



OVERTURNED

2023-010-IG-MR

Promoting ketamine for non-FDA approved treatments

The Oversight Board has overturned Meta's decision to leave up a user's Instagram post discussing their experience of using ketamine as a treatment for anxiety and depression.

Policies and topics

-  Freedom of expression, Health
-  Regulated goods

Region and countries

-  United States and Canada
-  United States

Platform

-  Instagram

Attachments

[Promoting Ketamine for non-FDA approved treatments public comments appendix](#)

Case summary

The Oversight Board has overturned Meta's decision to leave up a user's Instagram post discussing their experience of using ketamine as a treatment for anxiety and depression. The Board finds that the content violated Meta's Branded Content policies (which apply to content for which creators receive compensation from a third-party "business partner", as opposed to advertising where Meta receives compensation to surface ads to users) and the company's Restricted Goods and Services Community Standard. This case indicates that Meta's strong restrictions on branded content promoting drugs and attempts to buy, sell or trade drugs may be inconsistently enforced.

About the case

On 29 December 2022, a verified Instagram user posted ten related images as part of a single post with a caption. A well-known ketamine therapy provider is tagged as the co-author of the post, which was labelled as a "paid partnership". Under Meta's Branded Content policies, Meta's business partners must add such labels to their content to transparently disclose a commercial relationship with a third party.

In the caption, the user stated that they were given ketamine as treatment for anxiety and depression at two of the ketamine therapy provider's office locations in the United States. While the user described ketamine as medicine, the post contains no mention of a professional diagnosis, no clear evidence that treatment occurred at a licensed clinic and nothing showing that the treatment took place under medical supervision. The post describes the user's treatment as a "magical entry into another dimension". The post also expressed a belief that "psychedelics" (a category that the post implied includes ketamine) are an important emerging mental health medicine. Ten drawings, some including psychedelic imagery, depict the user's experience in a storyboard style, indicating that the user received several "therapy sessions" for "treatment-resistant depression and anxiety". The account of the user describing the experience has around 200,000 followers and the post was viewed around 85,000 times.

Three users reported one or more of the images included in the post, and the content was removed and then restored three times under Meta's Restricted Goods and Services Community Standard. After the third time the post was removed, the content creator brought

Community Standard. After the third time the post was removed, the content creator brought it to Meta's attention. The content was then escalated to policy or subject matter experts for an additional review and restored around six months after it was originally posted. Meta then referred the case to the Board. The content creator's status as a "managed partner" helped to escalate the post within Meta. "Managed partners" are entities across different industries, including individuals such as celebrities and organisations such as businesses or charities. They receive varying levels of enhanced support, including access to a dedicated partner manager.

Key findings

As explained more fully below, this case indicates that Meta's strong restrictions on branded content promoting drugs and attempts to buy, sell or trade drugs on its platforms may be inconsistently enforced.

As the content in this case was posted as part of a paid partnership, the Branded Content policies should apply. The Board is concerned that Meta did not describe this aspect of the case as part of its referral or initial submissions. Instead, the Board only learned about the paid nature of the post after submitting questions to the company. Meta's Branded Content policies state that "certain goods, services or brands may not be promoted with branded content", including "drugs and drug-related products, including illegal or recreational drugs". As the content in this case was part of a "paid partnership", clearly promoted the use of ketamine and was not covered by an exception, it violated these policies. In response to the Board's questions, Meta acknowledged that not all content with a "paid partnership" label is reviewed against its Branded Content policies, that moderators reviewing content at scale cannot see this label and that they cannot reroute content to the specialist team in charge of enforcing the Branded Content policies. This greatly increases the risk of under-enforcement against this kind of content. As such, the Board urges Meta to ensure that it reviews content against all relevant policies, including its Branded Content policies.

The Board also finds that the content violated the Restricted Goods and Services Community Standard. This permits the promotion of "pharmaceutical drugs" ("drugs that require a prescription or medical professionals to administer") but prohibits the promotion of "non-medical drugs" ("drugs or substances that are not being used for an intended medical purpose or are used to achieve a high"). As this case indicates, however, some drugs fall in both categories. This tension would be best resolved by emphasising the essential role of medical professionals in prescribing or administering the drug. As noted in the preceding

paragraph, paid content is subject to an even stricter standard. As the content in this case included statements that strongly indicated the use of a drug to achieve a "high" but made no direct reference to a medical diagnosis, nor references to medical staff (e.g. "doctor", "nurse", "psychiatrist"), the Board finds that the user in this case did not sufficiently demonstrate the use of ketamine occurred under medical supervision. Thus, the content violates this Community Standard and should be removed.

The Board is also concerned about the possibility of inconsistent enforcement of Meta's policies related to drugs. A [recent investigation](#) by the *Wall Street Journal* based on a review of ads for a four-week period in late 2022 discovered "more than 2,100 ads on Facebook and Instagram that described benefits of prescription drugs without citing risks, promoted drugs for unapproved uses or featured testimonials without disclosing whether they came from actors or company employees". A public comment received by the Board from the National Association of Boards of Pharmacy (NABP) also notes that unambiguous violations of Meta's Restricted Goods and Services Community Standard on Meta's platforms may be common. The NABP noted that "with only a cursory search, less than one minute", they found multiple posts featuring ketamine, clearly marked for recreational use.

The Oversight Board's decision

The Oversight Board overturns Meta's decision to leave up this content, requiring the post to be removed.

The Board recommends that Meta:

- Clarify the meaning of the "paid partnership" label wherever these labels are mentioned, including in the process of reviewing branded content. This includes explaining the role of business partners in the approval of paid content and in the addition of "paid partnership" labels.
- Clarify in the language of the Restricted Goods and Services Community Standard that content that "admits to using or promotes the use of pharmaceutical drugs" is allowed where that use may result in a "high" only in the context of a "supervised medical setting".
- Improve its review process to ensure that content created as part of a paid partnership is reviewed against all applicable policies (i.e. Community Standards and Branded Content policies). Meta should ensure that content is routed to reviewers or automated systems that are able and trained to apply

Meta's Branded Content policies when implicated.

- Audit the enforcement of policy lines from its Branded Content policies and Restricted Goods and Services Community Standard that relate to the selling and/or paid promotion of drugs. Meta should then close any gaps in enforcement.

*Case summaries provide an overview of the case and do not have precedential value.

