Dear META platforms / Facebook Ireland.

I am writing to you on behalf of my client, Saszeline Sørensen, to demand that you return her access to her Instagram account, @Saselines, and to ask for your apology for violating your contractual obligations, her human rights, as well as threatening the foundations of an enlightened and free society - the liberty of each individual to know, and to argue freely according to conscience.

In the fall of 2020 you blocked access to my client's account. You provided no prior warning to my client and provided her with no reasoned notice of termination of contract. My client's livelihood had largely been built upon the faith in the contract entered into with Instagram. Your censorship thus did serious damage to her reputation and personal finances - but most egregiously, you interfered with the political process of my country. Censorship causes discourse to degrade into conformity and fear. By censoring, you are responsible for sowing discord and division in an otherwise peaceful society built upon trust.

Freedom of speech

The signing states to The European Convention on Human Rights (Ireland included) are prohibited from interfering with the right to freedom of expression under Article 10 of the convention. The convention's authoritative and final arbiter - The European Court of Human Rights, has unalterably declared that:

> *"freedom of expression constitutes one of the essential foundations of a democratic society and one of the basic conditions for its progress and for each individual's self-fulfillment."*
>
> *"[this freedom] is applicable not only to "information" or "ideas" that are favourably received or regarded as inoffensive or as a matter of indifference, but also to those that offend, shock or disturb. Such are the demands of pluralism, tolerance and broadmindedness without which there is no "democratic society"."* (Case of VgT Verein Gegen Tierfabriken v. Switzerland; Application no. 24699/94, § 66.)

Article 10 of the convention places far reaching restrictions on the ability of countries and states to censor speech. It is often claimed that the fundamental principles of free speech and human rights are applicable only between the state and individuals. It is held that private actors may be given unlimited power to censor and control speech - in principle be allowed to dominate and control debate in entire societies or even the globe itself. This is a mistaken and unsophisticated position, both legally and philosophically.

The monopoly of Meta platforms.
Meta Platforms - Facebook and subsidiaries - has a market cap of more than 600 billion dollars which far exceeds the size of the yearly product of most of the world's countries. These countries owe their citizens the human right of free speech and free thought. Meta Platforms' capabilities to surveil and control human expression, however, far surpasses that of any king, country or pope in human history.

The U.S. Federal Trading Commission has said in a filing, that Facebook is a monopoly that dominates the arena of social networking services. "Lacking serious competition, Facebook has been able to hone a surveillance-based advertising model and impose ever-increasing burdens on its users (...)" Likewise, the Executive Vice-President, Margrethe Vestager of the European Commision, head of competition policy has stated that "Facebook is used by almost 3 billion people on a monthly basis and almost 7 million firms advertise on Facebook in total. Facebook collects vast troves of data on the activities of users of its social network and beyond(...)." She further stated that Meta Platforms is under investigation for undue monopolistic distortion of the market.
Standard competition law focuses on how monopolistic dominance prevents other actors from profiting from services in a given field. It is however far more insidious and destructive for society when it is the production of truth and understanding rather than mere profit that is being threatened by undue dominance.

Duty to regulate private actors
Just as the law cannot allow individuals to deprive their neighbors of the right to their life, so too it cannot be accepted for any private actor to subvert the essential foundations of democratic society. For this reason, the European Court of Human rights has maintained that states have the duty to intervene against private actors, if they act to render the right to freedom of speech meaningless for other individuals. States may not allow private individuals to achieve total dominance or to exercise undue influence that distorts society by complete control of political debate.

In the Case of Verein Gegen Tierfabriken versus Switzerland it was held that a private television company's refusal to air a political commercial constituted a violation of Article 10 of the convention. Private monopolistic actors were not allowed to prohibit political speech. When Swiss authorities provided no means to have the decision of the Human Rights Court enforced and the commercial aired, the Court then found that the convention had been violated a second time.

This case aligns with many other judgments from the human rights court. The official guide to the jurisprudence of the human rights court states: *"A situation whereby a powerful economic or political group in a society is permitted to obtain a position of dominance over the audiovisual media and thereby exercise pressure on broadcasters and eventually curtail their editorial freedom undermines the fundamental role of freedom of expression in a democratic society as enshrined in*

Article 10 of the Convention, in particular where it serves to impart information and ideas of general interest, which the public is moreover entitled to receive" (Case of Manole and Others v. Moldova; Application no. 13936/02, § 98).

