



Public Comment Appendix for

2021-016-FB-FBR

Case number

Case description

Note: Please be aware before reading that the following case summary includes potentially sensitive material relating to content about sexual violence against minors. Certain details from the content under review are abstracted in this summary to protect the interests of child victims.

On 20 September 2021, Meta referred a case to the Board concerning a Swedish journalist reporting on sexual violence against minors. The content was posted to the journalist's "verified" Facebook Page in Swedish in mid-2019.

The content contains details about the rapes of two unnamed minors, specifying their ages and the municipality in which the first crimes had occurred. The post also details the convictions that two unnamed perpetrators received for those crimes. One of those perpetrators reportedly received a non-custodial sentence as they were a minor at the time they committed the offence. The perpetrator in the other case was reported as having recently completed a custodial sentence for a violent crime against another woman. The post argues that the Swedish criminal justice system is too lenient and incentivises crime. They advocate for the establishment of a sex offenders register in the country.

The content provides extensive and graphic details of the harmful impact of the crime on the first victim, including describing their physical and mental injuries, offline and online harassment they encountered, as well as the psychological support they received. The post also provides graphic quotes attributed to the perpetrator reportedly bragging to friends about the rape and referring to the minor in sexually explicit terms.

The post was viewed more than 14,000 times, receiving more than 1,800 comments and more than 10,000 reactions. One user reported the content in September 2019 as bullying and harassment, leading to an automated review that assessed the content as non-violating and left it up. Facebook's automated systems later detected the post as potentially violating in August 2021, and a content reviewer assessed the post as violating the Community Standards and it was removed. The content was therefore on the platform for approximately two years.

Meta removed the content for violating Facebook's policy on [Child Sexual Exploitation, Abuse and Nudity](#). Under this policy, Meta removes content that, amongst other things, "shows children in a sexualised context". Meta explained in

its referral to the Board that the post was in violation of this policy because it "describes how the attacker viewed the minor in sexually explicit terms".

In its referral, Meta stated that the content decision is difficult because it highlights the tension and challenges the company "confronts when balancing the values of safety, dignity and voice". Meta also noted that the case is significant because "the user is a well-known investigative journalist and he posted about a crime of public interest". Meta further indicated that while it is important that users can "raise awareness of crimes, atrocities and violations of human rights on Facebook", it is also important that Facebook does "not serve as a platform for re-traumatising victims of these crimes or facilitating their harassment".

The Board has not received a statement from the user as of the publication of this summary.

The Board would appreciate public comments that address:

- Whether Meta's decision to remove the post is consistent with Facebook's Child Sexual Exploitation, Abuse and Nudity Community Standard, and Facebook's stated values and human rights responsibilities and commitments.
- Whether Facebook's policies and their enforcement adequately protect the identities and rights of child victims of sexual crimes, including protecting against re-traumatising those victims, while also enabling public interest commentary about such crimes and the criminal justice system.
- Whether Meta's design choices incentivise sensationalist reporting on issues affecting children's rights, if or how Meta should respond to such impacts, and the relevance of ethical journalism standards in this regard.

In its decisions, the Board can issue policy recommendations to Meta. While recommendations are not binding, Meta must respond to them within 30 days. As such, the Board welcomes public comments proposing recommendations that are relevant to this case.



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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.



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Case number

10

Number of Comments

Regional Breakdown

0	0	3	2
Asia Pacific & Oceania	Central & South Asia	Europe	Latin America & Caribbean
0	0	5	
Middle East and North Africa	Sub-Saharan Africa	United States & Canada	

2021-016-FB-FBR

Case number

PC-10264

Public comment number

United States and Canada

Region

Jeremy

Commenter's first name

Malcolm

Commenter's last name

English

Commenter's preferred language

Prostasia Foundation

Organization

Yes

Response on behalf of organization

Short summary provided by the commenter

Applying Facebook's policy on Child Sexual Exploitation, Abuse and Nudity to stifle critical discussion about a reported case of child sexual exploitation is a misuse of the policy. Facebook's policy disallows the discussion of child sexual exploitation only to the extent that it “threatens, depicts, praises, supports, provides instructions for, makes statements of intent, admits participation in or shares links of” such exploitation. In the context of the journalist's post, sharing comments from the perpetrator referring to the minor in sexually explicit terms cannot be characterized as praising or supporting the abuse. On the contrary, it was clearly quoted in condemnation of the perpetrator's actions. Meta's decision should be reversed.