Full case decision

1. Decision summary

The Oversight Board overturns Meta's decision to leave up a user's Instagram post discussing their experience of using ketamine as a treatment for anxiety and depression at a ketamine therapy provider's offices in the United States. The post included a "paid partnership" label, indicating the user had received compensation from a third-party "business partner" for the post. Such posts must conform to Meta's Branded Content policies. Those policies prohibit the promotion of "drugs and drug-related products, including illegal and recreational drugs", except for the promotion of pharmacies and prescription drugs under strict requirements that the Board finds were not met in this case. For this reason, the Board concludes that the post violated the Branded Content policies.

Even if this post was not a paid partnership, the Board's view is that it would violate Meta's Restricted Goods and Services Community Standard. The Standard allows users to promote pharmaceutical drugs but prohibits them from promoting drugs used to induce a "high". Ketamine is a pharmaceutical drug that also can create a "high"; it has both important therapeutic uses and common recreational uses. The Board finds that the Standard should be read to permit posts promoting ketamine, even when it produces a "high", but only when the post makes clear that it was administered under medical supervision. The Board determines that in this case, there was insufficient evidence to demonstrate the presence of medical supervision.

In addition to overturning Meta's decision, the Board recommends that Meta revise its Branded Content policies to clarify the meaning of the "paid partnership" label and ensure that content reviewers are equipped to enforce Branded Content policies where applicable. The Board also recommends that Meta clarify the definition of non-medical drugs in its

Restricted Goods and Services Community Standard to reflect that when a "high" accompanies the drug's medical use, posts promoting that drug are only permissible when discussing uses where there is strong evidence of medical supervision. Finally, the Board expresses its interest in Meta's Branded Content policies beyond this case, and asks Meta to share additional information on the enforcement of those policies and/or on business partners with the Board where relevant.

2. Case description and background

On 29 December 2022, a verified Instagram user posted a series of ten related images as part of a single post with a caption. A well-known ketamine therapy provider is tagged as the co-author of the post, meaning the post was shared to the followers of both accounts, and is visible as a permanent post on both accounts. The post was labelled as a "paid partnership". Under Meta's [Branded Content policies](#), Meta's business partners must add such labels to their content to transparently disclose a commercial relationship with a third party. These labels appear directly below the username of the user posting the content as text that says "paid partnership with" followed by the name of the business partner.

In a single caption below the image series, the user stated that they were given ketamine as treatment for anxiety and depression at two of the ketamine therapy provider's office locations in the United States. The Instagram account of that provider is again tagged in the caption, allowing users to click through to the account. Although the user described ketamine as a medicine, the post contains no mention of a professional diagnosis, no clear evidence that treatment occurred at a licensed clinic and nothing showing that the treatment occurred under medical supervision. The post describes the user's treatment as a "magical entry into another dimension". The post also expressed a belief that "psychedelics" (a category that the post implied includes ketamine) are an important emerging set of mental health medicines.

The ten images in the series were each professional-quality drawings with individual text overlay conveying the user's experience with the provider. The drawings depict the experience chronologically in a storyboard style, indicating that the user received several "therapy sessions" for "treatment-resistant depression and anxiety". Several drawings include psychedelic imagery, such as rainbows, stars and other objects appearing from heads, as well as day-to-day objects against a background of outer space. Part of the series reflected on the difficult period in the person's life that coincided with them seeking therapy.

Other images sequentially described preparation for the treatment (which involved a process of relaxation), the treatment itself (which consisted of two doses of ketamine) and "reintegration" (which involved a process of reflection following treatment). Another part of the series praised the treatment, including a description of "[t]he feeling of both being pulled out of myself while being brought closer to my inner essential core". The user compared the treatment to "any good trip". One image, which was the primary image for Meta's referral, was a positive depiction and written description of the office, with an endorsement of the "extraordinary staff" who supported the user. The series did not, however, describe any formal medical supervision – for instance, it made no direct reference to a medical diagnosis of depression or anxiety, or to treatment conducted by medical professionals. It also did not specify whether the treatment provider was a licensed health clinic.

The post had about 10,000 likes, fewer than 1,000 comments and was viewed around 85,000 times. The account of the user who was speaking of their experience has about 200,000 followers.

In total, three users reported one or more of the ten images included in the post, and the content was removed and then restored three times under Meta's Restricted Goods and Services Community Standard. Less than 30 minutes after the first report, the content was removed through human review. The user who posted the content appealed the removal. On appeal, a human reviewer restored the content less than five hours after it was originally removed. The content was reported a second time about one hour later, removed almost immediately and restored again in less than half an hour, all through human review. Several weeks later, the content was reported once again. This third report was enforced on by an automated system that bases its actions on previous decisions made by content moderators. The automated system removed the content after determining that it violated Instagram's Community Guidelines, specifically the Restricted Goods and Services Community Standard.

The removals were solely based on Meta's Restricted Goods and Services Community Standard. The Board asked Meta why the content was not removed as a violation of the Branded Content policies' prohibition on paid promotion of drugs, as the public information available about these policies indicates that they should apply to all pieces of content with a "paid partnership" label. Meta responded that these policies were not applied because the company only applies them "to branded content disclosed via our 'Paid partnership' label that the brand partner has actually reviewed and approved". Meta further explained that brands "may provide certain creators with account-level permissions to tag them in branded

content (eliminating the need to approve tags for each post)", which means that tags may be automatically approved without any kind of review by the relevant brand partner. In those instances, content is not reviewed by Meta's specialist teams against the Branded Content policies. Still, according to Meta, the "paid partnership" label is not visible to at-scale content reviewers, who are not able to reroute content to specialist teams for review – and thus are not engaged in the enforcement of the Branded Content policies.

After the third time the post was removed, the content creator brought it to Meta's attention. The content was then escalated to policy or subject matter experts for an additional review, restored and referred to the Board. The third restoration of the content happened approximately six months after it was originally posted.

The creator's status as a "managed partner" facilitated this escalation. "Managed partners" are entities across different industries, including individuals such as celebrities and organisations such as businesses or charities. Such entities receive varying levels of enhanced support from Meta, including training on how to use Meta's products and a dedicated partner manager who can work with them to "optimise their presence and maximise the value they generate from Meta's platforms and services, to ensure that these relationships meet the strategic objectives of managed partners and Meta".

Meta referred the case to the Board, stating that the case is significant because of widespread discussions and increasing use of psychedelic drugs in the United States that blur the line between medical treatment, self-help and recreation. According to Meta, such ambiguity makes it hard to ascertain whether this content promotes pharmaceutical drugs, which is generally allowed on Meta's platforms, or describes the use of drugs for non-prescribed purposes or to achieve a "high", which is generally not allowed.

