



Public Comment Appendix for

2020-004-IG-UA

Case number

Case description

A user in Brazil posted a picture on Instagram with a title in Portuguese indicating that it was to raise awareness of signs of breast cancer. Eight photographs within the picture showed breast cancer symptoms with corresponding explanations of the symptoms underneath. Five of the photographs included visible and uncovered female nipples. The remaining three photographs included female breasts, with the nipples either out of shot or covered by a hand. Facebook removed the post for violating its policy on adult nudity and sexual activity. The post has a pink background, and the user indicated in a statement to the Oversight Board that it was shared as part of the national "Pink October" campaign for the prevention of breast cancer.



Public Comment Appendix for

2020-004-IG-UA

Case number

The Oversight Board is committed to bringing diverse perspectives from third parties into the case review process. To that end, the Oversight Board has established a public comment process.

Public comments respond to case descriptions based on the information provided to the Board by users and Facebook as part of the appeals process. These case descriptions are posted before panels begin deliberation to provide time for public comment. As such, case descriptions reflect neither the Board's assessment of a case, nor the full array of policy issues that a panel might consider to be implicated by each case.

To protect the privacy and security of commenters, comments are only viewed by the Oversight Board and as detailed in the [Operational Privacy Notice](#). All commenters included in this appendix gave consent to the Oversight Board to publish their comments. For commenters who did not consent to attribute their comments publicly, names have been redacted. To withdraw your comment, please email contact@osbadmin.com.

To reflect the wide range of views on cases, the Oversight Board has included all comments received except those clearly irrelevant, abusive or disrespectful of the human and fundamental rights of any person or group of persons and therefore violating the [Terms for Public Comment](#). Inclusion of a comment in this appendix is not an endorsement by the Oversight Board of the views expressed in the comment. The Oversight Board is committed to transparency and this appendix is meant to accurately reflect the input we received.

2020-004-IG-UA

Case number

PC-00009

Public comment number

Europe

Region

Andrew

Commenter's first name

Lavender

Commenter's last name

English

Commenter's preferred language

N/A

Organization

No

Response on behalf of organization

Short summary provided by the commenter

Post sounds ok to me

Full Comment

Post sounds ok to me

Link to Attachment

No Attachment

2020-004-IG-UA

Case number

PC-00013

Public comment number

United States and Canada

Region

Omar

Commenter's first name

Shahid

Commenter's last name

English

Commenter's preferred language

American Citizen

Organization

No

Response on behalf of organization

Short summary provided by the commenter

The Policy Rationale written in the relevant section (III.14) of Facebook's Community Standards, clearly states that "allowances" will be made for nudity, specifically including nudity shared "to raise awareness about a cause", as long as the "intent is clear". Facebook removed this post for violating its policy on Adult Nudity and Sexual Activity, yet the policy clearly states that "images of uncovered female nipples" may be posted "in the context of health-related situations (for example, breast cancer awareness)"

Full Comment

Facebook removed this post for violating its policy on Adult Nudity and Sexual Activity, yet the policy clearly states that "images of uncovered female nipples" may be posted "in the context of health-related situations (for example, breast cancer awareness)" The Policy Rationale written in the relevant section (III.14) of Facebook's Community Standards, clearly states that "allowances" will be made for nudity, specifically including nudity shared "to raise awareness about a cause", as long as the "intent is clear".

Link to Attachment

No Attachment

2020-004-IG-UA

Case number

PC-00015

Public comment number

United States and Canada

Region

Withheld

Commenter's first name

Withheld

Commenter's last name

English

Commenter's preferred language

Withheld

Organization

No

Response on behalf of organization

Short summary provided by the commenter

Puritanical and Victoria based belief systems belong in the 19th century

Full Comment

It is absolutely absurd that people still respond to pictures of breasts by taking offense. Just because some people's sensibilities are offended doesn't make censorship justified. This post is clearly trying to raise awareness and prevent deaths and yet the post has been withdrawn when it's continued publication cannot reasonably be claimed to cause any harm. The content should be republished

Link to Attachment

No Attachment

2020-004-IG-UA

Case number

PC-00018

Public comment number

United States and Canada

Region

Thomas

Commenter's first name

Caldwell

Commenter's last name

English

Commenter's preferred language

Naturist New Hampshire

Organization

Yes

Response on behalf of organization

Short summary provided by the commenter

Adult nudity in the absence of sexual context should be considered acceptable on social media.

Full Comment

Adult nudity is not in itself sexual in nature, particularly when it is used in the context of health and wellness. In this particular case, the depiction of female breasts in a post about breast cancer is entirely appropriate. Likewise, photos of nursing babies at the breast are entirely appropriate. In a broader sense, the human body is a marvelous and beautiful creation, the inspiration for classical and religious art. Although our society tends to mistakenly equate nudity with sexuality, that is a false perception. It is quite appropriate to ban images that depict sexual acts or present sexually provocative poses, simple nudity in everyday life should be protected content, as are images of nudity when it used as free-speech political action, as in the World Naked Bike Rides that promote the use of non-fossil transportation. It may be difficult for analytics to distinguish the context, but there should be a way to forward questionable material for human review before simply deleting it.