In another case it was stated: "The Court has observed that in such a sensitive sector as the audiovisual media, in addition to its negative duty of non-interference, the State has a positive obligation to put in place an appropriate legislative and administrative framework to guarantee effective pluralism (Case of Centro Europa 7 S.r.l. and Di Stefano v. Italy [GC], § 134).

The Court has held that the positive obligation to put in place an appropriate legislative and administrative framework to guarantee effective pluralism is especially desirable when the national audiovisual system is characterised by a duopoly (Case of Centro Europa 7 S.r.l. and Di Stefano v. Italy [GC]; Application no. 38433/09, § 134) or, even more so, a monopoly.

In the case of Manole and Others v. Moldova, The European Court of Human Rights found that a small television network in Moldova had become so overbearingly dominant and threatening to the fundamental role of freedom of expression in the country that it required the state's intervention and legal protections for free speech. Since this is the case then it should be considered abundantly clear that the hegemonic and global dominance of Meta Platforms necessitates similar protections and positive obligations upon states to protect individuals from undue control over individual speech.

States must therefore create appropriate legislative and administrative frameworks to guarantee political pluralism and offer tools to users to scrutinize arbitrary control over speech and to challenge unfair decisions of Meta Platforms.

It appears that Ireland's legislative and executive branch has failed to fulfill this obligation and is thus in flagrant violation of article 10 of the European Convention on Human Rights. This failure can, however, be remedied if domestic Irish courts take it upon themselves to honor Ireland's human rights obligations without legislative or administrative guidance.

It thus falls upon domestic courts to ensure that relations between users, the global firm and freedom of speech are fairly balanced. As such any contractual obligations or rights between users and the platform must be read in the light of the case law of the European Court of Human rights to ensure the pluralism requisite for democratic society.

Your company's contractual obligations can therefore not be read in a vacuum, but its terms must be overruled, if they grant your company undue control that

undermines human rights and threatens society, lest Ireland violate the Human Rights convention to protect individual liberty.

Ultimately and materially the human rights obligation falls upon you, Meta Platforms, the global financial giant. You are responsible for implementing effective and fair processes that ensure sufficient respect for the principles of free speech.

Process for banning users - termination of contract

It is a normal and universal requirement in business law to provide notice of termination of contract, if a party wishes to withdraw from its contractual obligations. A notice of termination must be reasoned and disclose the specific grounds for withdrawing from an agreement, lest parties be given arbitrary power to relinquish themselves from any obligations - thereby rendering the concept of contracts meaningless, an untenable position. The importance of providing a reasoned notice of termination is especially necessary in a case such as the present, because you are censoring a debate of public interest and interfering with free speech and the political process.

Because you have neglected your obligation to provide reasons for termination, your true reasons for censoring my client remain hidden to her and the public. My client and the public are therefore left to guess about the limits of free speech on your platforms. What is the obscure message that the public is to gather from this process? What opinions are illegal and liable to suffer censorship and punishment? Only you can know for sure, but there can be no doubt that to any neutral observer, it appears that regarding the pandemic, you claim for yourself the right to restrain all speech that diverges from government position.

The European Court of Human Rights has held that all restrictions on freedom of speech *"(...) must be construed strictly, and the need for any restrictions must be established convincingly, particularly where the nature of the speech is political rather than commercial"*. (Case of VgT Verein Gegen Tierfabriken v. Switzerland; Application no. 24699/94, § 66). The restriction cannot be considered to be construed strictly and established convincingly, when you provide no specific reasons for censorship. It affords users no chance to defend their rights and no means to challenge decisions of your company. This meaningless and kafkaesque procedure degrades the user and must be considered illegal as a violation of the human right to free speech. A right to censor without notice or specific reasoning therefore directly violates this precedent.

Furthermore by claiming a right to arbitrary punishment, you indirectly threaten every critical person's right to offer reasoned opinion on a political issue. Such an arbitrary and opaque process not only harms my client, but causes a chilling effect on political debate. This harms the ability of the public to use reason rather than fear to guide political action. The subject of the pandemic becomes a taboo. By promulgating

censorship from behind a cloud of unassailability - you use darkness to spread darkness. While you might claim to fight misinformation, you spread it by effectively banning reasoned debate, which requires - afterall - for there to be at least two opposing sides of a question.

You are currently in breach of contract vis-a-vis my client, since no notice of termination of contract has been provided. Since you are in breach of contract - you are liable for damages for your violation. My client wishes for you to honor your obligations under the contract by returning her access to her account as well as the following built on the platform by her labor.
Even if you had specified reasons for termination, this cannot be considered sufficient to satisfy that the termination indeed was justified by valid and lawful reasons.

