



Public Comment Appendix for

2020-006-FB-FBR

Case number

Case description

A user posted a video and accompanying text within a Facebook group related to COVID-19. In the video and text, there is a description of an alleged scandal about the Agence Nationale de Sécurité du Médicament (the French agency responsible for regulating health products) purportedly refusing authorisation for use of hydroxychloroquine and azithromycin against COVID-19, but authorising promotional mail for remdesivir. The user criticizes the lack of a health strategy in France and states that "[Didier] Raoult's cure" is being used elsewhere to save lives. The video was viewed approximately 50,000 times and shared under 1,000 times. Facebook removed the content for violating its policy on violence and incitement and in its referral indicated to the Oversight Board that this case presents an example of the challenges faced when addressing the risk of offline harm that can be caused by misinformation about the COVID-19 pandemic.



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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.

2020-006-FB-FBR

Case number

PC-00028

Public comment number

Europe

Region

Eoin

Commenter's first name

Cleary

Commenter's last name

English

Commenter's preferred language

Freedom Activist

Organization

No

Response on behalf of organization

Short summary provided by the commenter

Hydroxychloroquine is a safe and effective treatment for covid 19

Full Comment

I have been following developments around the censorship of this medication for use against covid 19 and I am appalled at what has transpired. I understand the need to keep it out of the public domain that HCQ is a "cure" for covid as it's dangerous for people to be self medicating but this has been to the detriment of people's lives!!! Originally it was said that HCQ kills people based on study published in the Lancet, which has since been retracted and now this lifesaving treatment is still being suppressed even after over 180 recent studies showing that it is safe and effective.

<https://pubmed.ncbi.nlm.nih.gov/33042552/>

Link to Attachment

No Attachment

2020-006-FB-FBR PC-00067

Case number

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

Not at all incitement to violence

Full Comment

Of course we know that some people get agitated about what they hear and see and that leads to violence. So each of us needs to be cautious in how we communicate our concerns and viewpoints. And if there is proof (not just one sided belief or allegations or argument, but both sides see it as proven), then it could fairly be identified as unsupported by facts. But those words don't come close to incitement of violence.

Link to Attachment

No Attachment

2020-006-FB-FBR PC-00096

Case number

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

Social media sites have placed themselves in the position of being final arbiters on science and medicine, both of which are constantly changing fields. That must end so we can have open discussion on the key issues of the day.

Full Comment

Facebook naturally has no medical degree so it relies on the World Health Organization and CDC. And yet they have been wrong, as well. WHO, for example, is thoroughly in the pocket of Communist China and makes decisions based on agenda, not medicine or science. This is from the Sept. 30 New York Times: "When the coronavirus emerged in China in January, the World Health Organization didn't flinch in its advice: Do not restrict travel. "But what is now clear is that the policy was about politics and economics more than public health. "Public health records, scores of scientific studies and interviews with more than two dozen experts show the policy of unobstructed travel was never based on hard science. It was a political decision, recast as health advice, which emerged after a plague outbreak in India in the 1990s. By the time Covid-19 surfaced, it had become an article of faith." If other posters had criticized WHO in this way, Facebook likely would have removed the content and rejected the criticism. Medicine and science rely on the scientific method, which doesn't reject challenge; it encourages it. Some of our greatest medical and scientific advances went against the accepted beliefs of the time. We have come full circle, where Facebook and other social media sites don't lock unbelievers in a dungeon, they simply remove their comments, silence or ban them. This has to stop. "[T]ech companies claim they provide platforms to connect people and share ideas. However, when the only ideas permitted are from one side, any prospect of intellectual discourse dies," stated Media Research Center Founder and President L. Brent Bozell. Facebook has set itself above the concept of scientific or medical disagreement simply for expediency. Experts must be allowed to disagree. Ordinary people should also be allowed to raise questions and point out inconsistencies.

Link to Attachment

No Attachment

2020-006-FB-FBR PC-00109

Case number

Public comment number

United States and Canada

Region

Laurel

Commenter's first name

Lehman

Commenter's last name

English

Commenter's preferred language

Consumer Reports

Organization

Yes

Response on behalf of organization

Short summary provided by the commenter

Consumer Reports, the independent, non-profit member organization, details our recommendation for 2020-006-FB-FBR to uphold the decision to remove content and provides further policy recommendations.