Link to Attachment

No Attachment

2020-004-IG-UA

Case number

PC-00020

Public comment number

Europe

Region

Withheld

Commenter's first name

Withheld

Commenter's last name

English

Commenter's preferred language

Withheld

Organization

No

Response on behalf of organization

Short summary provided by the commenter

Blatent sexism by facebook along with not taking into account the context of the post

Full Comment

This is blatant sexism by Facebook, if a picture containing a male nipple would not be removed then the same procedure should be used for a picture containing a female nipple. The context of the photo needs to be taken into account: if the image is not sexualising the breast then it should be not taken down. It also seems to be providing a valuable service in spreading awareness of breast cancer signs which could save lives

Link to Attachment

No Attachmen

2020-004-IG-UA

Case number

PC-00021

Public comment number

United States and Canada

Region

Withheld

Commenter's first name

Withheld

Commenter's last name

English

Commenter's preferred language

Withheld

Organization

No

Response on behalf of organization

Short summary provided by the commenter

Facebook is worried about photos of women's nipples/breasts?

Full Comment

Facebook is worried about photos of women's nipples and breasts? Does this sexist attitude also apply to men's nipples and breasts? That's a fair question because the Courts have ruled that women's breast's are not pornographic or obscene. So I have to wonder about Facebooks policies and if those policies would pass the Miller Test. Really? Facebook is worried about photos of women's nipples and breasts? If I want to see porn, I go to Facebook because they do nothing about fake accounts that steer people to porn sites. I can also assure the reader of this comment that there are plenty of Facebook pages that have full nudity. I would also point out that not once, has Facebook removed any of those pages after complaints were filed because it didn't violate their policies. But God forbid if a woman's nipples/breasts are showing? If I want to watch pirated music video's, I go to Facebook. Complaints to Facebook, like complaints about porn, only generate comments that the video's don't violate their policies. Fake Facebook pages claiming to be my mother? didn't violate Facebook policies. Scam Facebook pages claiming that people could file for free Government money? Didn't violate Facebook's policies. Not once has Facebook ever removed a page or video that showed illegal activity, pirated music video's, graphic porn, scam pages engaged in fraud or stolen identity that used my mothers photos. Not once has Facebook done anything! So given my experience with Facebook and their 'Do Nothing Moderators,' I have to wonder what scam that Facebook is running with this particular monkey court? Given my extensive experience with Facebooks constant inaction to police itself, I have serious doubts that anything will change!

Link to Attachment

No Attachment

2020-004-IG-UA

Case number

PC-00022

Public comment number

United States and Canada

Region

Withheld

Commenter's first name

Withheld

Commenter's last name

English

Commenter's preferred language

Withheld

Organization

No

Response on behalf of organization

Short summary provided by the commenter

Breast cancer is a leading cause of women's death around the world. Without knowledge of the signs and symptoms of breast cancer it is difficult to catch the disease before it metastasizes throughout the body. It is reasonable to utilize images of breasts and nipples to convey educational content. Those images do not appear to have been used as gratuitous nudity or as sexual content.

Full Comment

I am submitting this comment from the perspective of my 30 years of experience as a critical care registered nurse and as someone who has friends diagnosed with breast cancer. Breast cancer is one of the leading causes of death for women around the world. Knowledge of the signs and symptoms is crucial to detecting the disease while it is treatable and before it metastasizes throughout the body (the primary sites of metastasis are the lung and brain). Many women live in rural and/or isolated areas in which access to even rudimentary health care is chronically either sporadically available or not available at all. Many women are illiterate. Many are barely educated or not allowed even rudimentary education. As a result, conveying information about breast cancer is made extraordinarily difficult as there is no health care provider to examine them, no ability to read written educational material, or no ability to understand descriptive terminology such as "inverted nipple" or to know what "orange-peel skin" is (especially if one has never seen an orange). When it comes to explaining medical information, images of nude body parts are often critical in conferring understandable visual content. I've had reasonably well-educated patients who thought "orange-peel skin" referred to the skin's color, not the texture. I've had less educated patients think that inverted meant upside down, not retracted. Photographs leave little area for misunderstanding. They are also far more memorable than words alone. When used in a context such as this, a charge of Nudity (in the sense of it being an image presented for either esthetic/gratuitous viewing or to "enhance" advertising) cannot apply. Images of an uncovered breast are necessary to convey the information to the widest audience possible. Neither does it qualify as sexual content, because the only goal is education to help prevent death from a highly prevalent disease. (And may I

point out that breasts and nipples have only one propose: to feed and hydrate children. That they have become sexualized by a culture or religion, or that viewing photographs of them may result in a sexual response in some individuals, is a distraction.) The lives of millions of women are directly affected by lack of access to information presented in a way they can understand. Disallowing the sharing of accurate and relevant medical information only heightens the obstacles they already face. I hope this viewpoint proves relevant and valuable to the Oversight Board. Thank you for soliciting public comment on this important topic.

[Link to Attachment](#)

No Attachment

2020-004-IG-UA

Case number

PC-00023

Public comment number

Europe

Region

Withheld

Commenter's first name

Withheld

Commenter's last name

English

Commenter's preferred language

Withheld

Organization

No

Response on behalf of organization

Short summary provided by the commenter

The post should not have been removed.