The Board noted the following context in reaching its decision in this case:

- Experts consulted by the Board explained that, in the United States, ketamine as such is only approved by the Food and Drug Administration (FDA) as an anaesthetic. However, like many other drugs, it can be legally administered for different off-label purposes by physicians and other medical professionals, with restrictions set out by federal and state-level regulations.
- The FDA has approved an intranasal form of ketamine, esketamine (often referred to by its brand name "Spravato"), as a treatment for depression. Unlike advertisement of generic ketamine, advertisement of Spravato is directly

regulated by the FDA, which means it is subject to various requirements. For instance, the FDA requires that advertisements of prescription drugs such as Spravato list "all the risks of using the drug". The Spravato web page has an unremovable pop-up at the bottom with a list of warnings, including warnings about abuse and misuse. Such requirements reflect the concerns that the FDA has about the advertisement of drugs. Those concerns informed the Board's approach to posts that are tantamount to pharmaceutical advertisements.

- The medical community has engaged in significant discussions about off-label ketamine use as a promising treatment for depression and other mood disorders. Increasing amounts of peer-reviewed research about ketamine's potential as a treatment for mood disorders come amidst an ongoing mental health crisis in the United States. The World Health Organization (WHO) has found that depression is the leading global cause of disability. The WHO fact sheet on suicide explains that at the global level, more than 700,000 people die due to suicide every year, making it the fourth most common cause of death in 15 to 29-year-olds, with untreated depression a major risk factor for suicide.
- The medical community has also flagged the risks posed by the therapeutic use of ketamine. A 2017 consensus statement published in the *Journal of the American Medicine Association* (JAMA) highlighted that ketamine abuse can lead to cognitive impairment and urinary tract damage. According to a 2022 literature review, "ketamine misuse risks appear not dissimilar to those of other well-established and commonly prescribed agents with abuse potential, such as stimulants or benzodiazepines", but the study also notes that this should not preclude physicians from prescribing ketamine where appropriate, and urges "a similar approach in cautious prescribing where appropriate, rather than preclude prescribing altogether". According to a 2023 expert review of ketamine toxicity, ketamine overdoses seem relatively uncommon. Another study noted that no cases of overdose or death resulted from the use of ketamine to treat depression in a therapeutic setting in the United States.
- Experts consulted by the Board noted the risks posed by the non-medical use of ketamine. The experts noted that ketamine, or "Special K" as it is colloquially known among recreational users, has been a popular drug in nightclubs and bars for decades. They noted that while ketamine misuse reportedly occurs on a relatively small scale, it may also be increasing. A May 2023 study from New York University "found a 349 per cent rise in seizures of illicit ketamine by drug enforcement throughout the United States, from 2017 until 2022", which "may be indicative of rising non-medical and recreational use". The study also "warns that media and medical promotion of prescription ketamine in recent years is

that media and medical promotion of prescription ketamine in recent years is fuelling black market use and availability".

- In recent years, ketamine clinics have proliferated. One expert consulted by the Board noted the profusion of clinics, offline and online, touting ketamine's efficacy for a wide variety of conditions, including obsessive compulsive disorders, addiction and eating disorders. However, the vast majority of research that has been conducted to date has focused on patients with depression.
- Another expert noted that some ketamine clinics operate as telehealth providers, authorised in the context of the COVID-19 pandemic. Such ketamine clinics can send ketamine to patients by post. This authorisation for clinics to operate as telehealth providers is, however, likely to be terminated soon, given the recent developments in the COVID-19 pandemic. In 2023 to date, the Drug Enforcement Agency shut down at least one ketamine therapy provider, likely in connection with postal-order sales.
- In July 2021, Meta announced that the company was "making updates to provide more clarity and strengthen the enforcement of our [ad] policies related to prescription drugs". Meta stated that these updates "will draw an important distinction between the promotion of illicit drugs and other unsafe substances, and the restricted promotion of prescription drugs by approved advertisers", through creating new, separate policies about "promotion of online pharmacies, prescription drugs and unsafe substances". Meta also announced that it would be partnering with LegitScript to facilitate its newly required certification for telehealth and online pharmacy promotion of prescription drugs.
- A March 2022 article published in the *Journal of Medical Internet Research* notes the increase in "patient influencers". Patient influencers are social media users with dedicated followers who "attempt to create an emotional linkage with [those] followers by sharing strategic and curated pieces of their illness and disease experience". They may be paid by drug or medical companies, and such financial relationships are sometimes not apparent to users who view their content. The article emphasised the need to consider ethical issues and the potential for misinformation in influencer marketing. A March 2023 study comprising interviews with patient influencers reiterated the need to address these potential ethical issues.
- The distinction between paid and unpaid content is drawing greater attention from regulators as well. In the United States, where this case arose, the Federal Trade Commission has recently revised its social media influencer guidelines to

impose more stringent requirements on influencers, including more exacting disclosure requirements. Such regulation reflects and reinforces the view that financial remuneration changes the character of speech in significant ways, such that consumers should have the right to know that it was created as part of a "paid partnership".

3. Oversight Board authority and scope

The Board has authority to review decisions that Meta submits for review (Charter Article 2, Section 1; Bylaws Article 2, Section 2.1.1). The Board reviews and decides on content in accordance with Meta's content policies and values (Charter Article 2). The Bylaws define "Meta policies" as "Meta's content policies and procedures that govern content on the platform (e.g. Community Standards or Community Guidelines)". The Board finds that Meta's Branded Content policies fall within the definition of "Meta policies".

The Board may uphold or overturn Meta's decision (Charter Article 3, Section 5), and this decision is binding on the company (Charter Article 4). Meta must also assess the feasibility of applying its decision in respect of identical content with parallel context (Charter Article 4). The Board's decisions may include non-binding recommendations that Meta must respond to (Charter Article 3, Section 4; Article 4). Where Meta commits to act on recommendations, the Board monitors their implementation.

4. Sources of authority and guidance

The following standards and precedents informed the Board's analysis in this case:

I. Oversight Board decisions

The most relevant previous decisions of the Oversight Board include:

- [Sri Lanka pharmaceuticals](#) (case decision 2022-014-FB-MR)
- [Asking for Adderall](#)® (case decision 2021-015-FB-UA)
- [Ayahuasca brew](#) (case decision 2021-013-IG-UA)

II. Meta's Content Policies

This case involves the Instagram Community Guidelines and the Facebook Community

Standards, in addition to Meta's Branded Content policies. Meta's [Community Standards enforcement report for Q1 2023](#) states that "Facebook and Instagram share Content Policies. This means that if content is considered violating on Facebook, it is also considered violating on Instagram."

