

Congress of the United States

Washington, DC 20515

July 12, 2023

The Honorable Lina M. Khan
Chair
Federal Trade Commission
600 Pennsylvania Avenue, N.W.
Washington, D.C. 20580

Dear Chair Khan:

We write to express our concern regarding claims that Meta Platforms, Inc. (“Meta” or “the company”) systematically rejects health advertisements aimed at women and people of underrepresented genders while accepting equivalent advertisements targeted toward men. A report by Center for Intimacy Justice (“CIJ”) concludes that although Meta generally permits advertisements for products aimed at male sexual health conditions on its services Facebook and Instagram, it routinely rejects products aimed at pelvic pain, menopause, menstruation, fertility, and other areas for containing “adult content” or promoting “adult products and services.”¹ In the wake of CIJ’s report, we understand that Meta made additions to its advertising policies last fall to cite more examples of health ads that are allowed. Meta purportedly allows all advertisements for sexual and reproductive health and wellness products and services as long as the advertisements are in compliance with the company’s stated advertising policies. But a recent complaint filed by CIJ with the Commission alleges that Meta’s rejection of advertising for these products continues and constitutes an unfair and deceptive trade practice.²

Meta’s alleged discrimination in sexual and reproductive health advertising would perpetuate inequality of access to health services for women and people of underrepresented genders, especially those from marginalized communities. Access to these services is a matter of gender, race, sexual orientation, and economic equity. In particular, women of color face significant access barriers to sexual and reproductive healthcare services, and when they do access these services, they often encounter racism in the treatment that they receive.³ Black women, Indigenous women, and women of color experience a number of sexual and reproductive health issues at higher rates than white women. For example, vulvodynia—a disorder characterized by excruciating vulvar pain—is twice as prevalent among Hispanic women as white women.⁴ Likewise, polycystic ovary syndrome affects Black and Hispanic women more severely than their white counterparts.⁵ CIJ’s research indicates that advertisements and information concerning these conditions repeatedly have been blocked by Meta.

Meta’s alleged advertising practices would also harm small businesses hoping to advertise health products to women and people of underrepresented genders. According to CIJ’s research, small- and medium-

¹ See Valeriya Safronova, “Why Did Facebook Reject These Ads?,” *N.Y. Times*, Jan. 11, 2022, <https://www.nytimes.com/2022/01/11/style/facebook-womens-sexual-health-advertising.html>.

² See Harvard Cyberlaw Clinic, “Sexual Health and Wellness Ads Face Discrimination: Clinic Client CIJ Urges the FTC to Take Action,” *Cyberlaw Clinic Blog*, 13 April 2023, <https://clinic.cyber.harvard.edu/2023/04/13/sexual-health-and-wellness-ads-face-discrimination-clinic-client-cij-urges-the-ftc-to-take-action/>.

³ See, e.g., “Black Women’s Maternal Health: A Multifaceted Approach to Addressing Persistent and Dire Health Disparities,” *Nat’l Partnership for Women & Families*, Apr. 2018, <https://www.nationalpartnership.org/our-work/resources/health-care/maternity/black-womens-maternal-health-issue-brief.pdf>; “Reproductive Injustice: Racial & Gender Discrimination in U.S. Health Care,” *Center for Reproductive Rights*, Jun. 30, 2014, https://www.reproductiverights.org/sites/crr.civicactions.net/files/documents/CERD_Shadow_US_6.30.14_Web.pdf.

⁴ Barbara D. Reed, et al., “Factors Associated with Vulvodynia Incidence,” *Obstetrics & Gynecology* Vol. 123, Feb. 1, 2014, <https://europepmc.org/article/pmc/3913176>.

⁵ Lawrence Engmann, et al., “Racial and Ethnic Differences in the Polycystic Ovary Syndrome Metabolic Phenotype,” *Am. J. Obstetrics & Gynecology*, Vol. 216, Jan. 16, 2017, <https://www.ncbi.nlm.nih.gov/pmc/articles/PMC5420474/>.


sized businesses and nonprofits—many of them founded and led by women and people of underrepresented genders—have spent thousands of dollars conforming their advertisements to Meta’s policies only to have their ads rejected and their advertising accounts suspended.


Advertising, when done in a manner that respects users’ privacy and is not targeted using their personal health data, plays a critical role in creating economic conditions that support sexual and reproductive health access and technological innovation. If it were not subject to Meta’s allegedly-discriminatory moderation, advertising could enable businesses and nonprofits to serve people in these vital areas of their lives.


We ask the Commission to review CIJ’s complaint thoroughly, take appropriate action, and inform us of the ultimate disposition of the complaint.

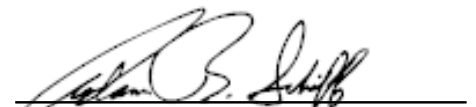
Thank you for your prompt attention to this matter.

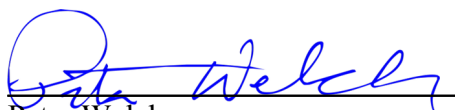
Sincerely,


Mazie K. Hirono
United States Senator


Amy Klobuchar
United States Senator


Elizabeth Warren
United States Senator


Adam B. Schiff
Member of Congress


Peter Welch
United States Senator