Full Comment

The post should not have been removed. For one reason, people should not be disincentivized from sharing information to attempt to catch cancer early. It is obvious that this post would have been made in good faith, with the honest intention of sharing information about cancer symptoms, to prevent deaths by allowing the cancer to be caught earlier than it otherwise might have been. Secondly, there is a specific exemption in the Facebook policy linked for this type of content. To quote the policy on what is not allowed, “[u]ncovered female nipples **except** in the context of breastfeeding, birth giving and after-birth moments, health-related situations (for example, post-mastectomy, **breast cancer awareness** or gender confirmation surgery) or an act of protest” (emphasis added). This post clearly fell under the exemption for “health-related situations” (as the post was clearly for “breast cancer awareness”)

Link to Attachment

No Attachment

2020-004-IG-UA

Case number

PC-00026

Public comment number

United States and Canada

Region

Elizabeth

Commenter's first name

Gujral

Commenter's last name

English

Commenter's preferred language

Cornerstone Advisors

Organization

No

Response on behalf of organization

Short summary provided by the commenter

Understanding cancer and knowing what to look for is pivotal to prevention. Nipples are part of the breast - what makes them different?

Full Comment

It is ridiculous that men's nipples can be shown, but not women's. What is the difference? Feeding children that's what. Women's bodies are not shameful and saying that these quarter-size areas of the female anatomy are cause for "censorship" is a means to censor women themselves. Especially in the topic of breast cancer. Cancer can affect the nipples too!

Link to Attachment

No Attachment

2020-004-IG-UA

Case number

PC-00029

Public comment number

United States and Canada

Region

Debi

Commenter's first name

Genzlinger

Commenter's last name

English

Commenter's preferred language

Debra Genzlinger

Organization

No

Response on behalf of organization

Short summary provided by the commenter

Breast Cancer Awareness has been going on for decades

Full Comment

Breast Cancer IS a huge concern for women all over the world. There is nothing "offensive or nudity" about showing breasts with signs and descriptions of breast cancer!! People see far more exposed breasts on TV/movies every day! IF it were illegal, they wouldnt be on TV/movies! IF true "perverts" want to see womens breasts, they sure arent going to sit on Facebook to look at them. There are playboy magazines and plenty of sites with just that sort of stuff. Its sad that its OK for Facebook to shove their political preference down our throats, harass us with banners claiming Biden as the winner and worse HARASSING our Presidents post with their bullying banners! But their concerned about a Breast cancer awareness post??? SAD!

Link to Attachment

No Attachment

2020-004-IG-UA

Case number

PC-00031

Public comment number

Europe

Region

Withheld

Commenter's first name

Withheld

Commenter's last name

English

Commenter's preferred language

Withheld

Organization

No

Response on behalf of organization

Short summary provided by the commenter

Posts referring to health raising awareness of health issues should not be blocked or banned as these are for the good of the population. Nudity in itself is not illegal in many countries and does not pose a threat in anyway to individuals.

Full Comment

There is growing evidence that covering the human body, only allowing the perfect body to be seen, and body shaming by banning or blocking sight of a normal, natural human form is detrimental to health, both mental and physical. It represses the acceptance that those with any sort of blemish, scar or deformity are normal and therefore increases stress and mental health issues. In the article being discussed the aim was to educate the public on a very nasty, often deadly health issue and yet the very part of the body that it affects directly is been deemed to have a purely sexual role rather than the very practical role of suckling children, an activity that is accepted throughout the world as normal behaviour. Surely understanding that a body part in itself isn't automatically sexual is something that society needs to start to address. The current attitude of Facebook and social media in general is putting lives at risk. It is turning society into a hateful, misguided gang that has no understanding of the consequences of their actions. Facebook and social media in general need to take responsibility for their actions in increasing this uneducated attitude by allowing the female nipple and genitals, both male and female, to be seen in medical context as well as normal non sexual activity.

Link to Attachment

The attachment is being withheld as it did not comply with our [Terms for Public Comment](#).

2020-004-IG-UA

Case number

PC-00038

Public comment number

Europe

Region

Kevin

Commenter's first name

Verboon

Commenter's last name

English

Commenter's preferred language

n/a

Organization

No

Response on behalf of organization

Short summary provided by the commenter

Symptoms of any medical condition are incredibly difficult to describe medically correctly in terms the general public understands. Therefore pictures are an invaluable aid to (self) diagnosis. Any harm caused by seeing a nipple is vastly outweighed by the good achieved

Full Comment

Everybody has seen breasts and nipples before, 50% of the world population has the former, 100% the latter - in fact slightly less than that, hence the valuable post about breast cancer prevention and treatment. I have never seen any evidence that anybody has ever been harmed by seeing a breast or nipple. I understand, and applaud, that Facebook wishes to keep pornography off it's platforms, but simple nudity is not pornography. It's just the way we, everyday normal people, look without clothes on.

Link to Attachment

No Attachment

2020-004-IG-UA

Case number

PC-00066

Public comment number

United States and Canada

Region

Rosemary N.

Commenter's first name

Palmer

Commenter's last name

English

Commenter's preferred language

None

Organization

No

Response on behalf of organization

Short summary provided by the commenter

Unless there were 8 specific symptoms explained, then yes it was gratuitous showing of adult nudity.

Full Comment

Without knowing whether or not the information could have been provided with fewer naked breast shots, or with a diagram it isn't possible to respond. If the visual depictions and the explanations could have been shown with one photo, and photography was required to show the symptom, then I would have rejected the original and requested the amendments. But multiple photos is the only way to convey the info, then it should have been allowed.