The Instagram [Community Guidelines](#) state that "buying or selling non-medical or pharmaceutical drugs [is] not allowed". It further states: "We also remove content that attempts to trade, co-ordinate the trade of, donate, gift or ask for non-medical drugs, as well as content that either admits to personal use (unless in the recovery context) or coordinates or promotes the use of non-medical drugs". The Guidelines continue: "Remember to always follow the law when offering to sell or buy other regulated goods." The Guidelines then link to Facebook's Community Standard on restricted goods and services.

The Facebook [Restricted Goods and Services Community Standard](#) "prohibits attempts by individuals, manufacturers and retailers to purchase, sell, raffle, gift, transfer or trade certain goods and services". Restricted goods include "pharmaceutical drugs (drugs that require a prescription or medical professionals to administer)" and "non-medical drugs (drugs or substances that are not being used for an intended medical purpose or are used to achieve a high)". Meta removes content about "non-medical drugs" that "admits to personal use without acknowledgement of or reference to recovery, treatment or other assistance to combat usage. This content may not speak positively about, encourage use of, coordinate or provide instructions to make or use non-medical drugs." According to the policy rationale, the Restricted Goods and Services Community Standard aims to "encourage safety and deter potentially harmful activities".

Meta's [Branded Content policies](#) prohibit "violations of our Community Standards or Community Guidelines". The list of "prohibited content" includes "drugs and drug-related products, including illegal or recreational drugs" and "unsafe products and supplements". Additionally, branded content promoting "pharmacies" and "prescription drugs" require that the "business partner sponsoring the branded content be authorised to promote their services". Authorisation for "pharmacies" requires that "the business partner must be certified with LegitScript and receive [written permission from Facebook](#) to promote pharmacies". Authorisation for "prescription drugs" requires that the "business partner must apply to Facebook to promote prescription drugs". "Online pharmacies, telehealth providers and pharmaceutical manufacturers" are the entities eligible to apply for permission from Facebook. Moreover, branded content posts promoting prescription drugs "must be

restricted to people aged 18 or older and restricted to the United States, New Zealand or Canada. Prescription drug promotion is prohibited outside these locations." It is important to note that the Branded Content policies apply to content where content creators receive compensation ("monetary payment or free gifts") from a third-party "business partner", as opposed to Meta's Advertising Standards, which apply to content surfaced by Meta to users in exchange for compensation received by advertisers.

The Board's analysis of the content policies was informed by Meta's value of "Voice", which the company describes as "paramount", as well as its values of "Safety" and "Dignity".

III. Meta's human rights responsibilities

The UN Guiding Principles on Business and Human Rights (UNGPs), endorsed by the UN Human Rights Council in 2011, establish a voluntary framework for the human rights responsibilities of private businesses. In 2021, Meta announced its Corporate Human Rights Policy, where it reaffirmed its commitment to respecting human rights in accordance with the UNGPs. The Board's analysis of Meta's human rights responsibilities in this case was informed by the following international standards:

- The rights to freedom of opinion and expression: Article 19, International Covenant on Civil and Political Rights (ICCPR), General Comment No. 34, Human Rights Committee, 2011; Article 21, Convention on the Rights of Persons with Disabilities (CRPD).
- The right to health: Article 12, International Covenant on Economic, Social and Cultural Rights (ICESCR); General Comment No. 14, the Committee on Economic, Social and Cultural Rights (2000).

5. User submissions

The author of the post was notified of the Board's review and provided with an opportunity to submit a statement to the Board. The user did not submit a statement.

6. Meta's submissions

When referring this case to the Board, Meta asserted that as the medically supervised use of mind-altering substances continues to grow, its policy line "may become less tenable as more people want to talk about their experiences using legal drugs on our platforms".

Expecting future cases like this one, Meta requested "the Board's help in finding the right way forward in this area".

Meta explained that in its Community Standard on restricted goods and services, the definitions of "non-medical drugs" and "pharmaceutical drugs" "conflict when a drug is legally administered by medical professionals for treating mental illness in which an altered mental state can be a goal". Internal guidelines on how to apply the Restricted Goods and Services Community Standard allow for content in which a user admits to using or promotes the use of pharmaceutical drugs in a supervised medical setting. According to Meta, the user's content in this case discusses their experience "with a safe, legal, medical treatment for depression and anxiety". According to Meta, three portions of the post indicated the use of a drug to "achieve a 'high' or altered mental state": 1) the description of ketamine treatment as providing a "magical entry into another dimension"; 2) the description of "[t]he feeling of both being pulled out of myself while being brought closer to my inner essential core"; and 3) the description of the treatment as a "good trip".

Meta believes that the experience described by the user exemplifies the "conflict" between the definitions of "pharmaceutical drugs" and "non-medical drugs" mentioned above. Meta stressed the importance of content discussing new treatments considering rising rates of depression and anxiety worldwide, in particular, following the COVID-19 pandemic. Meta emphasised how rapidly scientific and regulatory responses to the use of hallucinogens, including ketamine, to treat depression are progressing. According to [a 2022 review](#) Meta cited, no known cases of overdose or death resulted from the use of ketamine as an antidepressant in a therapeutic setting in the United States. For Meta, the content "falls squarely within the category of content we wish to allow under our policy". The company recognises, however, that "it is possible that the endorsement of legal ketamine use could tempt some to try ketamine illegally".

Meta concluded that the user's description of their experience with "medically administered ketamine" did not pose a threat to their safety or to the safety of others. For that reason, Meta determined that the content did not violate the Restricted Goods and Services Community Standard. Meta acknowledged that its decision in this case is in tension with the Standard's general prohibition on content that promotes the use of drugs (whether pharmaceutical or non-medical) to "achieve a high or altered mental state". Nevertheless, it deemed the decision to be consistent with the purpose of the Standard. Meta further explained that "the admission or promotion of ketamine as a medically administered pharmaceutical is allowed because it is in line with [the company's] overall policy of promoting discussion about

because it is in line with [the company's] overall policy of promoting discussion about medical treatment". According to Meta, the decision to keep the content on Instagram is not "an exception, abrogation or contradiction to the policy". Moreover, it is a decision the company would expect "any reviewer to make", whether assessing the content at scale or on escalation.

The Board asked Meta 22 questions in writing. Questions related to the managed partner status and channels available for appealing moderation decisions, the nature of the collaboration between the user and the ketamine clinic, the role of automation in the enforcement of relevant content policies, Meta's assessment of the content and the context in light of relevant content policies, the "spirit of the policy" allowance and Meta's Branded Content policies. Meta answered all questions.

7. Public comments

The Oversight Board received five public comments relevant to this case. These were all submitted from the United States and Canada. Three comments focused on the medical benefits of ketamine therapy and the importance of allowing discussions about it on Meta's platforms. Two emphasised the dangers of recreational ketamine use.

