

— ANONYMOUS WHISTLEBLOWER DISCLOSURE —

[REDACTED]

SEC Office of the Whistleblower  
Via Online Portal & FedEx

- Re: Supplemental Disclosure of Securities Law Violations by Facebook, Inc. (NASDAQ: FB), SEC TCR [REDACTED]

**Facebook misled investors and the public about equal enforcement of its terms given that high-profile users are “whitelisted” under its “XCheck” program.**

To the SEC Office of the Whistleblower:

1. The instant letter is one of multiple disclosures related to the above-captioned matter. Our anonymous client is disclosing original evidence showing that **Facebook, Inc. (NASDAQ: FB)** has, for years past and ongoing, violated U.S. securities laws by making **material misrepresentations and omissions in statements to investors and prospective investors**, including, *inter alia*, through filings with the SEC, testimony to Congress, online statements and media stories.
2. **Summary.** In particular, despite reassuring investors and the public that it enforces its terms and policies in a “fair and consistent” way, and that its “XCheck” (pronounced “Cross Check”) program only provides “additional review” for high-visibility users (e.g., celebrities and high-paying advertisers), this is a material misstatement and/or omission. In fact, XCheck functions in practice as a “whitelist” for privileged users, furthering harmful content and violation of terms and causing significant and long-term risks to Facebook and its investors.
3. **Facebook’s Material Misrepresentations and Omissions Include Mark Zuckerberg’s Sworn Testimony to Congress.**

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4. For example, on October 28, 2020, Mark Zuckerberg testified before the U.S. Senate, and when Senator Mike Lee asked:

*“ [D]o you state before this committee, for the record, that **you always apply your terms of service equally to all of your users?**”* (emphasis added)

5. Mark Zuckerberg responded:

*“**I certainly don’t think we have any intentional examples where we’re trying to enforce our policies in a way that is anything other than fair and consistent.**”<sup>1</sup>* (emphasis added)

6. Further, Mark Zuckerberg testified:

*“Incitement of violence is against our policy and there are not exceptions to that, **including for politicians.**”<sup>2</sup>* (emphasis added)

7. Likewise, on November 17, 2020, Mark Zuckerberg testified before the Senate:

*“We took our responsibility for protecting the integrity of this election seriously . . . we worked hard to **apply those policies fairly and consistently.**”<sup>3</sup>* (emphasis added)

8. This follows Mark Zuckerberg’s testimony before the U.S. House of Representatives in 2018, and when Rep. McMorris Rodgers asked:

*“And **what is Facebook doing to ensure that its users are being treated fairly and objectively by content reviewers?**”* (emphasis added)

9. Mark Zuckerberg testified:

*“. . . **we take a number of steps to make sure that none of the changes that we make are targeted in any kind of biased way.** . . . I agree that this is a serious issue . . . we make a relatively small percent of mistakes in content review . . . **I wouldn’t extrapolate from a few examples to assuming that the overall system is biased.**”<sup>4</sup>* (emphasis added)

<sup>1</sup><https://www.rev.com/blog/transcripts/tech-ceos-senate-testimony-transcript-october-28>.

<sup>2</sup><https://www.rev.com/blog/transcripts/tech-ceos-senate-testimony-transcript-october-28>.

<sup>3</sup><https://www.judiciary.senate.gov/imo/media/doc/Zuckerberg%20Testimony.pdf>.

<sup>4</sup><https://energycommerce.house.gov/sites/democrats.energycommerce.house.gov/files/documents/20180411-FC%20Face%20book%20Transparency%20and%20Use%20of%20Consumer%20Data.pdf>.