Link to Attachment

No Attachment

2020-004-IG-UA

Case number

PC-00068

Public comment number

United States and Canada

Region

Withheld

Commenter's first name

Withheld

Commenter's last name

English

Commenter's preferred language

Withheld

Organization

No

Response on behalf of organization

Short summary provided by the commenter

Showing pictures of naturally occurring medical conditions is not nudity or vulgar. Every person has a body, every persons body is different. Showing images of spider bites, allergic reactions, rashes, abscesses, etc is a public service. People can determine if their malady needs attention or might resolve on its own. Showing pictures of cancerous tumors, breast lumps, skin cancer lesions is no different. This should not have been removed.

Full Comment

Showing pictures of naturally occurring medical conditions is not nudity or vulgar. Every person has a body, every persons body is different. Showing images of spider bites, allergic reactions, rashes, abscesses, etc is a public service. People can determine if their malady needs attention or might resolve on its own. Showing pictures of cancerous tumors, breast lumps, skin cancer lesions is no different. This should not have been removed.

Link to Attachment

No Attachment

2020-004-IG-UA

Case number

PC-00071

Public comment number

United States and Canada

Region

Jim

Commenter's first name

Dean

Commenter's last name

English

Commenter's preferred language

Withheld

Organization

No

Response on behalf of organization

Short summary provided by the commenter

It's honestly a bit absurd that this is even a discussion. Nudity does not have to mean sexual, and it certainly does not in th is case.

Full Comment

How many women could have been saved had they seen these symptoms. Many, many women do not go to a physician for a regular checkup, but they are on social media daily. the simple truth is that the benefit of this far outweighs any possible "discomfort" that a few folks might feel at seeing a female breast. Honestly, how low do we have to set the bar?

Link to Attachment

No Attachment

2020-004-IG-UA

Case number

PC-00077

Public comment number

Latin America and Caribbean

Region

Eduardo

Commenter's first name

Ferreya

Commenter's last name

English

Commenter's preferred language

Asociación por los Derechos Civiles

Organization

Yes

Response on behalf of organization

Short summary provided by the commenter

Facebook's decision to remove the post is unjustified because both international human rights law and Facebook's Community Standards allow for the dissemination of adult nude images for educational or medical purposes. The user's intention was to communicate information about breast cancer prevention. Consequently, it is protected by the right to freedom of expression, the right to health and the principle of non-discrimination. In case Facebook intend to protect the sensitivity of some people, it has less severe measures than the removal, such as warning labels. This case should serve as basis to clarify Facebook's policy rationale on Adult Nudity so as to prevent information on public health from being removed in the future.

Full Comment

Our comment consists of three parts. In the first part, we will explain why under international human rights law, there are no reasons to justify the removal of the post. The second part will explain why Facebook community standards do not allow for the removal of the post either. The third part will suggest some recommendations the Oversight Board can make to Facebook to improve its policies on the subject matter. 1. Article 19 of the International Covenant on Civil and Political Rights (ICCPR), states that freedom of expression includes the right to disseminate information of all kinds and can only be subject to certain restrictions for respect of the rights or reputations of others; for the protection of national security or of public order, or of public health or morals. Facebook claims that "we restrict the display of nudity or sexual activity because some people in our community may be sensitive to this type of content". Thus, the reason alleged by Facebook resembles the protection of morals enshrined by the ICCPR. However, the Human Rights Committee's General Comment No. 34 on Freedom of Expression states that "the concept of morals derives from many social, philosophical and religious traditions; consequently, limitations... for the purpose of protecting morals must be based on principles not deriving exclusively from a single tradition" (paragraph 32). Therefore, "any such limitations must be understood in the light of universality of human rights and the principle of non-discrimination" (Ibid.). Under this principle, we

cannot overlook the fact that this policy only targets female nipples whereas male nipples can be posted without risk of being removed. Morals cannot be used as a reason to treat a woman's body differently from a male one. Moreover, women suffer from breast cancer in a much higher proportion than men. Thus, any restriction to information on breast cancer will have a disparate impact on women's right to health and the right to access to information. Furthermore, the removal is neither necessary nor proportional, since Facebook has less harmful means to protect people's sensitivity without eliminating the post, such as warning labels. For these -and other reasons- the decision to remove the post does not comply with international human rights standards.

2. According to Facebook's Community Standards "we understand that nudity can be shared for a variety of reasons, including as a form of protest, to raise awareness about a cause, or for educational or medical reasons. Where such intent is clear, we make allowances for the content". Under this rationale, the decision to remove the post was unjustified too. The post was intended to raise awareness of signs of breast cancer as part of the national Pink October campaign for the prevention of said disease in Brazil. Consequently, it's clear that the post was shared to raise awareness about a cause -the prevention of breast cancer- for educational reasons -to educate people about ways of detecting a possible case of breast cancer- or for medical reasons -show signs of breast cancer-. Thus, there is no reason to consider this case differently from other cases mentioned in the policy, such as acts of protest, women actively engaged in breast-feeding, or photos of post-mastectomy scarring. Therefore, the decision doesn't comply with Facebook's Community Standards either.

3. While we consider that the current Community Standards already prevent images of female nipples in breast cancer campaigns from being removed, we also think this case presents an opportunity for the Oversight Board to recommend Facebook a change in its policy on Adult Nudity. This change would explicitly include the case of breast cancer campaign as an exception to the restriction on displaying images of adult nudity. Breast cancer is the most common cancer in women worldwide and vague standards like "some people in our community may be sensitive to this type of content" (Facebook's Policy Rationale on Adult Nudity and Sexual Activity) shouldn't be used as a basis to impede the dissemination of disease prevention campaigns. Precisely, the sensitivity of the subject matter -women's health- provides strong reasons to the Oversight Board to suggest changes in the policy rationale so as to exclude health information from removals based on people's feelings.