Full Comment

December 7, 2020 Consumer Reports, the independent, non-profit member organization founded 84 years ago to combat misinformation in a new age of advertising,[1] writes to recommend upholding the decision specific to Case 2020-006-FB-FBR alongside much greater public clarification and transparency around the policies in question. Medical misinformation, particularly around COVID-19, is an urgent problem online. While we appreciate Facebook's reported efforts to combat the urgent issue, more work—and transparency into that work—is clearly sorely required. For this specific instance, with the limited context available, we would highlight the following considerations, operating on the assumption that the violated Violence and Incitement policy was, "Do not post... misinformation and unverifiable rumors that contribute to the risk of imminent violence or physical harm." Ultimately, alongside the additional policy and transparency recommendations below, we urge the Oversight Board to uphold the decision to remove the content in question, given the severe harm that COVID-19 misinformation and related schemes can pose to consumers and to public health more broadly. Severely critiquing a government's crisis response alone should certainly not warrant takedown—quite the opposite. But the content's apparent propagating dangerous medical misinformation during the COVID-19 crisis, "that Raoult's cure was being used to save lives," particularly when such claims lacked basis in scientific consensus or rigor,[2] in ways that could lead consumers to misunderstand and distrust key public health guidance This context could of course also depend on when the content was posted, as discussion of Raoult's claims varied wildly over the course of the early months of the pandemic.[3] While we agree with the end result—removing the content—this policy and its enforcement require more clarity and granularity. "Risk of imminent physical harm" alone does not immediately make clear which types of misinformation may fall under that category, obfuscating clear content

moderation expectations for users and watchdogs alike. Facebook subsequently announced on December 3rd that the company will, “start removing false claims about these vaccines that have been debunked by public health experts on Facebook and Instagram;” however, this standard must be clear and prominent in the Community Standards cited, and should be separately noted in the company’s transparency reporting efforts.[4] Further, it remains unclear what standards and resources of “public health expert debunking” Facebook will be utilizing in these endeavors: these too should be made public and transparent. Given the precedential nature of the Board decisions, a number of factors that could weigh in—and as such, affect future policy enforcement—remain unclear. In the course of their analysis, we would strongly encourage the Board to consider and publicly address the following factors in their analysis (to whatever extent possible given privacy considerations). Furthermore, CR would strongly encourage that the Board consider the following recommendations for policy guidance: * Confirm, given the potential harm to consumers and public safety, that Facebook would apply these standards evenly across all everyday users, public figures, and paid advertisers. * Recommend that ads are explicitly reviewed for such policies prior to ad approval, particularly in light of CR’s findings earlier this year on paid COVID misinformation on the platform.[5] * Recommend that users shown content ultimately removed for these reasons are provided with, upon content removal, accurate COVID-19 resources and/or verbiage in line with that which research demonstrated helped users to better discern misinformation.[6] Finally, while perhaps not in this instance, CR would generally encourage that the Board, chartered with the powers to, “Instruct Facebook to allow or remove content” and “Instruct Facebook to uphold or reverse a designation that led to an enforcement outcome”[7] be empowered to recommend content designations past the take-down/leave-up binary.[8] Remedies it might consider at least recommending could include: labeling, reducing distribution, preventing sharing, or adding informative interstitials, with appropriate public transparency. The truism, “a lie can run round the world before the truth has got its boots on,” has perhaps never been more keenly felt than the present moment. Looking to the future of COVID-19 misinformation policies and enforcement we strongly encourage the Oversight Board to hold Facebook accountable for misinformation that can so rapidly spread such harm, and provide analysis and recommendations that promote transparency and safety in Facebook’s COVID-19 policy and protocol efforts as they continue to tackle this crucial consumer issue. We look forward to engaging further with the Oversight Board as we continue in our mission to protect consumers.

[1] Marta Tellado, “How We Fight Misinformation” Consumer Reports, (October 1, 2020), <https://www.consumerreports.org/consumer-reports/how-we-fight-misinformation/>. [2] Scott Sayare, “He Was a Science Star. Then He Promoted a Questionable Cure for Covid-19” The New York Times Magazine (May 12, 2020), <https://www.nytimes.com/2020/05/12/magazine/didier-raoult-hydroxychloroquine.html>. [3] Id. [4] Kang-Xing Jin, “Removing False Claims About COVID-19 Vaccines” Facebook Newsroom (December 3, 2020), <https://about.fb.com/news/2020/12/coronavirus/>. [5] Kaveh Waddell, “Facebook Approved Ads With Coronavirus Misinformation” Consumer Reports (April 7, 2020), <https://www.consumerreports.org/social-media/facebook-approved-ads-with-coronavirus-misinformation/>. [6] Kaveh Waddell, “Facebook Gave Tips to Spot Fake News. A Study Says They Work Surprisingly Well.” Consumer Reports (June 22, 2020), <https://www.consumerreports.org/social-media/facebook-gave-tips-to-spot-fake-news-a-st>

