

Access Now's public comment to Facebook's Oversight Board case consultation

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Access Now welcomes the opportunity to submit our contribution 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.

Procedural issues

1. 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.

2. 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 offence 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.

3. 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 takedowns 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.