

Last November, Facebook CEO Mark Zuckerberg [announced](#) his intention to create an independent oversight body that would address cases of content removal on the Facebook platform and offer a new way for individuals to appeal content decisions. This January, Facebook released a [draft Charter](#) which preliminarily outlined how this Oversight Board would function. Following the release of the draft Charter, Facebook began hosting a series of global consultations to solicit feedback on this proposal and have also initiated an online public consultation period.

New America's Open Technology Institute (OTI) works to promote and protect online free expression, platform transparency, and accountability. Technology companies such as Facebook offer users around the world valuable opportunities to exercise their right to free expression. However, these platforms are also increasingly assuming the role of gatekeepers of online speech, applying their own rules of what speech is permissible. Unlike the government, online platforms are not bound by the First Amendment, and therefore they are legally permitted to adopt their own speech related guidelines. However, as we've [previously highlighted](#), there is often little knowledge of what these content policies consist of, and there is also often a lack of transparency around how they are implemented. This raises significant concerns as Facebook and other companies make decisions about what speech is permissible with few transparency and accountability mechanisms to check their growing powers.

Simultaneously, platforms including Facebook are facing increased pressure from governments around the world to regulate content in the name of safety and security. Germany, India, and Australia are just a few examples of nations that have enacted such legislation over the past few years. This raises further concerns as it places additional pressure on internet platforms to regulate and remove online content, or face consequences.

Facebook has stated that its effort to create an independent oversight body is designed to enable independent review of whether content should be removed from the platform and to provide greater accountability for these content-related decisions. We welcome this effort, but urge Facebook to take steps to ensure that the Board will truly be independent, that its members will represent the diversity of Facebook's global user base, and that it will play a meaningful role in developing policy for Facebook's content moderation decisions. We therefore offer the following recommendations as part of the company's consultation process for the Board.

1. The Board should be composed of a diverse set of individuals with varied perspectives

Facebook is a global company, and the majority of its users are based outside of the United States. Given that the Board will be responsible for reviewing and making decisions on cases from around the world, it must accurately reflect the diversity of perspectives, experiences, and voices of the company's users. At a minimum, the Board should be composed of individuals of varied national, religious, ethnic, political, linguistic, cultural, professional, educational, and gender identity backgrounds.

2. The Board should be operated and administered independently

Facebook should be responsible for funding and supporting the operations of the Board and for compensating Board and staff members. However, countervailing structures need to be created to ensure the independence of the Board. For example, Board members should not be permitted to preview their decisions with Facebook employees or leadership before the decisions are publicly announced, and Facebook employees and leadership should not be permitted to provide input on cases before deliberations have concluded and a decision has been reached.

In addition, the Board should be administered and operated by independent staff members, and its offices should be located separate from any Facebook facilities. We do not support the notion of a separate entity, such as a nonprofit organization or academic institution, administering and operating the Board as this raises a number of conflict of interest questions.

3. The Board should both review content takedown cases and provide input on policy development

In order for the Board to be an effective entity that can promote fairness and respect for human rights in Facebook's content takedown practices, it must be able to both review content takedown cases and provide meaningful input on policy development. The Board should review content takedown cases that are escalated to them by Facebook employees, users and external groups such as civil society groups, academics and civil rights or interest-specific groups. This will ensure that the voices of a diverse set of individuals are being heard.

In addition to reviewing content takedown cases, the Board should also be empowered to make recommendations that Facebook should change its policies regarding which content should be taken down. In particular, the Board should be able to recommend that Facebook should modify its content takedown rules if the Board:

- determines that Facebook's policies are not adequately protecting human rights, including the rights to privacy and free expression;
- finds that one or more policies are in conflict with one another or otherwise not workable; or
- assesses that policy changes are needed to ensure fair application of rules across Facebook's user populations.

If Facebook declines to adopt such a recommendation of the Board, it should explain its reasoning publicly. In addition, Facebook should consult the Board when major policies are being developed or changed, particularly on contentious issues. Given that the Board will be composed of a diverse set of individuals with varied experiences, its input should prove invaluable during this process.

4. The Board must work with Facebook to increase public awareness and engagement around their operations

In order to ensure that users and the general public have a strong understanding of what the Board is and how its operations impact online expression, Facebook and the Board should work together to produce public education materials that explain the function and mission of the Board, how cases can be escalated to the Board by different parties, how individual users will be notified of content decisions made by the Board, and what procedures the Board will follow in reviewing cases. These materials should also clearly outline how the Board will provide transparency around its operations (e.g. by issuing reports outlining their decisions, publishing data in transparency reports, etc.)

4. The Board must be transparent about its decision making practices

Just as we have pushed Facebook to provide greater transparency and accountability around its content takedown practices, we similarly believe the Board needs to be transparent about how its decisions are impacting users and online expression. After the Board makes a decision on a case, it should issue a public explanation of its decision no later than one month after the decision has been made. The Board should also publish an annual report which summarizes trends and insights that it has acquired over the past year. Such a report could be particularly useful for increasing public understanding of how the Board has influenced content on the platform as well as what role the Board has played in influencing policy development and changes, which is an important role for the Board to have.

In addition, Facebook should expand its existing Community Standards enforcement report to include meaningful and granular data around how the Board's decisions have impacted users and online expression. Some data points that should be included in this reporting are:

- The total number of cases that were brought to the Board in the given reporting period;
- A breakdown of how the Board responded in each of the cases surfaced to them (e.g. remove content, keep content up, etc.);
- A breakdown of cases by which Community Standard they violated or were related to;
- A breakdown of cases by format or content at issue (e.g. text, audio, image, video, live stream, etc.);
- A breakdown of cases by who escalated it to the Board (e.g. Facebook, users, civil society);
- A breakdown of cases by country or region that it originated from;
- The number of accounts and pieces of content covered by the cases considered by the Board (e.g. some cases may involve multiple accounts);
- The number of accounts and pieces of content that were taken down or otherwise actioned as a result of the Board's decision in each of the cases considered by the Board.

Further guidance on best practices for transparency reporting on content takedowns, including recommendations on what specific comprehensive numbers internet platforms, such as Facebook should be detailing in order to provide transparency around its content moderation activities, can be found in our [Transparency Reporting Toolkit on content takedowns](#). In addition, the [Santa Clara Principles on Transparency and Accountability Around Online Content Moderation](#), which OTI released as part of a coalition of organizations, advocates, and academic experts who support the right to free expression online, provide similar guidance on comprehensive numbers internet platforms should be reporting on, as well as guidance on how to best provide clear notice to affected users and establish a robust appeals process.

Finally, in an effort to promote greater legitimacy and transparency around the Board's decision-making practices, we believe that the names of all Board members, as well as deliberating panel members on individual cases, should be made public. The only exception to this should be cases where disclosing a Board member's identity publicly would pose a significant threat of harm.