[Link to Attachment](#)

No Attachment

2020-004-IG-UA

Case number

PC-00084

Public comment number

Europe

Region

Ron

Commenter's first name

O'Hare

Commenter's last name

English

Commenter's preferred language

British Naturism

Organization

Yes

Response on behalf of organization

Short summary provided by the commenter

British Naturism is a recognised organisation with a philosophical belief that Naturism has enormous health benefits. We have submitted a summary of our views incorporated in a word document.

Full Comment

Please find a text document attached.

Link to Attachment

[Attachment PC-00084](#)

2020-004-IG-UA

Case number

PC-00094

Public comment number

United States and Canada

Region

Daniel

Commenter's first name

Gainor

Commenter's last name

English

Commenter's preferred language

Media Research Center

Organization

Yes

Response on behalf of organization

Short summary provided by the commenter

It appears this post isn't in violation of a policy. In addition, this is a problem Facebook can easily address going forward.

Full Comment

This is a great example of how Facebook could advance the cause of freedom and appeal to its users at the same time. But, it does neither. This post appears (Again, we can't tell because the full breadth of information was not shared to us.) to fall entirely within the exemption included in the Nudity policy. Specifically, "Restrictions on the display of sexual activity also apply to digitally created content unless it is posted for educational, humorous, or satirical purposes." This appears to be designed for educational purposes. But again, the problem could be solved. Facebook has the ability to detect the content, so why not let that be a filter that users can choose. Automatically set it to default of no nudity, so as not to offend. Problem solved. Another big reason to allow the content is, of course, free speech. As longtime free-speech advocate Nat Hentoff famously stated, "[F]ree speech is to support the right to speech of people you hate." Or to support speech you hate, as well. Leave the content, but fix the policy.

Link to Attachment

No Attachment

2020-004-IG-UA

Case number

PC-00110

Public comment number

Latin America and Caribbean

Region

Bernardo

Commenter's first name

de Souza Dantas Fico

Commenter's last name

English

Commenter's preferred language

NEI-USP (Núcleo de Estudos Internacionais da Universidade de São Paulo)

Organization

Yes

Response on behalf of organization

Short summary provided by the commenter

Nudity is allowed under Facebook policies, because real nude adults may be depicted where this is clearly done to raise awareness about a cause, particularly when concerning health-related situations. The breast cancer awareness campaign 'Pink October' is known for sharing online content regarding breast cancer, and in the instant case has clearly used nudity to both create awareness about the disease and explain health related issues. Therefore, none of the pictures, nor the post should have been taken down.

Full Comment

2020-004-IG-UA Submitted by Núcleo de Estudos Internacionais da Universidade de São Paulo (NEI-USP) Beatriz de Sousa, Bernardo de Souza Dantas Fico, and Helena Maluf
NEI-USP Comments to Case 2020-004-IG-UA The present commentary aims to provide the Oversight Board with further insight into the application of Facebook's current policy on Adult Nudity and Sexual Activity. Such policy explicitly allows nudity when it comes to raising awareness about a cause, as long as the intent for doing so is clear, see ('(...) nudity can be shared for a variety of reasons, including as a form of protest, to raise awareness about a cause, or for educational or medical reasons. Where such intent is clear, we make allowances for the content.). Furthermore, where Facebook's policy prohibits the publication of 'real nude adults, where nudity is defined as visible genitalia', it sets apart health-related situations, explicitly stating that examination for cancer is an exception to the prohibition. The post in question dispels no doubt regarding its suitability for the Facebook community, given its content evokes both (i) a relevant cause in the Brazilian public health context and (ii) a clear effort to raise awareness about it. RELEVANT CAUSE: Firstly, one must note that breast cancer prevention is one of the current prime concerns of Brazilian national health institutions. According to an estimate from the National Cancer Institute (INCA), there were over 59,000 new cases of breast cancer diagnosed only in 2019. Data from 2016 indicates that over 16,000 women died in that year alone due to breast cancer. Considering an important step for treatment is early diagnosis, the national public health system –

known as SUS – offers women from 50 to 69 years old the opportunity to undergo free of charge mammography examination every two years. However, this disease-tracking system heavily relies on awareness regarding breast cancer and the importance of routine exams. The "Pink October" campaign – an international movement in which Brazil has taken part since 2010 – serves this exact purpose. In fact, in 2015 an entire train of the Sao Paulo metro was painted in pink with the sole purpose of raising awareness of breast cancer prevention. EFFORT TO RAISE AWARENESS: Seeing the necessary awareness-raising in this context, one must consider Facebook is a relevant source of information for a sizable section of the Brazilian population. A study conducted by the National Congress in November 2019 indicates that 44% of the interviewees report always using Facebook as a source of information. Moreover, in 2019, Facebook had over 135 million Brazilian users, which consists of virtually two-thirds of the entire national population. It is undeniable that Facebook plays a central role in shaping nationwide common perceptions. Not by chance, according to INCA's website, one of the key strategies to promote the campaign in 2020 was using Facebook as a platform. By addressing breast cancer prevention on Facebook, the post in question sheds light on an important cause with a clear intention of raising awareness and using a significant means. There are four central elements to demonstrating the intent to raise awareness. (1) The title of the post, explicitly mentioning the objective of raising awareness of signs of the disease. (2) The pictures uploaded show symptoms of breast cancer. (3) All eight posts brought along explanations regarding the depicted symptoms. (4), the post has a pink background, which is notoriously linked to the Pink October campaign throughout the month of October. If the link between the background color and the campaign is not evident, the author of the post reaffirms it when addressing the Oversight Board. CONCLUSION: The aforementioned elements of both the Brazilian context and the post in question make it clear that, when it comes to Brazil, the Oversight Board should treat public awareness of breast cancer not only as a legitimate cause for nudity on Facebook but also as a necessary one. Whereas the national reliance on Facebook as a source of information may not be ideal, it would be even less ideal to not acknowledge Facebook's potential to mitigate an urgent matter of public health.