Full Comment

See attachment

Link to Attachment

[PC-10264](#)

2021-016-FB-FBR

Case number

PC-10265

Public comment number

United States and Canada

Region

Brett

Commenter's first name

Prince

Commenter's last name

English

Commenter's preferred language

Neurobehavioral Rehabilitation Associates

Organization

Yes

Response on behalf of organization

Short summary provided by the commenter

Harmless. Again FB/Meta should not continue to act in this hyper-monitoring fashion which creates unnecessary societal divisiveness and fear. Thought and speech policing is not the true function of a private company, nor should it be. Diversity of view points is desirable. It is absolutely Orwellian to stifle free speech and free thought in this overkill manner

Full Comment

See above

Link to Attachment

No Attachment

2021-016-FB-FBR

Case number

PC-10270

Public comment number

Latin America and Caribbean

Region

Carolina

Commenter's first name

Christofoletti

Commenter's last name

English

Commenter's preferred language

Anti-Human Trafficking
Intelligence Initiative

Organization

Yes

Response on behalf of organization

Short summary provided by the commenter

It is not a matter of Community Standards and Content Moderation but, instead, a matter of De-Escalation and of harmful-networks-to-be. Keeping the instrumental consistency (e.g. disallow comments if they are what makes it problematic) is highly important in order to maintain, simultaneously: a) The user's Trust on Facebook - a trust that relies on the fact that no one will be punished by Facebook because of a content that was and is not originally harmful and which had become potentially problematic only after Facebook's community started interacting with it - and b) The Facebook's Community Safety, whose safety standards will not allow harmful networks to grow around innocent posts - e.g. a news story - anymore.

Full Comment

The case referred to Meta's Oversight Board seems to derive its relevance from the very fact that what seems to have caused the content to be removed was not exactly what the journalist intended by posting it but, instead, how Facebook's community was reacting to that post. In order to control the further escalation of a harmful network around the journalist's post, Facebook removed the as being one that violated Facebook's Child Sexual Exploitation, Abuse and Nudity Community Standard. By removing the post itself (and not the harmful commentaries, one by one, around it), Facebook prevented the post from becoming further recognized a virtual-geography of interest to be exploited, for example, by Child Sexual Abuse Material's (CSAM) criminals, to whom journalistic posts seem of particular interest when it comes to 'getting in contact with other offenders' and 'getting to know victims'. In a case study conducted by me (as a CSAM Researcher) in cooperation with Brazilian Law Enforcement Authorities, I had the opportunity to see how, in a very similar situation, a post talking about the kidnap and rape of a 12 years old girl lead to more than 3,000 commentaries asking for the raping video on Facebook -

what Facebook's users (potential CSAM criminals) answered with their WhatsApp numbers and a notice that they 'knew where one could find more of that videos'. A network approach to Child Safety Content Moderation (post removal) is, indeed, something fascinating from a Trust & Safety perspective. Only, that it must be justified as so. Even though I do not see the journalist's post as one violating Facebook's Child Sexual Exploitation, Abuse and Nudity Community Standards itself, I see how the surrounding interactions can create a complex and rapidly escalating environment around it that can, indeed, constitute a violation of Facebook's Community Standards. All this does not change the fact that, objectively, the Journalist post does not violate Facebook's Standards, and that Trust & Safety moderation here should have been approached not through a content-basis, but through a de-escalation metrics. If we were talking about de-escalation policies, then the removal would have been justified – and the Freedom of Expression, simultaneously, remain as an equally protected value. The reason for the post removal is, from my point of view, wrongly stated – even though the results achieved by that (local network disruption) have been highly beneficial to Facebook's community. Despite that, it is highly important to keep the removals correctly justified, reason why I would have suggested adding a removal reason based on “de-escalation policies”, so to be able to better assess those cases. As such, maybe the best Content Moderation approach for the Oversight Board and for this second case would have been letting both journalistic posts inside Facebook [provided that it did not a) exposed the minor b) created a harassment network around the criminal c) violated Facebook's community policies in any other objective way] while simply deleting the previous commentaries done around it - which would have otherwise allowed CSAM criminals to identify themselves and start a new conversation through private chats- and disallowing further commentaries from being posted. Curiously, this is the very way that Dark Web CSAM forums are moderated in “hard cases” as such.