Censorship and political speech regarding the pandemic
Since you have provided no specified and reasoned notice of termination, it is logically impossible to defend any of my clients specific utterances.

Under the terms of the contract, you exchanged rights to my clients personal information in return for the duty to provide access to your platforms - provided that my client did not seriously breach the terms of service - a quid pro quo.

The terms and conditions do not, however, afford your company the right to arbitrarily decide what information can and cannot be shared on the platform. Financial interests must not be allowed unrestricted reign to determine the limits of truth and political expression. If this was the case, the very nature of society itself metamorphosizes into what can better be termed techno-feudalism, than be called democracy.

In blocking my client, you apparently acted on bad faith press reports about her political opinions about the corona pandemic. She vehemently contends that she has not violated the terms of service and has solely been sharing information and viewpoints in good faith.

For this reason the following is a list of general principles regarding speech on science and matters of public interest that have been neglected by Meta Platforms when it has censored speech regarding the corona pandemic.

The human rights court has stated that “In examining issues related to a debate of general interest, the Court considers that, although the opinion expressed is a minority one and may appear to be devoid of merit, it would be particularly unreasonable to restrict freedom of expression only to generally accepted ideas (Case of Hertel v. Switzerland; 59/1997/843/1049, § 50).” This precedent is incompatible with the systematic purging and censorship conducted by Meta Platforms against all

scientifically marginal voices in the misguided attempt to fight so called misinformation. In the case of the lab leak hypothesis, you even censored opinion that later proved to be supported by credible scientific evidence. A process that silences opinion merely for being in the minority or deemed to be misinformation, hinders the advancement of understanding. Meta Platforms are thus the inheritors of that ignoble tradition of the forces of darkness that then suppressed and condemned Galileo for challenging scientific orthodoxy. They too saw themselves as fighting religious misinformation, but any human institution's claim to be the sole and final guardian of truth is doomed to not only fail, but greatly harm other people.

It might be claimed that the advent of the corona pandemic had created a state of emergency that necessitated control of political speech in the effort to save lives. This position is not compatible with the case law of the human rights court.

The human rights court holds that one of the principal characteristics of democracy is the possibility it offers of resolving a country's problems through dialogue, without recourse to violence (Case of Manole and Others v. Moldova; Application no. 13936/02, § 95). Like Kennedy said,"Those who make peaceful revolution impossible make violent revolution inevitable." Censorship of dissent causes this exact kind of destabilization, which is the course Meta Platforms has sought throughout the pandemic.

For this reason the Human Rights Court requires that even in a state of emergency, States must bear in mind that any measures taken should seek to protect the democratic order from the threats to it, and every effort must be made to safeguard the values of a democratic society, such as pluralism, tolerance and broadmindedness (Case of Şahin Alpay v. Turkey; Application no. 16538/17, § 180). This precedent again is incompatible with the decision of Meta Platforms to systematically censor marginal political opinion about the pandemic.

Conclusion

The regime of censorship and control over individual speech of Meta Platforms has become a major threat to free society. A system of speech-control that offers individuals no recourse against a global financial giant is anathema to the founding values of western society. It is incompatible with the jurisprudence of the European Court of Human Rights.

Censorship of viewpoints that differ from state opinion has exacerbated the risk of overreaction against the corona pandemic. Free criticism is the necessary cure that prevents concern from turning into hysteria. When fear rather than reason guides the hand of state power, the results are catastrophic.

The very reason for democracy is to allow the public to provide corrections to authority when it overreaches. This is the defining faith of western society - that each individual is endowed by their creator with the potential to provide such correction. Your censorship sabotages this process, thus undermining democracy and violating human rights.

Your decision strengthened the rule of error and proliferation of misunderstanding.

Your decision promotes superficiality and a less educated society.

By censorship you have contributed to thrusting mountains of debt upon the shoulders of future generations. They must bear the burden of decisions chosen by authoritarian leaders, ingratiating themselves with the false appearance of responsibility by enacting harsh and ineffective measures, for which dissent was illegally prohibited under your monopolistic control of public communication. This wasteful and narcissistic pretense has squandered the opportunity to save lives and you are to blame.

For these reasons I ask the following:

- that you pay my client damages of 200.000 euros.
- that you return my client access to her account.
- that you recognize that your termination of her account was unlawful and wrong.
- that you refrain from continuing to violate human rights by overreaching censorship.
- that you establish sufficient procedures to offer users transparency and effective redress against undue censorship by your company.

Sincerely

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