Link to Attachment

[Attachment PC-00110](#)

2020-004-IG-UA

Case number

PC-00113

Public comment number

Europe

Region

Jacob

Commenter's first name

Mchangama

Commenter's last name

English

Commenter's preferred language

Justitia

Organization

Yes

Response on behalf of organization

Short summary provided by the commenter

Based on the reasons discussed above, we do not believe that this post violates Facebook's Adult Nudity and Sexual Activity Standards. This post appears to fall under the specific exemption for nudity aimed at educating and spreading medical awareness.

By removing this post, Facebook has narrowed the scope of permitted speech and conflated nudity with sexuality. Thus, the Board must restore this post as not only does it not violate Facebook's Community Standards, it also serves an important public interest of spreading medical awareness around an issue of utmost public importance.

Full Comment

Facts A user in Brazil posted a picture with eight photographs of symptoms of breast cancer. Five of the eight photos showed uncovered female nipples. The post's title in Portuguese indicated that the post was to raise awareness about signs of breast cancer. Each photo was accompanied by an explanation of the symptoms. The posts had a pink background and the user announced that it was part of Pink October (an annual worldwide campaign to raise awareness about Breast Cancer, specifically about early identification and signs of cancer). **Contextual Issues** **Need for showing uncovered nipples in the post:** The post was aimed at educating women about the early signs and symptoms of cancer. As many of these symptoms of breast cancer are nipple-related, such as redness or flaky nipple skin, nipple discharge blood, change in nipple's appearance, this post would be fundamentally ineffective in generating awareness if the nipples were not shown. **Societal Need:** Censoring this post is especially detrimental to the public interest in Brazil as there is a documented need for breast cancer awareness in the country. Breast cancer is the leading cause of death by cancer in women in Brazil. And, about 40% of the cases are diagnosed in stages III or IV, and only after the onset of symptoms. Thus, censoring awareness posts such as these would lead to intangible but definitive harm to the public. **No reasonable justification to censor:** Facebook's executives have previously suggested that their Adult Nudity policies are motivated by protecting the safety of underage users whose images may be uploaded online, as well

as to avoid the uploading of non-consensual images. In this case, there are no facts on record or user reports suggesting that these pictures were of underage women or that they were shared non-consensually. Relevant Rules and Analysis I. Community Standards Facebook's Community Standards on Adult Nudity and Sexual Activity disallow images of uncovered female nipples. However, the Standards make a specific exception for "breastfeeding and health-related situations (for example, post-mastectomy, breast cancer awareness or gender confirmation surgery)". Facebook allows nudity when it is shared to "raise awareness about a cause or for education or medical reasons", provided that the user's intent is clear. This case should have qualified for the exception for showing uncovered female nipples as: Firstly, the user's intent to educate was clear by the title of the post that explicitly said it was to raise awareness about the signs of breast cancer. Secondly, the user posted captions/explanations describing the symptoms in each photograph, likely intended to educate women about identifying these symptoms. Lastly, the user's clear reference to the Pink October campaign made it clear that the post was intended to raise medical awareness. II. International Best Practices on determining permissibility of nudity In determining whether this post must be restored, we recommend that the Oversight Board follows a speech protective standard, such as the three-prong test laid down by the US Supreme Court in *Miller v. California*. Based on the Miller test, the Board must consider whether taken as a whole and applying contemporary community standards, the post appeals to the prurient interest, and whether it lacks serious political or scientific value. We recommend the Court to consider the Indian Supreme Court's decision in *Aveek Sarkar v. Union of India*, where the Court held: A picture of a nude/semi-nude woman, as such, cannot per se be called obscene unless it has the tendency to arouse feeling or revealing an overt sexual desire. The picture should be suggestive of deprave mind and designed to excite sexual passion in persons who are likely to see it, which will depend on the particular posture and the background in which the nude/semi-nude woman is depicted. Based on these tests, we believe that this post must be restored as the uncovered female nipples are not intended for sexual arousal but are aimed at generating medical awareness. Appeal regarding expansion of Community Standards We call upon the Board to use this opportunity to critically assess Facebook's Policy of exclusively banning female uncovered nipples. This female-specific ban raises concerns regarding inexpressible restriction on freedom of expression under Article 19 ICCPR and violation of anti-discrimination principles under Article 26 ICCPR. An exclusive ban on female nipples unequal limits on women's expression as compared to men's expression. It also disproportionately affects activists, educators and artists whose work focuses on already-marginalized bodies, including queer and gender-non-conforming persons. Further, an exclusive ban on female uncovered nipples violates gender equality laws and could even be viewed viewpoint discrimination for the right to free expression. In this regard, we urge the Board to consider a 2019 decision of the US Court of Appeals that overturned a law that exclusively banned women from going topless in public. The Court said that to argue that women's breasts have sexual implications that men's breasts do not, would amount to enshrining public sensibilities grounded in prejudice and stereotypes to become part of the official policy.