10. In March and May 2021, Mark Zuckerberg and Facebook continued to represent:

**“people . . . want to know that when platforms remove harmful content, they are doing so fairly and transparently.”**<sup>5</sup> (emphasis added)

**“We strive to enforce our policies consistently . . . Our Community Standards apply to all content, and we assess everyone under those Standards. When we identify or learn of content that violates our policies, we remove that content regardless of who posted it . . .**

Facebook’s Terms and Policies are available here:

<https://www.facebook.com/policies>. Facebook’s Community Standards are available at <https://www.facebook.com/communitystandards/>. Both are global and apply to all accounts on Facebook.”<sup>6</sup> (emphasis added)

#### 11. Facebook Has Made Misstatements in Securities Filings and Related Records.

12. For example, Facebook has repeatedly represented its “transparency,” “integrity,” and “visibility,” including in its filed 10-K statements in January 2021<sup>7</sup> and January 2020<sup>8</sup> and its 10-Q statement in July 2021,<sup>9</sup> as well as quarter results conference calls in 2021<sup>10</sup> and July 2020, stating to investors and the public:

**“[We] also have clear community standards and guidelines that we enforce fairly . . .”**<sup>11</sup> (emphasis added)

13. In its Notice of Annual Meeting and Proxy Statement in 2021,<sup>12</sup> it also emphasized:

*“We publish quarterly Community Standards Enforcement Reports that track our progress on enforcing our content policies . . . We regularly publish Transparency Reports to give our community visibility into how we enforce policies . . .”*

#### 14. Facebook Has Made Statements in its Public Pages and Guidelines.

15. Facebook’s “Cross Check” page and policies represented since at least 2018:

<sup>5</sup><https://docs.house.gov/meetings/IF/IF16/20210325/111407/HHRG-117-IF16-Wstate-ZuckerbergM-20210325-U1.pdf>.

<sup>6</sup><https://docs.house.gov/meetings/IF/IF16/20210325/111407/HHRG-117-IF16-Wstate-ZuckerbergM-20210325-SD004.pdf>.

<sup>7</sup><https://sec.report/Document/0001326801-21-000014/>.

<sup>8</sup><https://www.sec.gov/Archives/edgar/data/1326801/000132680120000013/fb-12312019x10k.htm>.

<sup>9</sup><https://sec.report/Document/0001326801-21-000049/>.

<sup>10</sup>[https://s21.q4cdn.com/399680738/files/doc\\_financials/2020/q4/FB-Q4-2020-Conference-Call-Transcript.pdf](https://s21.q4cdn.com/399680738/files/doc_financials/2020/q4/FB-Q4-2020-Conference-Call-Transcript.pdf).

<sup>11</sup>[https://s21.q4cdn.com/399680738/files/doc\\_financials/2020/q2/Q2'20-FB-Follow-Up-Call-Transcript.pdf](https://s21.q4cdn.com/399680738/files/doc_financials/2020/q2/Q2'20-FB-Follow-Up-Call-Transcript.pdf); see also <https://about.fb.com/news/2018/07/working-to-keep-facebook-safe/>.

<sup>12</sup><https://www.sec.gov/Archives/edgar/data/1326801/000132680121000022/facebook2021definitiveprox.htm>.

**“We want to make clear that we remove content from Facebook, no matter who posts it, when it violates our standards. There are no special protections for any group . . .”**<sup>13</sup> (emphasis added)

See also: “if someone posts something that breaks our Standard and their page was Cross-Checked, we would still remove that content from Facebook after double-checking this was the correct decision.”<sup>14</sup>

16. Continuing through June 2021, after Facebook’s “independent Oversight Board” upheld the decision to suspend Donald Trump’s account and requested that Facebook, among other things, “act quickly on posts made by influential users that pose a high probability of imminent harm,” Facebook stated:

“For content that will likely be seen by many people, we may employ a cross check system to help ensure that we are applying our policies correctly . . . **Our Community Standards apply around the world to all types of content and are designed so they can be applied consistently and fairly to a community that transcends regions, cultures, and languages . . . We employ an additional review, called our cross check system, to help confirm we are applying our policies correctly for content that will likely be seen by many people . . . We want to make clear that we remove content from Facebook, no matter who posts it, when it violates our Community Standards.** There is only one exception — and that is for content that receives a newsworthiness allowance . . . Cross check simply means that we give some content from certain Pages or Profiles additional review . . .” [And when asked to report on error rates and thematic consistency of determinations made through the Cross Check process, Facebook responded] “it is not feasible to track this information.”<sup>15</sup> (emphasis added)

17. In committing to an “independent Oversight Board,” Facebook represented:

“we have created and empowered a new group to exercise independent judgment over some of the most difficult and significant content decisions . . . they are truly autonomous in their exercise of independent judgment.”<sup>16</sup>

<sup>13</sup><https://about.fb.com/news/2018/07/working-to-keep-facebook-safe/>.