The Board received a comment from the National Association of Boards of Pharmacy (NABP), a US-based non-profit organisation whose members include the 50 state pharmacy boards, as well as pharmacy regulators in the District of Columbia, Guam, Puerto Rico, the Virgin Islands, Bahamas and ten Canadian provinces. The organisation stressed that "with only a cursory search, less than one minute", it found many posts featuring "ketamine, clearly marked for recreational use". The NABP made a similar point about the need to address unambiguous violations of the Restricted Goods and Services Community Standard in the Board's Asking for Adderall case (PC-11235). There it flagged "instances where content attempting to sell [Adderall and Xanax] has remained on Facebook". In this case, the organisation urged Meta to "prioritise taking action in bright-line cases rather than spending resources on edge cases" such as this one.

The Board also received a comment from ketamine therapy provider Mindbloom (PC-11234) about the extent of the mental health crisis in the United States. Mindbloom's comment noted research on the inefficacy of current treatments for depression. It also noted that the ability to share information about new treatments such as ketamine is essential because many people are not aware that ketamine therapy is an option, despite significant published

research.

To read public comments submitted for this case, please click [here](#).

8. Oversight Board analysis

The Board selected this Meta-referred case as an opportunity to examine and clarify Meta's policy on restricted goods and services in the context of the legalisation and normalisation of certain drugs, specifically for medical uses. After further review, the Board found that the case also raised important issues involving "paid partnership" content relating to the promotion of pharmaceuticals.

The Board examined whether this content should be removed by analysing Meta's content policies, which includes the company's Branded Content policies, the Instagram Community Guidelines and Facebook Community Standards, in addition to Meta's values and human rights responsibilities.

8.1 Compliance with Meta's content policies

I. Content rules

The Board finds that the content in this case violates Meta's Branded Content policies, which apply if the content is part of a "paid partnership".

The Board also finds that this content would violate the Restricted Goods and Services Community Standard, even if it were not part of a "paid partnership".

Branded Content policies

As the content in this case was posted as part of a "paid partnership", the Branded Content policies should have been applied. The Board is concerned that Meta did not describe this aspect of the case as part of its referral or initial submissions. Instead, the Board only received information about this dimension of the case after it elicited details about the paid nature of the post through rounds of questioning. The Board appreciates Meta's engagement with those questions, and welcomes the opportunity to address managed partners' use of Instagram to engage in paid promotion of medical treatments. As mentioned above under

Section 2, the special challenges posed by paid content promoting drugs have drawn attention in both medical and legal circles. The Board expresses interest in further cases on these topics, and asks Meta to share all relevant information about cases under consideration for selection by the Board, including information on the Branded Content policies and/or business partners when relevant.

Meta's Branded Content policies state that "certain goods, services or brands may not be promoted with branded content". The policies list "drugs and drug-related products, including illegal or recreational drugs" as prohibited goods. The content in this case clearly promoted the use of ketamine. While the experience and treatment the user described appear lawful in the United States, Meta's policies are clear that such content cannot be promoted on Instagram through a paid partnership. The status of ketamine as a "pharmaceutical" drug or "non-medical" drug in this context is not relevant for the purpose of the Branded Content policies. The removal of the content should therefore have occurred without Meta needing to grapple, in this particular case, with the tensions in its Restricted Goods and Services Community Standard.

The Branded Content policies note that some categories of content, including those promoting "pharmacies" or "prescription drugs", require the business partner sponsoring the content to be "authorised" by Meta to promote their services. This carve-out only applies in a small group of jurisdictions, including the United States, and only online pharmacies, telehealth providers and pharmaceutical manufacturers may apply for such. In this case, Meta confirmed that the business partner sponsoring the content did not have this authorisation. Therefore, the post is violating, as it was not properly authorised in conformity with the limited exceptions to the general ban on promoting "pharmacies" or "prescription drugs" under the Branded Content policies.

Restricted Goods and Services Community Standard

As Meta acknowledges, the Restricted Goods and Services Community Standard contains a tension. On the one hand, it permits promotion of pharmaceutical drugs. On the other hand, it prohibits the promotion of drugs used to produce a "high" or altered mental state. When a pharmaceutical drug causes a "high", these standards cut in opposite directions. In this case, leaving aside the issues surrounding the creation of the content as part of a paid partnership, Meta submitted that its value of "voice" combined with a low likelihood of harm favours treating this case as a permitted discussion of pharmaceutical drugs.

The Board finds that the tension in these circumstances would best be resolved with reference to a "supervised medical setting" as per Meta's internal guidelines to content reviewers. Meta's Restricted Goods and Services Community Standard defines pharmaceutical drugs as drugs that "require a prescription or medical professionals to administer". It defines "non-medical drugs" as "drugs or substances that are not being used for an intended medical purpose or are used to achieve a high". According to these definitions, the supervision of the drug usage by the medical profession, either by prescribing it or administering it onsite, is the key distinction between these two kinds of drugs. To be sure, the use of the disjunctive "or" in the definition of "non-medical drugs" means that any substance that can be used to achieve a "high" will be characterised as a "non-medical drug", even if it is also a "pharmaceutical drug". Yet the Board finds that the categories of "pharmaceutical" and "non-medical" drugs were meant to be conceptually distinct, and are distinguished by the supervision of the medical profession. The logical consequence of this view is that drugs that can be used to achieve a "high" should still be deemed "pharmaceutical drugs" if their use is supervised by the medical profession.

Meta should resolve the conflict within the Community Standard on restricted goods and services by amending it in line with this decision. The Standard should more expressly allow unpaid content admitting to the use of drugs that create a "high", as long as such drugs are administered under medical supervision. The Standard should explain that medical supervision can be demonstrated by indicators such as a direct mention of a medical diagnosis, a reference to the health service provider's licence or to medical staff.

Applying that standard to this content, the Board finds that the content should be taken down. This would be consistent with Meta's internal guidance to reviewers, which only allows content in which a user admits to using or promotes the use of pharmaceutical drugs in a supervised medical setting, and guidance to treat drugs that provide "highs" or an "altered mental state" as non-medical drugs. In its submissions to the Board, Meta claimed that the user, in this case, described their experience with "medically administered ketamine". The Board, however, disagrees with Meta, as it does not find sufficient indicators in the post to confirm that the use of ketamine in this case occurred under medical supervision, i.e. that the drug was administered by a health professional. Specifically, there were not sufficient indicators in the post itself that the user had received a medical diagnosis for depression, or the office was a licensed clinic for the administration of ketamine as a treatment for depression, or the treatment was conducted by medical professionals (there were no direct references to "doctors", "nurses", "psychiatrists", only to "staff"). The Board believes it would

be important for Meta to provide this additional guidance to content reviewers enforcing Meta's Restricted Goods and Services Community Standard.

