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By Email

October 1, 2024

Alice Fiman
Compliance Officer
Washington Public Disclosure Commission
Evergreen Plaza, 711 Capitol Way S #206
Olympia, Washington 98504

Re: TikTok Inc. (Case No. 157884)

Dear Ms. Fiman:

On behalf of our client, TikTok Inc. (“TikTok” or “the Company”), this letter responds to your August 8, 2024, email regarding a complaint filed by Conner Edwards¹ against TikTok and your August 22, 2024, email regarding a TikTok user (“the user”) who reported making an expenditure to TikTok in connection with his candidacy for the Washington State Legislature.

I. Factual Background

As indicated in the Company’s August 22, 2024, correspondence with the Commission, TikTok prohibits political advertising, paid political promotion, or fundraising by politicians and political parties on its platform as a matter of policy.² TikTok policy further requires that Government, Politician, and Political Party Accounts (“GPPPA”) in the United States to have a verified badge, which the user must apply for. The verification and labeling of a GPPPA enables TikTok to apply relevant policies to such GPPPA’s, such as the automated removal of users’ access to advertising features, including the advertising tool, “Promote.”³ In addition, TikTok’s policies, which are publicly available, make clear that no GPPPA is permitted to use such promotional tools.⁴

¹ TikTok, Inc. is the registered lobbyist employer, but Mr. Edwards’ initial request to review records that prompted the complaint was sent to ByteDance, not TikTok, mailboxes.

² See TikTok Ads Policy at <https://ads.tiktok.com/help/article/tiktok-ads-policy-politics-religion-and-culture> and the Civic and Election Integrity section of the TikTok Community Guidelines <https://www.tiktok.com/community-guidelines/en/integrity-authenticity#2>

³ Verified GPPPA’s automatically have their access to advertising features, including Promote, turned off. See TikTok Policy for Political Accounts, available at <https://newsroom.tiktok.com/en-gb/updating-policies-for-political-accounts>.

⁴ See TikTok Policy for Government, Politician, and Political Party Accounts, available at <https://support.tiktok.com/en/using-tiktok/growing-your-audience/government-politician-and-political-party-accounts>

TikTok has identified two expenditures by the user during the user's candidacy for the Washington State Legislature. The user violated TikTok's policies and misused the platform.⁵ Specifically, the user did not follow the required verification process for GPPPA accounts. The user impermissibly used the Promote feature for political content. Nevertheless, the Company has automated content moderation controls in place to identify impermissible uses of the Promote feature, even without the GPPPA label. The Company's automated review process initially and correctly flagged the user's promoted video for review. However, an error by a human content moderator reviewing the flag permitted the initial content to be posted after the automated review and recall. TikTok takes compliance with its policies very seriously, and it has taken remedial measures, pursuant to its policies. Specifically, TikTok has removed the monetized portion of the initial content from the platform and will provide additional training to its human content moderators. TikTok also implements continuous improvement efforts to ensure future user compliance with its policies and Terms of Service, such as by providing education and training to GPPPA's on advertising restrictions.

II. Legal Analysis

The user's misuse of TikTok's platform does not make TikTok a "commercial advertiser" under Washington law. RCW § 42.17A.005(10) defines a "commercial advertiser" as

any person that sells the service of communicating messages or producing material for broadcast or distribution to the general public or segments of the general public whether through brochures, fliers, newspapers, magazines, television, radio, billboards, direct mail advertising, printing, paid internet or digital communications, or any other means of mass communications used for the purpose of appealing, directly or indirectly, for votes or for financial or other support in any election campaign.

TikTok does not "sell the service" of communicating messages or producing material "for the purpose" of "appealing for votes or for financial or other support in any election campaign." Rather, TikTok's policies expressly prohibit the provision of any such service to its users. As a matter of law, the misuse of the platform, in violation of the Company's policies, does not change the nature of the advertising services that TikTok offers on its platform. Moreover, TikTok is taking remedial measures to help ensure that users are not able to misuse the platform in the future. Because TikTok is not a commercial advertiser under RCW § 42.17A.005(10), it is not required to maintain or provide public inspection of commercial advertiser books of account or related materials, pursuant to RCW 42.17A.345 and WAC 390-18-050. Even if TikTok were a

⁵ By accessing or using the TikTok application, users agree to comply with TikTok's Terms of Service and Community Guidelines. See TikTok's Terms of Service, available at <https://www.tiktok.com/legal/page/us/terms-of-service/en>. The Civic and Election Integrity section of the Company's Community Guidelines clearly indicates that TikTok does not allow paid political promotion, political advertising, or fundraising by politicians and political parties. See TikTok Community Guidelines, available at <https://www.tiktok.com/community-guidelines/en?lang=en>.

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commercial advertiser, the Commission should decline to pursue the complaint against TikTok because TikTok has made a good faith effort to comply with Washington law and to prohibit political advertising on its platform. The Commission has broad discretion to decline to act when enforcement is unwarranted. *See* WAC 390-37-060, -061. For these reasons, the Commission should dismiss the complaint.

Please let us know if you have any additional questions.

Respectfully submitted,

A handwritten signature in black ink, appearing to read 'RKH', is positioned above the printed names.

Robert K. Kelner
Alexandra Langton