Link to Attachment

[Attachment PC-00109](#)

2020-006-FB-FBR PC-00121

Case number

Public comment number

Asia Pacific and Oceania

Region

Raphael

Commenter's first name

Ren

Commenter's last name

English

Commenter's preferred language

Faculty of Law, University of Malaya

Organization

No

Response on behalf of organization

Short summary provided by the commenter

We agree with the removal, but not its reasoning. The more credible ground to justify removal is on public health, rather than 'misinformation that contribute to the risk of imminent violence or physical harm'. First, on legality, the risk here is more akin to self-harm, rather than a threat of harm to others. Second, on necessity, it is far easier to establish a direct connection with WHO regulations. Third, on proportionality, public health follows scientific advice, and takes away much of the subjectivity from the decision-making of human reviewers. Lastly, we caution against censorship on falsity alone. Mark Zuckerberg is right that Facebook should not function as the 'Ministry of Truth', but rather as a 'Marketplace of Ideas'.

Full Comment

[1] We agree with the removal, but not its reasoning. Instead of relying on 'misinformation and unverifiable rumors that contribute to the risk of imminent violence or physical harm', we believe that the more credible ground to justify removal of the content criticising France's refusal to authorize certain medications against COVID-19 should be predicated on 'public health'. [2] We examined this case through the lens of Facebook's Community Standards, and more pertinently, international standards of human rights (as per the conventional three-part test of legality, necessity, and proportionality recognized by international bodies and tribunals). [3] First, the principle of legality requires rules restricting freedom of expression to be formulated with sufficient precision to enable users to know the consequence of their actions. This equally applies to policies set by online intermediaries on content moderation. [4] Restrictions aimed at preventing 'imminent harm' is well-recognised internationally ('advocacy of hatred' under Article 20(2) of the ICCPR) and nationally ('imminent lawless action' or 'fighting words' under US law). Such a situation arises where an author directly threatens to harm a specific targeted victim, or makes statements likely to induce others to harm a victim (akin to the examples under 'Violence and Incitement'). This case, instead, involves an author expressing an opinion likely to induce a person to commit self-harm (akin to the examples under 'Suicide and Self-

Injury’). Both categories are distinct. Widening the definition of ‘imminent harm’ to encompass self-harm is overly broad and carries the risk of excessive censorship. [5] Second, the principle of necessity requires ‘a direct and immediate connection between the expression and the threat’ established by convincing evidence. The evidential threshold of ‘imminent harm’ is high – that the taking of such medication will worsen the health of COVID-19 patients. Following the Siracusa Principles, the threshold of ‘public health’ is lower – the provision of care for the sick and injured, with due regard to the regulations of the WHO. [6] In this case, it is doubtful whether the threshold of ‘imminent harm’ has been met. Whilst scientific evidence advocating the use of hydroxychloroquine and azithromycin to treat COVID-19 may be scarce, there is also insufficient evidence to prove that such usage produces significant adverse effects to COVID-19 patients. In contrast, the ‘public health’ criterion set by scientific advisors is more flexible – guided not just on prevention of known harm, but also precaution against unknown harm. [7] Third, the principle of proportionality requires that the least-intrusive measures be taken to achieve the desired aim. According to the Rabat Action Plan, the risk of ‘imminent harm’ is weighed by six factors: content and form of publication, status of author, extent of publication, socio-political context, imminence of harm, and intent of author. Instead, ‘public health’ follows scientific advice, and takes away much of the subjectivity from the decision-making of human reviewers. [8] As the proportionality test is contextual and the factual matrix provided is limited, we cannot provide a full assessment on the correctness of the content removal. However, we reiterate that removal should only be a measure of last resort, after all other measures have been exhausted (e.g. reduced visibility of suspicious content flagged by third-party fact-checkers and ‘circuit-breaker’ to pause algorithmic amplification of viral content). As cautioned by Dunja Mijatović (Human Rights Commissioner of the Council of Europe) and echoed by David Kaye (former UN Special Rapporteur on freedom of expression), measures to combat ‘fake news’ cannot be a ‘pretext to introduce disproportionate restrictions to press freedom’. [9] In sum, Facebook’s Community Standards is ill-equipped to combat misinformation on COVID-19. Reliance on ‘imminent harm’ is akin to forcing a square peg into a round hole. Hence, we recommend the addition of a ‘public health’ exception: ‘misinformation or unsubstantiated opinions on matters of public health inconsistent with the regulations or recommendations of the WHO or national health authorities’. [10] Lastly, we caution against censorship on falsity alone. Both Mark Zuckerberg and Jack Dorsey are right to insist that social media sites should not become the ‘arbiter of truth’. After all, the best remedy against false speech is counter-speech. Moreover, most of our everyday words cannot be easily categorized in binary fashion as ‘true’ or ‘false’. Ultimately, false speech facilitates the discovery of truth in two ways – distilling its components, and enhancing its value. As John Stuart Mill astutely observed in 1859: ‘[T]hough the silenced opinion be an error, it may, and very commonly does, contain a portion of truth; and since the general or prevailing opinion on any subject is rarely or never the whole truth, it is only by the collision of adverse opinions that the remainder of the truth has any chance of being supplied.’ ‘If the opinion is right, they are deprived of the opportunity of exchanging error for truth: if wrong, they lose, what is almost as great a benefit, the clearer perception and livelier impression of truth, produced by its collision with error.’ Put simply, Facebook should not function as the ‘Ministry of Truth’, but rather as a ‘Marketplace of Ideas’. [full version with citations in the document attached]