Link to Attachment

[Attachment PC-00113](#)

2020-004-IG-UA

Case number

PC-00123

Public comment number

Latin America and Caribbean

Region

Artur

Commenter's first name

Pericles Lima Monteiro

Commenter's last name

English

Commenter's preferred language

InternetLab

Organization

Yes

Response on behalf of organization

Short summary provided by the commenter

InternetLab proposes the board take this case as an opportunity to issue an advisory policy statement on Facebook's policy on adult nudity and sexual activity. The policy takes a side on the dispute within Brazilian society about how the female body should be perceived; it enforces a sexualised view of female breasts, while omitting male breasts. It also creates problems for trans and non-binary people, particularly in Brazil, where legally one can change one's name and gender officially regardless of whether they one has undergone gender confirmation surgery. From CSER data, we emphasise that as much as 100,000 posts might have been removed incorrectly. We advance the policy should not to impose a sexualised view of female breasts.

Full Comment

Facebook policy "default[s] to removing sexual imagery", and also nudity more broadly, with few accommodations. One of those accommodations should have applied in this case, which would fall under the "health-related situations" exception of "breast cancer awareness". As we learned from Facebook Stakeholder Engagement, the content has been reinstated as a result of Facebook acknowledging it as a mistake under its own rules. Yet this case is not an isolated incident: it shows how Facebook policy fails to stand by Facebook's own values and how its implementation in moderation processes and decisions disparately impacts users. InternetLab calls on the Oversight Board to take this opportunity to issue a policy advisory statement addressing those issues (Bylaws, 3.1.7). How the female body is read, historically and politically, has been a prominent issue in Brazil. Feminist movements, starting at the late 1960s and throughout the 1970s – as Brazil still experienced a military dictatorship –, have insisted female bodies should be regarded as free. That meant not only the freedom to dress as women prefer, but also their sexual and reproductive rights. In the 1980s, black and lesbian perspectives in feminism also reshaped "women" as a political subject category. And, as of the 2000s onwards, queer and trans women also redefine how feminisms approach the body. In short, the female body, what counts as a female body, and how non-binary bodies are seen are all controversial topics in Brazil, and questions

around those topics have long been debated, thanks to feminist organising and protest. While Facebook’s “Adult Nudity and Sexual Activity” policy includes accommodations for images containing female breasts “as a form of protest, to raise awareness about a cause, or for educational or medical reasons”, it establishes that as an exception to the general rule, and so still chooses a side in those debates in Brazilian society and enforces one side of that debate, to the detriment of the “commitment to expression” underscored in the Community Standards. Crucially, it does so in a manner that targets female bodies specifically, while omitting the male body. Such a gendered policy means women and other people who are seen as having “female breasts” are barred from expressing themselves on Instagram and Facebook according to how they are seen and relate to their bodies. The policy imposes upon those users a sexualised representation of their breasts and nipples, even when they themselves do not see those parts of their bodies as sexual. It also creates problems particularly for trans people, as well as for non-binary individuals. When someone identifies as a man and hasn’t yet undergone, or won’t undergo, gender confirmation surgery, the policy on breasts and nipples might mean not only is Facebook barring legitimate expression, but is also deciding what the gender identity of that user is – even against the user’s own image of themselves. This is of special concern in Brazil, where, according to a study by the public defenders’ office in São Paulo, the wait time for gender confirmation surgery can take up to 18 years. Removal of photos posted by trans men who have anatomically female breasts adds to their suffering and stigmatisation. In fact, it could be in conflict with how the individual is legally identified in official civil registration and government IDs, given that the Brazilian Supreme Court held in 2018 that trans individuals are allowed to have their names and gender amended in civil registration, regardless of whether they have undergone gender confirmation surgery. If the implementation of Facebook’s “Adult Nudity and Sexual Activity” policy could not perceive how the images in this case – which made explicit references to breast cancer – fell under its own educational and medical accommodations, it is hard to imagine it will be attuned to the much more subtle questions surrounding photos posted by trans and non-binary people. That is even more problematic as more content has been removed for nudity violations with the use of automation, as Instagram’s Community Standards Enforcement Reports for Q3 2020 suggest, given that 93.5% of content removed under that heading was found proactively. In fact, if we compare how much content actioned was restored in Q2 2020 (3,300 pieces) and Q3 2020 (3,200), when user appeals were not available owing to Covid-19 repercussions in content moderation, with Q1 2020 (108,300), we see around 100,000 pieces of content are likely to have been erroneously actioned. And even for actioned content later restored, negative consequences resulting from the removal might be irreversible, just as this case shows: the post, part of a breast cancer awareness campaign in October 2020, was only restored in early December, after the Oversight Board announced its cases. It seems clear the policy is flawed and should be amended. In its policy rationale, Facebook cites “sexual activity” as a concern. Female breasts are not inherently sexual; different policies for female and male nipples are. The concern with sexual imagery should be addressed by policy that targets sexual activity itself, instead of sexualising parts of the female body. It might be said that adjudicating what is and isn’t sexual and presents implementation challenges. Yet Facebook’s current policy presents clear implementation challenges, as this case shows, as well as disparate impacts on marginalised population. At any rate, if Facebook deems those challenges make a policy that is based on sexual content untenable, it should alternatively consider amending its guidelines to disallow images of nipples regardless of gender, instead

enforcing a policy based on a distinction between normalised male and sexualised female nipples.