II. Enforcement

According to Meta, the automation tool assessed the content and determined it was in violation of the Restricted Goods and Services Community Standard on 15 January 2023, after a third user report made its assessment "[based] on previous enforcement actions on this content". Meta said that the automation in question in this case is a "Restricted & regulated goods" classifier. Machine-learning classifiers are trained to identify violations of Meta's Community Standards.

Meta explained to the Board that their "Restricted & regulated goods" classifiers are retrained every six months using "the latest training dataset which takes into account appeal outcomes". In this case, Meta's classifiers had not yet been retrained with the appeal outcomes, which assessed the case content as non-violating. For that reason, the successful appeals did not factor into the automation's decision to remove the content, whereas, according to Meta, the earlier takedown decisions did.

The Board notes with concern the six-month delay and urges Meta to ensure that its automated processes take account of successful appeals as quickly as possible, while maintaining the integrity of datasets. Even though automation ultimately made a decision in line with the Board's analysis of the application of the Restricted Goods and Services Community Standard, that decision was not in accordance with Meta's own interpretation of the policy at the time the decision was made.

When responding to the Board's questions about the applicability of Meta's Branded Content policies, the company acknowledged that not all content with a "paid partnership" label is reviewed against those policies, and that in fact, at-scale human moderators cannot even see this label nor reroute content to the specialist team in charge of enforcing the Branded Content policies. Meta explained that content is not assessed under the Branded Content policies when a "paid partnership" label attached to it has not been previously reviewed and approved by the brand partner. The Board urges Meta to ensure that its enforcement processes equip automated and at-scale human moderators to review content against all relevant policies, including Meta's Branded Content policies where applicable.

This case concerns a failure to enforce the Branded Content policies with regard to paid content promoting ketamine. However, more broadly, the Board notes that this case appears to be an instance of under-enforcement of Meta's drug policies. A [recent investigation](#) by the *Wall Street Journal* based on a review of ads for a four-week period in late 2022 discovered "more than 2,100 ads on Facebook and Instagram that described benefits of prescription drugs without citing risks, promoted drugs for unapproved uses or featured testimonials without disclosing whether they came from actors or company employees". The comment received by the Board from the National Association of Boards of Pharmacy (NABP) also notes that violations of Meta's Restricted Goods and Services Community Standard on Meta's platform may be common. In this case, the NABP pointed out that ketamine "clearly marketed for recreational use remains widely available for sale on Instagram". Nor is this the first time the NABP has raised this concern. In the 2021 Asking for Adderall case, the NABP pointed out that "content attempting to sell [Adderall and Xanax] has remained on Facebook". Finally, the US Drug Enforcement Agency [recently noted](#) that drug cartels are using social media platforms to sell their goods. A theme that arises is that Meta should closely examine the enforcement of its policies with regard to the sale or paid promotion of drugs.

III. Transparency

In seeking to understand whether the content in this case was branded, the Board asked Meta several clarifying questions through which it discovered that this content was part of a "paid partnership". Meta explained that the "paid partnership" label indicates that "the post is branded content for which the creator has been compensated, either with money or something else of value, by a business partner. Creators must tag the relevant brand or business partner when posting branded content, whether posting from a creator, business or personal account."

However, after further questioning, Meta clarified that the presence of a "paid partnership" label does not indicate that the tagged business partner necessarily approved the label, because they "may provide certain creators with account-level permissions to tag them in branded content (eliminating the need to approve tags for each post)". This may lead to confusion for users. Meta pointed the Board to a [Meta Business Help Centre article](#) on this topic, but finding this article from Instagram's policies requires several steps, and the explanation of [how to use the "paid partnership" label](#) in the Instagram Help Centre implies that all labels are approved. The Board recommends that Meta clarify the meaning of the paid partnership label throughout its Transparency Centre, Help Centre articles and other spaces.

partnership label throughout its Transparency Centre, Help Centre articles and other spaces where Meta's policies are explained to users in clear, understandable language.

8.2 Compliance with Meta's human rights responsibilities

The Board found that Meta's strong restrictions on branded content promoting drugs and on content attempting to buy, sell, trade, co-ordinate the trade of, donate, gift or ask for non-medical drugs is compatible with the company's human rights responsibilities to "avoid causing or contributing to human rights impacts" and to "seek to prevent or to mitigate adverse human rights impacts" under the UNGPs (Principle 13). This is especially pertinent given the risk posts like the one under analysis represent to the rights to health and the right to information about health-related matters. In the analysis below, the Board assesses this speech restriction in light of Meta's responsibility to protect freedom of expression (ICCPR, Article 19).

Freedom of expression (Article 19 ICCPR)

Article 19, para. 2 of the ICCPR provides broad protection for expression. This right includes "freedom to seek, receive and impart information and ideas of all kinds". The Human Rights Committee, in General Comment No. 34, lists specific forms of expression included under Article 19, and notes that the right to freedom of expression "*may also include commercial advertising*" (para. 11, *emphasis added*). The Board finds that the paid nature of the content in this case makes it analogous to advertising, and that Meta should consider respect for paid content, including both advertising and branded content, as part of its human rights responsibilities.

Article 21 of the CRPD specifies freedom of expression protections for persons with disabilities, who according to Article 1, include "those who have long-term physical, mental, intellectual or sensory impairments, which in interaction with various barriers, may hinder their full and effective participation in society on an equal basis with others". The CRPD ensures that they can exercise this freedom "on an equal basis with others and through all forms of communication of their choice" (Article 21, CRPD). The UN Committee on Economic, Social and Cultural Rights makes clear that "access to health-related education and information" is a critical part of the right to health enshrined in Article 12 of the ICESCR (General Comment No. 14, para. 11). This is particularly important in the context of increasing rates of depression and other mental health conditions worldwide. As the Board has noted in prior decisions, social media companies should respect freedom of expression around

pharmaceutical and non-medical drugs (see Sri Lanka Pharmaceuticals; Asking for Adderall®; Ayahuasca Brew).

Where restrictions on expression are imposed by a state, they must meet the requirements of legality, legitimate aim and necessity and proportionality (Article 19, para. 3, ICCPR). These requirements are often referred to as the "three-part test", and also apply to restrictions on commercial speech or advertising. The Board uses this framework to interpret Meta's voluntary human rights commitments, both in relation to the individual content decision under review and in relation to Meta's broader approach to content governance. As the UN Special Rapporteur on freedom of expression has stated, although "companies do not have the obligations of governments, their impact is of a sort that requires them to assess the same kind of questions about protecting their users' right to freedom of expression" ([A/74/486](#), para. 41).

