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HOUSE FOREIGN AFFAIRS COMMITTEE
SUBCOMMITTEE ON ASIA, THE PACIFIC, AND NONPROLIFERATION

January 14, 2022

Dear Members of the Oversight Board,

I write in response to the Board's request for public comment on Policy Advisory Opinion 2021-02 regarding Meta's cross-check system. These comments address the primary issue raised by the Board:

1. *"Whether a cross-check system is needed and if it strengthens or undermines the protection of freedom of expression and other human rights."*

I recognize that moderating billions of users' posts is a herculean task. However, Facebook has failed to establish neutral standards and consistent enforcement practices for content posted on the site. This has increased public distrust toward Facebook and undermined the principles of free speech and access to information that Facebook claims to support.

The basic concept of Facebook's cross-check system inherently contradicts the platform's core values. According to Facebook's website, the company's guiding principles include "Giving People a Voice," Serving Everyone," and "Keeping People Safe and Protecting Privacy."[1] By recognizing some users' content as more worthy of review, Facebook has distinguished these users as more important or valuable than the billions of other people who use the platform.

Facebook appears to have gone even further than this, though, by establishing "whitelists" of users whose content skirts human and algorithmic scrutiny. In the face of these realities, Facebook's claim to give people a voice, "even when that means defending the right of people we disagree with," misses the mark.[2] Instead, the cross-check system appraises people's worth, including whether their voices have a right to exist on Facebook, based on their ranking within the platform's dystopian class system.

Further, while Facebook purports to serve everyone, this too is subject to an individual's status. The cross-check system unavoidably generates a caste system that applies arbitrary and biased criteria to determine users' ability to freely express themselves on the platform, the level of scrutiny applied to their content, and even their access to appeals mechanisms.

Publicly, Facebook claims to adhere to and support human rights, but its internal policies and practices are distinctly misaligned with these principles. The Declaration of Independence articulates the most foundational natural right, the self-evident truth that all people are inherently created equal.[3]

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[1] Facebook, "Our Principles," Facebook, Inc., accessed October 5, 2021, https://about.facebook.com/company-info/.

[2] Ibid.

[3] Thomas Jefferson, et al, July 4, Declaration of Independence, 1776, https://www.archives.gov/founding-docs/declaration-transcript.

Immediately following this assertion, the Declaration enumerates that the rights to life, liberty, and the pursuit of happiness are unalienable.[4] Each of these rights are impossible to practice without the recognition of humanity's shared equality.

However, while these rights are naturally endowed within every person, countless people globally are unable to express and practice these rights. Discrimination against any person because of some immutable characteristic is a violation of this principle. Irrespective of the logistical benefits that Facebook sees in its cross-check system, it is impossible to avoid the reality that the system cannot exist without adjudicating users – *people* – based on their number of followers, accomplishments, or some other non-objective criteria.

Already, Facebook's cross-check system has left a trail of victims by protecting whitelisted users' abusive content from being flagged for removal, based solely on the individual's elite status. As the Wall Street Journal reported, Facebook's immunity program allowed revenge porn to not only be posted to the platform, but to remain online and accessible for tens of millions of viewers before Facebook finally removed the content.[5]

Tragically, Facebook has provided an oasis for criminal organizations, contributed to deteriorating mental health among child and teenage users, and undermined democracy in the United States and abroad. Despite knowing about each of these problems, Facebook failed to address them, and in some cases actively perpetuated them.

While Facebook should rightly be concerned about curtailing the spread of illegal, exploitive, and abusive content on its platforms, violating the most foundational principles of human rights and dignity can never pave the path toward greater freedom.

Instead of leveraging Facebook's influence to advance human rights and freedom, it has implemented programs like cross-check that sabotage the very values and systems that empowered the company's growth. Cross-check is built on a values system that is incompatible with people's basic right to equality, and I strongly urge the Board to ensure the expedient and complete termination of this system.

Sincerely,

Ken Buck
Ranking Member
Subcommittee on Antitrust, Commercial, and Administrative Law

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[4] Ibid.

[5] Jeff Horwitz, "Facebook Says Its Rules Apply to All. Company Documents Reveal a Secret Elite That's Exempt.," The Wall Street Journal, September 13, 2021, https://www.wsj.com/articles/facebook-files-xcheck-zuckerberg-elite-rules-11631541353.