[Link to Attachment](#)

No Attachment

2021-016-FB-FBR

Case number

PC-10277

Public comment number

Europe

Region

Jacqui

Commenter's first name

Hunt

Commenter's last name

English

Commenter's preferred language

Equality Now

Organization

Yes

Response on behalf of organization

Short summary provided by the commenter

Our comment sets out a brief checklist of principles that include, first and foremost, protecting the victim-survivor of sexual violence; addressing content that would either harm a specific victim-survivor or victims-survivors in general or perpetuate harmful and discriminatory stereotypes of women; and supporting content that aims to educate on the causes and instances of sexual violence, obstacles to accessing justice or generally to promote an end to violence and discrimination against women and promote their equality.

Full Comment

Checklist 1. The post should not put the victims' safety or anonymity at risk and so should not contain identifiers that would compromise those principles. 2. Rape and sexual abuse are always about power and control and never about sexual desire. In principle, therefore, a mere description of what happened during a rape or sexual abuse would not per se be "sexualised" content. Rape is about violence, not sex. However, it would be important generally to look at the individual context to ensure there has been no sensationalisation or sexualisation of rape or sexual assault, for example as can be found in pornography. In addition in this case, the journalist is said to have repeated the graphic quotes attributed to the perpetrator. While the original quotes could well have been sexualised and contrary to Meta's Standard and Facebook's stated values, if the purpose of repeating them is to demonstrate for example the type of deep-seated misogynistic beliefs or the negative stereotypes that enable an environment for and perpetuate sexual violence, that could be very useful information for the public to recognise biases and entrenched structural barriers to preventing and addressing sexual violence with a view to more targeted action to end it. Intent is therefore very important and content should not be deleted if it would be helpful in understanding the root causes of and working against sexual violence and can be readily understood that it serves those purposes.

In addition to intent, the text should never incentivise or sensationalise sexual violence. Here, the original post "argues that the Swedish criminal justice system is too lenient and incentivises crime". The denouncing of sexual violence and call for positive change frames this post very differently than if it had simply been a recounting of the graphic details for public consumption. While violence may be depicted in such messages, the explicit language used appears to call for greater prevention of and protection from sexual violence which would in principle be for the public good. 3. Perpetrators should be described as such and their behaviour explained in the context of discrimination against women/misogyny rather than, for example, using racial stereotypes. Merely reporting on a perpetrator and the actions he chose to take would not per se constitute bullying and harassment. Indeed, the focus of stories on sexual violence should be on the chosen actions of the perpetrator without trying to excuse or mitigate them with facts that are not relevant to his chosen behaviour, for example that he didn't have a girlfriend, or to put any blame on the victim-survivor, for example that she was out late at night. 4. Stories about and references to sexual violence, even if executed sensitively, could well retraumatise victims-survivors in general. Each individual is different and it is not possible to give a blanket list of triggering points with respect to sexual violence or any other personal trauma from any public story or image. Provided the individual victims-survivors are not identifiable or their safety compromised (see point 1), it is important to publish sensitively written pieces which draw attention to male violence against women including the workings or failures of the criminal justice system. Failure to do so risks leaving in the public domain only the stories and images that are not subject to or which evade oversight, which are more likely to be those that do sensationalise and/or sexualise sexual violence. Removing sensitively-written journalism removes the counter-weight to these other harmful narratives. For general guidelines and more information on reporting violence against women, please see further for example Zero Tolerance (Scotland), Genderlinks and UNESCO.

[Link to Attachment](#)

No Attachment

2021-016-FB-FBR

Case number

PC-10280

Public comment number

United States and Canada

Region

Jason

Commenter's first name

Whiting

Commenter's last name

English

Commenter's preferred language

BYU

Organization

No

Response on behalf of organization

Short summary provided by the commenter

See attached.

Full Comment

See attached.