<sup>14</sup><https://about.fb.com/wp-content/uploads/2018/07/letter-to-firecrest-films-10-07-181.pdf>.

<sup>15</sup><https://about.fb.com/wp-content/uploads/2021/06/Facebook-Responses-to-Oversight-Board-Recommendations-in-Trump-Case.pdf>; see also

<https://oversightboard.com/news/226612455899839-oversight-board-upholds-former-president-trump-s-suspension-finds-facebook-failed-to-impose-proper-penalty/> [Oversight Board decision regarding Donald Trump].

<sup>16</sup> <https://about.fb.com/news/2020/05/welcoming-the-oversight-board/>.

18. In addition, Facebook’s Community Standards state:

***“Our Community Standards apply to everyone, all around the world, and to all types of content.”***<sup>17</sup>

19. Facebook also advertises “Commitment to Transparency,” stating:

*“We’re also launching a redesign of our Transparency Center to make it easier for people to find what they need. Our Transparency Report also includes the Community Standards Enforcement Report for Q1 of 2021, which provides data on how we take action against violating content across our platforms.”*<sup>18</sup>

*“We publish regular reports to give our community visibility into how we enforce our policies”*<sup>19</sup>

*“This is why we have the Facebook Community Standards and Instagram Community Guidelines, which define what is and is not allowed in our community.”*<sup>20</sup>

20. Turning to its “Transparency Center,” Facebook has represented its “consistent” enforcement since at least 2017 up through at least the summer of 2021:

***“Facebook’s review teams are trained to ensure that their content decisions are accurate and consistent . . . we may employ additional reviews for high-visibility content that may violate our policies . . . This process, which we refer to as cross-check, means that our review teams will assess this content multiple times . . . It also helps us verify that when content violates our policies, including from public figures or popular Pages, we consistently remove it.”***<sup>21</sup> (emphasis added)

*“We remove content that goes against our policies . . .”*<sup>22</sup>

<sup>17</sup> <https://www.facebook.com/communitystandards/>.

<sup>18</sup> <https://about.fb.com/news/2021/05/transparency-report-h2-2020/>.

<sup>19</sup> <https://transparency.fb.com/data/?from=https%3A%2F%2Ftransparency.facebook.com%2F>.

<sup>20</sup> <https://transparency.fb.com/data/community-standards-enforcement>.

<sup>21</sup> <https://transparency.fb.com/enforcement/detecting-violations/reviewing-high-visibility-content-accurately/>.

<sup>22</sup> <https://transparency.fb.com/enforcement/taking-action/>.

*“If your content goes against the Facebook Community Standards or Instagram Community Guidelines, the Facebook company will remove it.”<sup>23</sup>*

21. However, these documents, including the Community Standards Enforcement Reports,<sup>24</sup> do not explain that in practice, the “XCheck” or “Cross-Check” system effectively “whitelists” high-profile and/or privileged users, enabling them to violate Facebook’s terms, as shown by the enclosed documents.

**22. Facebook’s Records Confirm That Facebook’s Statements Were False.**

23. As the enclosed internal Facebook records show, Facebook’s statements were false. For example, Facebook has confirmed:

**“over the years, many XChecked pages, profiles and entities have been exempted from enforcement.”**<sup>25</sup> (emphasis added)

*In 2020, Cross Check entities were shielded from the majority of Integrity actions (“there are 109 daily xcheck exempted actions and 90 actions per daily without xcheck protection”).<sup>26</sup>*

**“over the years, many XChecked people & entities have been exempted from enforcement. That means, for a select few members of our community, we are not enforcing our policies and standards. Unlike rest of our community, these people can violate our standards without any consequences . . . Since we currently review less than 10% of Checked content . . . without optimizing list of people XChecked, it would require significant investment in staffing (>10X increase).”**<sup>27</sup> (emphasis added)