I. Legality (clarity and accessibility of the rules)

The principle of legality under international human rights law requires rules that limit expression to be clear and publicly accessible (General Comment No.34, para. 25). Rules restricting expression "may not confer unfettered discretion for the restriction of freedom of expression on those charged with [their] execution" and must "provide sufficient guidance to those charged with their execution to enable them to ascertain what sorts of expression are properly restricted and what sorts are not" (*Ibid*). Applied to rules that govern online speech, the UN Special Rapporteur on freedom of expression has said that they should be clear and specific ([A/HRC/38/35](#), para. 46). People using Meta's platforms should be able to access and understand the rules, and content reviewers should have clear guidance regarding their enforcement.

Branded Content policies

The Board finds that Meta's Branded Content policies are sufficiently clear and accessible to users who wish to participate in "paid partnerships", enabling them to understand the conditions under which this is permitted. It is clear to the Board that the prohibition on branded content for "drugs and drug-related products" would encompass services where drugs are administered. Given the proliferation of ketamine treatment for depression, clarity could be aided by specifying that drug-based treatments and therapies are prohibited from "paid partnership" content.

The policy also makes it clear that prescription drugs and pharmacies may only be part of paid partnership content if the "business partner is authorised to promote their services". The listing is narrow and clear, though the relationship between the general rule and this apparent exception could be better explained. The Board notes that two versions of the Branded Content policies appear online, one in Meta's "[Business Help Centre](#)", which seems to apply to both Facebook and Instagram (linked from the [Transparency Centre listing of content policies](#)), and a second on [Instagram's help page](#), which seems to apply to Instagram. While these rules appear to be consistent, removing this duplication would further aid clarity.

The Board is deeply concerned that at-scale content reviewers, when assessing "paid partnership" content, are not able to see that it is part of a "paid partnership". For this reason, reviewers are not able to determine whether a piece of content requires a Branded Content policies assessment, in addition to a Community Standards-based one. This approach makes it far more likely for Meta's Branded Content policies to be under-enforced. The several-month saga that the content creator in this case experienced might have been avoided had the content been properly reviewed against the Branded Content policies when first reported in late December 2022. All branded content in the context of promoting pharmaceuticals should be proactively assessed prior to or closely following posting.

Restricted Goods and Services policy

The Board finds that the definitions of "non-medical drugs" and "pharmaceutical drugs" adopted by the Restricted Goods and Services policy do not meet the legality requirement. As outlined above, two rules appear to contradict each other when applied to medically supervised use of prescription drugs where those drugs may create a "high" or "altered mental state". The rules on "pharmaceutical drugs" appear to permit such content, whereas the rules on "non-medical drugs" seem to prohibit the same content.

The Board finds that the rules are unclear and that reviewers need better guidance. Clear rules are primarily important for the people whose speech may be restricted, but they are also important for those who must impose the rules. Reviewers, who must reach their decisions swiftly, must be given rules that they can apply with confidence.

The Board is also deeply concerned about the possibility of inconsistent enforcement of Meta's Restricted Goods and Services Community Standard, which generally prohibits

Meta's Restricted Goods and Services Community Standard, which generally prohibits "attempts to buy, sell or trade" non-medical or pharmaceutical drugs. As the Board highlighted in its Asking for Adderall case, when violating content is left online, "inconsistency in enforcement could result in confusion as to what is permitted on Facebook".

II. Legitimate aim

Under Article 19, para. 3 of the ICCPR, speech may be restricted for a defined and limited list of reasons. In this case, the Board finds that both the Branded Content policies and Restricted Goods and Services Community Standard policy lines on the promotion of non-medical drugs and on the attempts to buy, sell or trade non-medical and pharmaceutical drugs serve the legitimate aim of protecting public health. They also protect the rights of others, including the right to health and the right to information about health-related matters (see Sri Lanka pharmaceuticals case).

III. Necessity and proportionality

The principles of necessity and proportionality provide that any restrictions on freedom of expression "must be appropriate to achieve their protective function; they must be the least intrusive instrument amongst those which might achieve their protective function; [and] they must be proportionate to the interest to be protected" (General Comment No. 34, para. 34).

As explained under Section 2 above, instances of depression have increased worldwide. Partially in response, the use of ketamine to treat depression is also on the rise. While promising, these treatments are still nascent. Moreover, the abuse of ketamine for recreational purposes also appears to be on the upswing. In this context, removing the content is a necessary and proportionate limitation on expression in order to protect the public health and people's right to health and to information about health-related matters.

Branded Content policies

The Board finds the WHO's ethical criteria for medicinal promotion to be illuminating. These criteria state that to "fight drug addiction and dependency", drugs (in particular narcotic and psychotropic drugs) "should not be advertised to the general public". (para. 14). While they predate social media by decades, these criteria appear even more relevant today. Additional context from the United States helped the Board reflect on the necessity and proportionality of the Branded Content policies' ban on the promotion of drugs. According to a *Wall Street*

Journal report, two telehealth companies that used to advertise extensively on Meta platforms both face US Department of Justice investigations "after the Journal reported that some clinicians felt pressured to prescribe stimulants", and that some patients and employees "said their marketing practices contributed to the abuse of controlled substances".

Therefore, the Board finds that restricting the "paid partnership" promotion of ketamine therapy to address the risk of promoting recreational ketamine use amongst Facebook and Instagram users is necessary. Paid partnership content involving health information, especially as it relates to drugs that can easily be abused, has the potential to undermine the user's right to access health information and to health. These risks are heightened when, on social media, influencers are offered significant incentives to provide companies with access to wide audiences who may be in vulnerable health situations. Where paid promotion touches on either necessary medical treatment or illicit recreational uses, Meta has a responsibility to recognise the potential of its platform for abuse. In the Board's view, commercial speech promoting a particular drug or service should be distinguished from non-commercial speech. Restrictions that may be considered disproportionate for unpaid content discussing "pharmaceutical" and "non-medical" drugs may be proportionate when applied to paid content promoting the same products or services.

The Board considered whether it would be more proportional to limit this kind of paid content through less intrusive means, such as restricting views to users above a certain age, as Meta does for alcohol and tobacco (substances that also alter individuals' mental states). However, the risks associated with this kind of content are not restricted to young audiences. Adults may also be susceptible to "patient influencer" testimonials, particularly when they glamorise certain medical treatments that may not be appropriate for all people, and lack appropriate safety warnings or minimise risks. In keeping with the WHO's ethical criteria, the Board finds that Meta's strong restrictions on "paid partnerships" for the content in this case are proportionate.

