

Mark Konkel Quoted by Lexology PRO on Employee Creator Program Compliance

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Partner [Mark Konkel](#) was quoted in the *Lexology PRO* article, "How US Companies Can Build Legally Compliant Employee Creator Programmes." The article examines the legal risks associated with employee creator programs, including wage-and-hour compliance, discrimination concerns, and harassment issues that can arise when companies encourage employees to create branded social media content.

Mark noted that relying on subjective criteria, such as who "looks good on camera" or has the right "vibe" for a brand, can create significant discrimination risks because those factors may serve as proxies for protected characteristics. He also emphasized that employee creator activities may be considered compensable work when employers direct employee participation or tie compensation and performance expectations to content creation.

Mark explained, "The moment a company starts directing what employees post, when they post it, how often, or [when the company] ties any compensation or performance expectation to participation, it has stopped being 'employees being enthusiastic' and started being 'work.'"

Read the full article [here](#). Subscription required.