*“This opens us up to a few different legal liabilities (caveat: I am not a lawyer). We currently apply XChecks on official government figures, but not on candidates . . . definitely more prevalent on the local or state level . . . this creates legal liability wrt campaign finance.”<sup>28</sup>*

*“X-Check, like all components, has a cost and a benefit to the company. . . The **Cost** of X-Check can be quantified by **bad VPs**. This is the count of*

<sup>23</sup><https://transparency.fb.com/enforcement/taking-action/taking-down-violating-content/>.

<sup>24</sup>See e.g., <https://about.fb.com/news/2021/05/community-standards-enforcement-report-q1-2021/>.

<sup>25</sup> [REDACTED] *Whitelisting*, p.1.

<sup>26</sup> See [REDACTED] *Adding Civic Users to Xcheck Document*, p. 11.

<sup>27</sup> [REDACTED] *Mistake Prevention*, p. 7.

<sup>28</sup> [REDACTED] *Integrity Ideas to Fight Racial Injustice Document*, p. 3.

*views accruing to content that should have been removed, but the removal was blocked by X-Check.”<sup>29</sup>*

*“All together there are 229K confirmed Civic entities (per 07/25 data), 188k are protected by XCheck . . . There are another 19M entities in probably Civic list (per 07/25 data). 757K are protected by XCheck . . .”<sup>30</sup>*

*“On June 1, a video containing NCII (non-consensual intimate imagery), was posted to the Instagram account and Facebook page associated with global . . . star . . . **A delete action was blocked at scaled support and escalated to . . . XCheck queues where it remained over a weekend . . . In that time, it amassed 56 Million views. video was XChecked, leading to longer review time** and therefore more bVPV . . . Safety OS doesn’t have permissions to override XCheck.”<sup>31</sup> (emphasis added)*

*“**We are exempting certain people and businesses from our policies and standards**, at various stages of integrity lifecycle – exemptions from detection, strike accrual and enforcement . . . **This undermines our fairness and legitimacy efforts; creates legal and compliance risks for the company . . . Based on an initial company-wide audit, this problem is pervasive across the country** . . . Why is this a problem? Exempting (aka whitelisting) specific people and entities creates numerous legal, compliance, PR risks for the company and harms our community . . .”<sup>32</sup> (emphasis added)*

**24. Facebook Has Publicly Admitted This is a Material Issue.**

25. In its public securities filings (e.g., 10-K,<sup>33</sup> 10-Q,<sup>34</sup> and Proxy Statement<sup>35</sup>) and other records, Facebook has conceded:

*“we are making significant investments in . . . content review efforts to combat misuse of our services . . . Any of the foregoing developments may negatively affect user trust and engagement, harm our reputation and brands, require us to change our business practices in a manner adverse to our business, and adversely affect our business and financial results.”*

<sup>29</sup> [REDACTED] XCheck Get Well, p. 1.

<sup>30</sup> [REDACTED] Adding Civic Users to Xcheck Document, p. 4.

<sup>31</sup> [REDACTED] Mistakes prevention incident list, p. 14.

<sup>32</sup> [REDACTED] The “Whitelist” Problem, multiple pages.

<sup>33</sup><https://sec.report/Document/0001326801-21-000014/>.

<sup>34</sup><https://sec.report/Document/0001326801-21-000049/>.

<sup>35</sup><https://www.sec.gov/Archives/edgar/data/1326801/000132680121000022/facebook2021definitiveprox.htm>.