[Link to Attachment](#)

[Attachment PC-00121](#)

2020-006-FB-FBR PC-00126

Europe

Case number

Public comment number

Region

Withheld

Withheld

English

Commenter's first name

Commenter's last name

Commenter's preferred language

Withheld

No

Organization

Response on behalf of organization

Short summary provided by the commenter

In order to find a balance between potential damage of two high-ranking entitlements (health protection and freedom of expression), the statement rejects a pure removal of the post, but looks for milder means indicating the health risks disseminated by the post. The statement proposes to flag the problematic post. By introducing such an alternative procedure and preferring it to a pure removal, FB is thus fulfilling its responsibility not to simply let a problematic post pass as unproblematic, but to send a perceivable hint that users can inform themselves in a complementary or substitutive way elsewhere (alternatively, this information could be provided by fact-checking teams within FB, if possible).

Full Comment

In the dramatic situation of the given pandemic, in which any misinformation can cost many lives, any attempt to distinguish between knowledge gained according to scientific standards (which within the frame of empirical theories must nevertheless always and in principle be falsifiable) and fake news is to be welcomed. Another question is whether fake news on corona medication posted on FB should be removed. The assessment of this question does not only depend on the possible damage that a post may cause, but also on the legal and ethical balance of this damage with the high entitlement and value of freedom of expression. In principle, both legal and ethical considerations must be taken into account in order to come to an appropriate judgment: freedom of expression in principle includes the right to lie and deceive. In many cases, for example, when it comes to a positive self-staging of one's own person (e.g. on Instagram) ? even if one does not feel well at a given moment ? a decision for lying or deceiving is completely unproblematic. Although within many societies and cultural traditions, the option for lying is generally tolerated and damage caused by lying and deceiving is to some extent condoned, always different borderlines of rejection (in the legal sphere accompanied by formal sanctions, in the several ethoi of societies by informal sanctions) are drawn. FB must be aware that a restrictive interpretation of the value of freedom of expression in one area can immediately lead to a demand to be as

restrictive in other areas with similarly high risks of human casualties in order to maintain coherence in FB's removal policy. For example, the annual number of deaths due to climate change or fine dust pollution is also estimated to be in the millions, despite the differences in the calculations. Consistently, a claim could be made to remove posts that disseminate false or controversial opinions in these areas as well. Such a trend could cause a slippery-slope-effect. FB now justifies the removal with reference to No. 1 of the Community Standards (CS). The first sentence: "We aim to prevent potential offline harm that may be related to content on Facebook" can only make sense in the context of the paragraph "violence and incitement", not generically. Otherwise, the door would be opened to an excessive removal policy. Accordingly, the question arises whether the reference to an ineffective drug, which also has a lot of side effects, can be regarded as "violence and incitement". This is clearly not the case. Nor can the possibility that the criticism of the French health strategy can be regarded as a call for violence be seriously considered. Conclusion: In order to find a balance between potential damage of the two high-ranking entitlements mentioned above, it would be a good solution to look for milder means than a restrictive interference of freedom of expression. The model used by other social media to flag a (in terms of misinformation) problematic post seems feasible and milder. By introducing such an alternative procedure and preferring it to a pure removal, FB is thus fulfilling its responsibility not to simply let a problematic post pass as unproblematic, but to send a perceivable hint that users can inform themselves in a complementary or substitutive way elsewhere (alternatively, this information could be provided by fact-checking teams within FB, if possible).