Link to Attachment

[Attachment PC-00123](#)

2020-004-IG-UA

Case number

PC-00129

Public comment number

Latin America and Caribbean

Region

Helena

Commenter's first name

de Freitas Maluf

Commenter's last name

English

Commenter's preferred language

NEI-USP (Núcleo de Estudos Internacionais da Universidade de São Paulo)

Organization

Yes

Response on behalf of organization

Short summary provided by the commenter

Nudity is allowed under Facebook policies, because real nude adults may be depicted where this is clearly done to raise awareness about a cause, particularly when concerning health-related situations. The breast cancer awareness campaign 'Pink October' is known for sharing online content regarding breast cancer, and in the instant case has clearly used nudity to both create awareness about the disease and explain health related issues. Therefore, none of the pictures, nor the post should have been taken down.

Full Comment

2020-004-IG-UA Submitted by Núcleo de Estudos Internacionais da Universidade de São Paulo (NEI-USP) Beatriz de Sousa, Bernardo de Souza Dantas Fico, and Helena Maluf
NEI-USP Comments to Case 2020-004-IG-UA The present commentary aims to provide the Oversight Board with further insight into the application of Facebook's current policy on Adult Nudity and Sexual Activity. Such policy explicitly allows nudity when it comes to raising awareness about a cause, as long as the intent for doing so is clear, see ('(...) nudity can be shared for a variety of reasons, including as a form of protest, to raise awareness about a cause, or for educational or medical reasons. Where such intent is clear, we make allowances for the content.). Furthermore, where Facebook's policy prohibits the publication of 'real nude adults, where nudity is defined as visible genitalia', it sets apart health-related situations, explicitly stating that examination for cancer is an exception to the prohibition. The post in question dispels no doubt regarding its suitability for the Facebook community, given its content evokes both (i) a relevant cause in the Brazilian public health context and (ii) a clear effort to raise awareness about it. RELEVANT CAUSE: Firstly, one must note that breast cancer prevention is one of the current prime concerns of Brazilian national health institutions. According to an estimate from the National Cancer Institute (INCA), there were over 59,000 new cases of breast cancer diagnosed only in 2019. Data from 2016 indicates that over 16,000 women died in that year alone due to breast cancer. Considering an important step for treatment is early diagnosis, the national public health system –

known as SUS – offers women from 50 to 69 years old the opportunity to undergo free of charge mammography examination every two years. However, this disease-tracking system heavily relies on awareness regarding breast cancer and the importance of routine exams. The "Pink October" campaign – an international movement in which Brazil has taken part since 2010 – serves this exact purpose. In fact, in 2015 an entire train of the Sao Paulo metro was painted in pink with the sole purpose of raising awareness of breast cancer prevention. EFFORT TO RAISE AWARENESS: Seeing the necessary awareness-raising in this context, one must consider Facebook is a relevant source of information for a sizable section of the Brazilian population. A study conducted by the National Congress in November 2019 indicates that 44% of the interviewees report always using Facebook as a source of information. Moreover, in 2019, Facebook had over 135 million Brazilian users, which consists of virtually two-thirds of the entire national population. It is undeniable that Facebook plays a central role in shaping nationwide common perceptions. Not by chance, according to INCA's website, one of the key strategies to promote the campaign in 2020 was using Facebook as a platform. By addressing breast cancer prevention on Facebook, the post in question sheds light on an important cause with a clear intention of raising awareness and using a significant means. There are four central elements to demonstrating the intent to raise awareness. (1) The title of the post, explicitly mentioning the objective of raising awareness of signs of the disease. (2) The pictures uploaded show symptoms of breast cancer. (3) All eight posts brought along explanations regarding the depicted symptoms. (4), the post has a pink background, which is notoriously linked to the Pink October campaign throughout the month of October. If the link between the background color and the campaign is not evident, the author of the post reaffirms it when addressing the Oversight Board. CONCLUSION: The aforementioned elements of both the Brazilian context and the post in question make it clear that, when it comes to Brazil, the Oversight Board should treat public awareness of breast cancer not only as a legitimate cause for nudity on Facebook but also as a necessary one. Whereas the national reliance on Facebook as a source of information may not be ideal, it would be even less ideal to not acknowledge Facebook's potential to mitigate an urgent matter of public health.

Link to Attachment

[Attachment PC-00129](#)

2020-004-IG-UA

Case number

PC-00132

Public comment number

Latin America and Caribbean

Region

Bernardo

Commenter's first name

de Souza Dantas Fico

Commenter's last name

English

Commenter's preferred language

NEI-USP (Núcleo de Estudos Internacionais da Universidade de São Paulo)

Organization

Yes

Response on behalf of organization

Short summary provided by the commenter

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Full Comment

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Link to Attachment

[Attachment PC-00132](#)



Public Comment Appendix for
2020-004-IG-UA

Case number

End of public comments