*“Our brands may also be negatively affected by . . . decisions or recommendations regarding content . . .”*

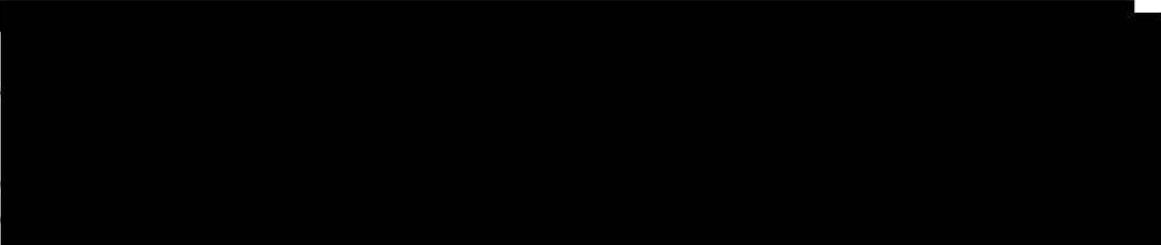
*“Our advertising revenue can also be adversely affected by a number of other factors, including: . . . reductions of advertising by marketers due to our efforts to implement or enforce advertising policies that protect the security and integrity of our platform.”*

*“. . . the substance or enforcement of our community standards, the actions of our users, the quality and integrity of content shared on our platform, or the actions of other companies that provide similar services to ours, has in the past, and could in the future, adversely affect our reputation.”*

26. Likewise, Facebook’s Community Standards (Stakeholder Engagement) confirm:

*“Given the impact of our Community Standards on society, it’s critical for us to create a policy development process that’s not only inclusive and based on expert knowledge, but also transparent. We know from talking to hundreds of stakeholders that opening up our policy-making process helps build trust. The more visibility we provide, the more our stakeholders are likely to view the Community Standards as relevant, legitimate, and based on consent.”<sup>36</sup>*

27. **Role for the SEC.** The SEC is charged with enforcing the laws that protect investors in public companies like Facebook. Facebook’s investors care about misrepresentations and omissions by Mark Zuckerberg and other Facebook executives because consistent and fair applications of its policies, or lack thereof, and integrity and transparency matter to users and advertisers, and therefore affect Facebook’s advertising revenue and corporate profits. Further, some shareholders would not want to invest in the company if they knew the truth about Facebook’s special treatment for high-profile users.

28. 

<sup>36</sup> [https://www.facebook.com/communitystandards/stakeholder\\_engagement](https://www.facebook.com/communitystandards/stakeholder_engagement).

[REDACTED]

29.

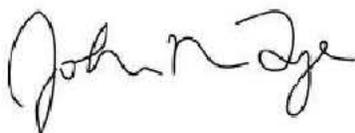
[REDACTED]

30. Whistleblower Aid is a non-profit legal organization that helps workers report their concerns about violations of the law safely, lawfully, and responsibly. We respectfully request the SEC's assistance ensuring that our client never faces actual or threatened retaliation.

31. We plan to continue supplementing this disclosure with additional information and evidence. Our client would be happy to meet with investigators at your convenience. Please feel free to contact us using the information below.

32. We are representing an anonymous whistleblower who is making the above disclosures solely for reporting the suspected violation of laws as outlined.

Sincerely,



John N. Tye, Attorney at Law  
Chief Disclosure Officer

[REDACTED]



Andrew Bakaj, Attorney at Law  
Of Counsel

[REDACTED]

REDACTED FOR CONGRESS

[REDACTED]

Enclosures:

[REDACTED]

[REDACTED]  
[REDACTED]

“Whitelist” Problem  
Mistakes prevention incident list some XCheck

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**Other internal Facebook documents —**

- [REDACTED] Mistake Prevention XCheck (Cross Check) Get Well
- [REDACTED] XCheck (Cross Check) Get Well Plan
- [REDACTED] Whitelist Where We Are
- [REDACTED] Integrity Ideas To Fight Racial Injustice
- [REDACTED] Cross Check
- [REDACTED] Whitelisting
- [REDACTED] XCheck (Cross Check) Get Well
- [REDACTED] Adding Civic Users to XCheck
- [REDACTED] Civic Actors
- [REDACTED] XCheck (Cross Check)
- [REDACTED] Cross Check Wiki
- [REDACTED] Mistake Prevention for XCheck Exemption
- [REDACTED] Political Influence in Content Policy
- [REDACTED] Comparing the effects of misinfo
- [REDACTED] White List contradicts Facebook stated principles

REDACTED FOR CONGRESS