[Link to Attachment](#)

Withheld

2020-006-FB-FBR PC-00135

Case number

Public comment number

Europe

Region

Eliska

Commenter's first name

Pirkova

Commenter's last name

English

Commenter's preferred language

Access Now

Organization

Yes

Response on behalf of organization

Short summary provided by the commenter

Access Now welcomes the opportunity to submit our public comments to Facebook Oversight Board's (hereinafter the Board) first cases that the board will be deciding in the following months. As a part of our response, we would like to share our concerns about procedural issues of the consultation, as well as the general focus of the Board. Therefore, our response contains procedural safeguards that should be met by the Board and policy recommendations on how to tackle Covid-19 related mis and disinformation.

Full Comment

Procedural issues Insufficient time for public stakeholders to review cases All six cases that were referred to the Board are highly complex, including issues such as online hate speech, expression of nudity and incitement to violence. Furthermore, they involve various global regions with their own distinctive regional and socio-political nuances. All of them require careful balancing of users' human rights, taking into consideration the contextual background of each case. While panels responsible for each case will have 90 days to deliberate about each case, external stakeholders have 7 days to deliver their contributions. Given the complexity of each case and the very limited description provided by the Board, it is rather difficult to find the justification for such a short time frame. We are concerned that due to this issue, the number of responses will be limited and will not include all relevant actors. Lack of consultation with on-the-ground civil society expertise While we welcome that in each panel there will be one representative from the region implicated by the content, it is human rights defenders, civil society organisations and other stakeholders with grassroots expert knowledge and proper understanding of regional cultural and political context that should be best represented during the consultation process. For instance, case no. 2020-002-FB-UA involves numerous complex issues, from the protection of minority rights to the incitement of genocide, a criminal offense defined by international human rights law under the The Convention on the Prevention and Punishment of the Crime of Genocide. We would like to draw the Board's attention to the fact that based on the Independent International

Fact-Finding Mission on Myanmar and their specific recommendations addressed to Facebook, the United Nations underlined the importance of individual experts coordinating content moderation activities. These experts must understand the dynamic local context, especially in countries that are going through humanitarian crises with human rights consequences. However, the Board does not provide any further explanation on how they intend to guarantee that these voices, such as minority rights organisations, will be properly taken into consideration during this consultation. Furthermore, human rights organisations operating in conflict or post-conflict environments find themselves in difficult circumstances regarding logistics of their everyday work. Hence, the short timeline may prevent them from delivering their responses on time. Failure to consider negative implications of algorithmic amplification We regret to see that the Board remains solely focused on how user-generated content is removed from the platform rather than on the core issue: the way content is algorithmically distributed, personalised and amplified in order to boost users' engagement. Recent research findings reveal that online platforms and their content recommendation systems can contribute to the polarisation of opinions and attitudes online. While it cannot be assumed that algorithms are solely culpable for the polarization of society, attempts to manipulate content curation to drive engagement have been clearly documented. Most importantly, content recommendation is crucial for the growth and dominance of large platforms, such as Facebook, and lies at the heart of their business models. Algorithmic amplification is "a key logic governing the flows of information on which we depend." (Tarleton Gillespie 2018) The spread of COVID19 Mis and Disinformation Online misinformation and disinformation are not unique to this health crisis; however, the global crisis demonstrated how hasty and shortsighted solutions in content governance may endanger fundamental rights. Therefore, we urge the Facebook Oversight Board to issue policy recommendations that will include concrete steps to achieve meaningful transparency implemented by Facebook, with the specific focus on COVID19 related dis and misinformation. This should include requirements to: Preserve all data on content removals during the global health crisis, including but not limited to information about which take-downs were performed by automated tool, whether these decision were reviewed or done by human moderators and whether and how users appeals were or were not acted upon; Preserve all content that the platform blocks or removes by automated means, including individual posts, videos, images, and users' accounts; Issue transparency reports that include information about content blocking and removal related to COVID-19. The reports should not only focus on quantity of removed content but rather on qualitative metrics, such as: the type of entities that issued them, reasons why it infringes Facebook's Terms of Service, whether the content was flagged by private parties, automated tools, or trusted flaggers, the number of appeals they received and how they were resolved; Issue specific recommendations to establish a data access framework for researchers, journalists and other independent stakeholders to institute evidence-based policy responses to amplification of potentially harmful content, including COVID19 mis and disinformation.

Link to Attachment

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



Public Comment Appendix for
2020-006-FB-FBR

Case number

End of public comments