While the Board finds that the post should not have been permitted as a "paid partnership", it also has concerns about the treatment of such partnerships in the narrow set of circumstances where content can promote pharmaceuticals or prescription drugs. Specifically, the Board notes that all a "paid partnership" label needs to do in this context is to disclose an economic relationship. An influencer may apply the same label to a post promoting a new restaurant as they would to a new or experimental medical treatment. In the

latter scenario, the Board is concerned about the lack of prominence of these labels, and the lack of any tailored information to either highlight risks or point to additional resources related to those risks.

The Board notes that the approach to "paid partnership" labels is in stark contrast to Meta's approach to "inform treatments" on certain categories of health misinformation. Those labels link to further resources from fact-checkers or public health authorities, for example (see [Policy Advisory Opinion on COVID-19 Misinformation](#)). The Board further notes that allowing users to like and comment on such posts may place them at risk of being targeted on Meta's platforms by persons marketing illicit ketamine or other substances. Some of these individuals may be living with depression and/or have limited access to effective treatments. As such, they may be especially vulnerable to this exploitation.

Restricted Goods and Services Community Standard

The Board finds that its reading of the Community Standard places a restriction on speech that is necessary and proportional to its aim of preventing drug abuse. The Board distinguishes this case from its previous Asking for Adderall case, where the Board found no direct or immediate connection between the content and the possibility of harm. In the latter, the user simply wanted advice about how to communicate with their doctor about a treatment, and had no intention of selling, illegally obtaining or promoting Adderall. Conversely, in this case, the user is actively seeking to promote the use of ketamine without emphasising the need for medical supervision, which creates substantive risks to users' safety, especially when aggregated to similar pieces of content at scale. Meta's Restricted Goods and Services Community Standard should permit content describing the use of ketamine, but only when that use occurs under medical supervision. Unlike Meta, the Board did not find sufficient indicators in the body of the post in this case to confirm that the use of ketamine occurred under medical supervision.

The Board considered whether that restriction should be more permissive, allowing for content describing use under "therapeutic" supervision. It took note of the [review](#) cited by Meta reporting that there were no cases of overdose or death that arose from the use of ketamine as an antidepressant in a "therapeutic setting" in the United States. The Board rejects that more permissive position, however, for several reasons. First, it observes that there is evidence that illicit use of ketamine is on the rise, making the status quo in 2022 an unreliable baseline for thinking about how to combat abuse. Second, it notes that the

elasticity of the word "therapeutic" would make it difficult for reviewers to enforce the policy. Finally, the Board gives weight to the reliance on the medical profession implicit in Meta's definition of "pharmaceutical" and "non-medical" drugs, as explained under Section 8.1 above.

The Board also considered whether the "medical supervision" restriction conflicted with the Board's previous decision in the Ayahuasca brew case. In that decision, the Board recommended that Meta change its rules to allow users to discuss the traditional or religious uses of non-medical drugs in a positive way. The Board did not require that the use of the drug had to occur under medical supervision.

We find that the "medical supervision" restriction is consistent with the analysis in the Ayahuasca brew case. Traditional and religious uses of a drug usually have a history behind them that operates as its own safeguard against harm. According to experts "regarding traditional ethnobotanicals, safety and efficacy are demonstrated by the long history of use". Moreover, as the Board intimated in the Ayahuasca brew case, these rituals have a dignitary aspect because of their connection to the spiritual and traditional identity of certain communities.

9. Oversight Board decision

The Oversight Board overturns Meta's decision to leave up this paid partnership content, requiring the post to be removed.

10. Recommendations

Content policy

1. Meta should clarify the meaning of the "paid partnership" labels in its Transparency Centre and Instagram's Help Centre. That includes explaining the role of business partners in the approval of "paid partnership" labels. The Board will consider this recommendation implemented when Meta's Branded Content policies have been updated to reflect these clarifications.

2. Meta should clarify in the language of the Restricted Goods and Services Community Standard that content that "admits to using or promotes the use of pharmaceutical drugs" is allowed, even where that use may result in a "high" in the context of "supervised medical

setting". Meta should also define what a "supervised medical setting" is and explain under the Restricted Goods and Services Community Standard that medical supervision can be demonstrated by indicators such as a direct mention of a medical diagnosis, a reference to the health service provider's licence or to medical staff. The Board will consider this recommendation implemented when Meta's Restricted Goods and Services Community Standard has been updated to reflect these clarifications.

Enforcement

3. Meta should improve its review process to ensure that content created as part of a "paid partnership" is properly reviewed against all applicable policies (i.e. Community Standards and Branded Content policies), given that Meta does not currently review all branded content under the Branded Content policies. In particular, Meta should establish a pathway for at-scale content reviewers to route potentially violating Branded Content policies to Meta's specialist teams or automated systems that are able and trained to apply Meta's Branded Content policies when implicated. The Board will consider this implemented when Meta shares its improved review routing logic, showing how it allows for all relevant platform/content policies to be applied when there is a high likelihood of potential violation of any of the aforementioned policies.

4. Meta should audit the enforcement of policy lines from its Branded Content policies ("we prohibit the promotion of the following [...] 4. Drugs and drug-related products, including illegal or recreational drugs") and Restricted Goods and Services Community Standard ("do not post content that attempts to buy, sell, trade, co-ordinate the trade of, donate, gift or asks for non-medical drugs"). The Board finds that Meta has clear and defensible approaches that impose strong restrictions on the paid promotion of drugs (under its Branded Content policies) and attempts to buy, sell or trade drugs (under its Restricted Goods and Services Community Standard). However, the Board finds some indication that these policies could be inconsistently enforced. To clarify whether this is indeed the case, Meta should engage in an audit of how its Branded Content policies and its Restricted Goods and Services Standard are being enforced with regard to pharmaceutical and non-medical drugs. It should then close any gaps in enforcement. The Board will consider this implemented when Meta has shared the methodology and results of this audit and disclosed how it will close any gaps in enforcement revealed by that audit.

***Procedural note:**

The Oversight Board's decisions are prepared by panels of five members and approved by a majority of the Board. Board decisions do not necessarily represent the personal views of all members.

For this case decision, independent research was commissioned on behalf of the Board. The Board was assisted by Duco Advisors, an advisory firm focusing on the intersection of geopolitics, trust and safety, and technology. Memetica – an organisation that engages in open-source research on social media trends – also provided analysis.