve people with HIV. Part of our remit includes building and consulting with community networks, and we use social media platforms including Facebook, Instagram and WhatsApp to do so. We also develop and implement health promotion campaigns engaging with people living with HIV and communities affected by the HIV epidemic, using boosted posts on Facebook. NAPWHA and our members have experienced multiple sides of the issues posed for discussion in the Oversight Board's call for submissions.

Suspensions and bans without appeal

Firstly, many of our members have had Facebook accounts, Groups, and Pages permanently banned or deleted without any pathway for appeal. For example, an employee of one of our member organisations, wanting to maintain their individual privacy, created a Facebook user

account named after their organisation. The organisation provides peer support and health information and created a Facebook Page to communicate with its members and constituents. After many years of operation, this Page was deleted, along with its 1,100 followers, on the ground that the creator was a 'fake account.' There was no way given to appeal this decision and despite informal appeals via numerous channels the Page was never reinstated. This represents a serious departure from the principles of procedural fairness, which require a right of appeal to an independent arbiter to review the reasons for a decision.

Minority communities

Secondly, our work involves groups that have been deliberately controversialised — against all evidence on effective responses to HIV — by extremist political coalitions. These groups include trans folk, queer people, sex workers, people who use drugs, Indigenous peoples, and migrant communities.

As political actors deliberately seek to controversialise these groups, they create a self-sustaining justification, claiming that posting extreme, violent and abusive content targeting these communities is required in the name of 'freedom of political expression.'

Our concern is that social media platforms are reluctant to enforce their own codes of conduct to restrict communications of this kind. Indeed, Meta recently amended its moderation guide to say calling trans people mentally ill should not be moderated as hate speech.

We submit there is a clear difference between protected political expression, which is framed in terms of democratic electoral processes and outcomes, and personally abusing a minority person or group trying to participate in that conversation. Abusive conduct is not compatible with freedom of political expression because it makes it unsafe for minoritised communities to take part in democratic electoral processes. In effect, such policies frame members of minoritized communities as 'objects of debate' — as opposed to political subjects — with the effect of excluding them from participation in the broader public sphere.

Sensitive topics

Thirdly, many practices that transmit HIV are wholly ordinary, even normative, but some are highly stigmatised, including sex between men, commercial sex work, and injecting drug use. Over the forty years of the epidemic, we have established direct and effective but nonetheless tactful and culturally appropriate strategies for communicating with the public about HIV transmission risk. These strategies are grounded in the needs of specific cultural groups, and have been validated by extensive scientific research (see references below). But the 'cultural envelope' for this work — the communal sense of what it is appropriate to talk about in public — is narrowing rapidly.

This is in large part due to social media platforms treating, for example, any post about HIV transmission as sexualised content, or any discussion of sex work as sexual solicitation. It leads to social media content creators self-censoring or using code (e.g. using the corn emoji for references to pornography) to communicate about these issues. This is evidence of an emerging double standard where explicitly abusive content gets a pass, because it is couched as political

communication, while health promotion conversations are censored, because the topics are framed as sexually inappropriate.

It is important to note that due to the stigma and criminal penalties associated with sex between men, commercial sex work, and injecting drug use in many countries, many people whose practices place them at risk of HIV do not *openly* identify as gay or bisexual men, drug users or sex workers (for example). As such, they do not have direct access to community organisations offering information and support in person. Public access to clear, non-stigmatising health communication via social media is essential for these populations.

Conclusion

HIV evolved to transmit effectively in the fault lines created in our societies by prejudice and stigma. Our concern is that contemporary trends in social media governance, including lax moderation of abusive practices and strict moderation of posts about health, may be widening these fault lines. If sexual transmission pathways cannot be addressed with HIV prevention initiatives on social media platforms the unavoidable consequence will be increasing numbers of HIV transmissions.

Recommendations

We invite the Meta Oversight Board to consider making the following recommendations:

- Create an appeals process for administrative bans adjudicated by real humans;
- Recognise the double standard where abusive practices are seen as protected political expression but health promotion campaigns are deemed sexually inappropriate;
- Acknowledge that abusive practices are often explicitly aimed at harming the right of people in minority groups to participate in public conversation and electoral democracy;
- Create an explicit acknowledgement in moderation guidelines of the special role and importance of public health and health promotion activities on Meta platforms.

References

Dowsett, Gary W., Jonathan Bollen, David McInnes, Murray Couch, and Barry Edwards. 2001. 'HIV/AIDS and Constructs of Gay Community: Researching Educational Practice within Community-based Health Promotion for Gay Men.' *International Journal of Social Research Methodology* 4 (3): 205–223.

Leonard, William. 2012. 'Safe Sex and the Aesthetics of Gay Men's HIV/AIDS Prevention in Australia: From Rubba Me in 1984 to F**k Me in 2009'. *Sexualities* 15 (7): 834–849.

Leonard, William, and Anne Mitchell. 2000. *The Use of Sexually Explicit Materials in HIV/AIDS Initiatives Targeted at Gay Men: A Guide for Educators*. Canberra, ACT: Australian National Council on AIDS Hepatitis C and Related Diseases, Commonwealth of Australia.

Mackie, Brett. 2008. 'Selling Safe Smut: A Research Project Exploring the Effectiveness of Sexually Explicit HIV/AIDS Prevention Campaigns in Engaging Sydney Gay Men.' PhD diss., University of NSW.

Race, Kane. 2008. 'The Use of Pleasure in Harm Reduction: Perspectives from the History of Sexuality.' *International Review of Drug Policy* 19: 417–423.

Sendziuk Paul. 2003. *Learning to Trust: Australian Responses to AIDS*. Sydney: UNSW Press.