Link to Attachment

[PC-10280](#)

2021-016-FB-FBR

Case number

PC-10284

Public comment number

Latin America and Caribbean

Region

João

Commenter's first name

Archegas

Commenter's last name

English

Commenter's preferred language

Institute for Technology and
Society of Rio | ModeraLab

Organization

Yes

Response on behalf of organization

Short summary provided by the commenter

This public comment sheds light on the scope of Facebook's Community Standards concerning sexual abuse and exploitation of minors, and the standards for protecting them from re-victimization in the digital space. Then, it goes on to briefly portray the nuances of balancing public interest and the protection of children's rights, and argue that Meta can improve on how it addresses disputes between these often opposing concerns. Lastly, it suggests a tool to assist the company in identifying when and to what extent public interest may override children's rights and best interests.

Full Comment

Please refer to the attachment for the full text of our comment.

Link to Attachment

[PC-10284](#)

2021-016-FB-FBR

Case number

PC-10285

Public comment number

United States and Canada

Region

Anne

Commenter's first name

Collier

Commenter's last name

English

Commenter's preferred language

The Net Safety Collaborative

Organization

Yes

Response on behalf of organization

Short summary provided by the commenter

We know from the research that graphic depiction online of violence against a minor extends the victimization and trauma the minor experienced originally. Removal of such content is in line with children's rights and Meta's policies against Child Sexual Exploitation, Abuse and Nudity even when the graphic depiction is provided by a credentialed journalist.

Full Comment

In response to your Board's requests for comment on this case.... * "Whether Meta's decision to remove the post is consistent with Facebook's Child Sexual Exploitation, Abuse and Nudity Community Standard, and Facebook's stated values and human rights responsibilities and commitments": Yes, though the fact that this was apparently a credentialed journalist posting the content does complicate decision making on a content moderator's part. However, children's rights trump journalists' freedom of expression especially in cases where detailed graphic depiction of a crime against a minor is 1) unnecessary to making the content's point and can be avoided and 2) can be exploited by those with voyeuristic or sadistic responses to such content. That the journalist seems to have posted the content as commentary with the legitimate intent of changing his country's criminal justice system's approach to such crimes does not outweigh minors' rights of protection. * "Whether Facebook's policies and their enforcement adequately protect the identities and rights of child victims of sexual crimes, including protecting against retraumatizing those victims, while also enabling public interest commentary about such crimes and the criminal justice system": That we can't know. The company's policies are correct, however, as mentioned above. * "Whether Meta's design choices incentivize sensationalist reporting on issues impacting children's rights, if or how Meta should respond to such impacts, and the relevance of ethical journalism standards in this regard." Societies around the world, including my part of the world, incentivize

sensationalist reporting. Such incentivization is not unique to social media. Without seeing the journalist's content, I can't know if it was sensationalist. It does sound as if it was gratuitously graphic; the reporter could've chosen not to go into such graphic detail. By the nature of social media and the contextual limitations content moderators have, the reporter's intent for going into graphic detail can't be known. All a moderator can do is take down content in front of them that violates Community Standards, and Meta's/Facebook's moderators were right to remove the content. Where Meta's *design* choices come in is that the algorithm incentivizes the sharing or spreading of graphic content. Given that reality, it should be Meta's policy that content moderators act as quickly as possible to remove content that is harmful to children and violates their rights. As for the relevance of ethical journalism, Meta/Facebook is FAR from a journalistic medium, has long demonstrated an ignorance of journalistic ethics and can't logically be relied on to uphold them. And neither human nor algorithmic moderation is designed to understand users'/creators' intent or to have the full offline context of what's posted on platforms. All platforms can really be held accountable for is their policies concerning human rights, including children's, and for consistently upholding them in their content moderation systems. A further layer between the "cloud" and the "ground" is needed to provide platforms with the context they need in cases like this, an example being Australia's eSafety Commissioner's Office and Europe's Internet helplines and other user care systems.

[Link to Attachment](#)

No Attachment

2021-016-FB-FBR

Case number

PC-10286

Public comment number

Europe

Region

Hannah

Commenter's first name

Ruschen

Commenter's last name

English

Commenter's preferred language

National Society for the Prevention
of Cruelty to Children

Organization

Yes

Response on behalf of organization

Short summary provided by the commenter

The National Society for the prevention of Cruelty to Children is the UK's leading children's charity, preventing abuse and helping those affected to recover. Our work to keep children safe from abuse online has played an instrumental role in the development of the UK Government's online harms proposals. The NSPCC has been at the forefront of the campaign for online safety legislation and is a leading voice in calling for an online Duty of Care to protect children from online abuse and exploitation.

Full Comment

Response to the Facebook Oversight Board Case Number 2021-016-FB-FBR The National Society for the prevention of Cruelty to Children is the UK's leading children's charity, preventing abuse and helping those affected to recover. Our work to keep children safe from abuse online has played an instrumental role in the development of the UK Government's online harms proposals. The NSPCC has been at the forefront of the campaign for online safety legislation and is a leading voice in calling for an online Duty of Care to protect children from online abuse and exploitation. The NSPCC welcomes the opportunity to provide comment on case 2021-016-FB-FBR, and present recommendations to the Oversight Board with regards to the implementation and enforcement of Meta's child sexual exploitation, abuse, and nudity community standards; their efforts to protect the rights of child victims from re-victimisation; and the link between design choices, children's rights, and sensationalist reporting. This case presents some of the key challenges that come from balancing safety, privacy, and free expression, and has implications for the way that community standards are upheld and enforced. However, the overall impact of decisions made about this case will have a limited impact on child safety on Meta's platforms. Looking at individual cases in isolation without considering the broader pattern of issues relating to child sexual abuse online,

means the Board will not have a wider influence on preventing the core drivers of abuse and exploitation on Meta's platforms. For example, we would welcome the Board's consideration of issues such as the child protection impact of end-to-end encryption. The threat posed to a wide number of children by encryption proposals is well known and yet to be addressed, as highlighted by survivors of child sexual abuse online by the Canadian Centre for Child Protection : "We are hearing more and more examples of perpetrators of these crimes gaining privacy rights that ease their ability to continue to perpetrate, such as the recent announcement by [a popular platform] to implement end-to-end encryption in their messaging software, but what we are not hearing about are concrete plans regarding the protection and privacy of children whose images of sexual abuse are shared through this software."

– A member of the phoenix 11 It would be beneficial for the Oversight Board to look at these patterns and series of cases that directly impact child sexual abuse online, to further this discussion around the prevention of abuse and exploitation on Meta's platforms. 1) Whether Meta's decision to remove the post is consistent with Facebook's Child Sexual Exploitation, Abuse and Nudity Community Standard, and Facebook's stated values and human rights responsibilities and commitments. While we cannot comment on the specifics of the case without seeing the content itself, which therefore makes it harder to judge the removal against existing community standards and human rights commitments, there are several strategic issues which we hope to draw attention to in our response. We welcome the focus on children's rights and the analysis of upholding the consistency of Meta's community standards and human rights responsibilities. When evaluating this decision to remove content, this should be done with due consideration of children's specific rights in the online space, and recognition of the real potential for re-victimisation via content that is uploaded and shared on Meta's platforms. The UNCRC published in August 2020 it's General Comment No. 25, which outlines the specific rights that children have in relation to the digital environment. In particular, it outlines their right to privacy and safety online , and the actions that states should take to ensure businesses uphold these rights in digital spaces. The right to protection from violence should be of paramount importance to businesses of the digital environment. Article 80 outlines these measures to protect children from violence and in particular, "physical or mental violence, injury or abuse, neglect or maltreatment, exploitation and abuse, including sexual exploitation and abuse, child trafficking, gender-based violence, cyberaggression, cyberattacks and information warfare". Additionally, Subsection B highlights that the best interests of the child should be a primary consideration, where all children's rights including the right to be protected from harm should be assessed, and that there should be transparency in the assessment of these best interests and the criteria that have been applied. The right to privacy should also be a primary consideration, and this protection should also include the right to privacy of children who have been abused, exploited or groomed online. It is important to consider the needs of those who have been harmed as well as trying to prevent this harm from occurring in the first place. Subsection 'T' highlights these rights in relation to the business sector, "to prevent their networks or online services from being used in ways that cause or contribute to violations or abuses of children's rights, including their rights to

privacy and protection, and to provide children, parents and caregivers with prompt and effective remedies”. Whether Facebook’s policies and their enforcement adequately protect the identities and rights of child victims of sexual crimes, including protecting against retraumatizing those victims, while also enabling public interest commentary about such crimes and the criminal justice system. Improving policies Reconciling this child-centred approach with journalistic free expression is challenging. By adopting a number of principles or considerations when determining if similar content should remain online or be removed, Meta could achieve a better result for child victims of online abuse:

[Link to Attachment](#)

No Attachment