



## Oversight board members defend punting decision on Trump's ban back to Facebook

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In two online events on Thursday, five members of Facebook's oversight board defended their decision to punt a ruling on how long former President Donald Trump's suspension from the platform should last.

Their defense essentially boiled down to: It's not our job to write Facebook's rules.

In Wednesday's announcement of the oversight board ruling, it said Facebook was right to suspend Trump's accounts in the wake of the Jan. 6 insurrection at the U.S. Capitol due to the threat of imminent harm and Trump's praise of the violent rioters in violation of Facebook's policies.

But, it said, the indefinite time frame was inappropriate, and the board refused to take on what it saw as Facebook's obligation to create its own policies.

"In applying a vague, standardless penalty and then referring this case to the Board to resolve, Facebook seeks to avoid its responsibilities," wrote the board, an independent committee of 20 outside experts. "The Board declines Facebook's request and insists that Facebook apply and justify a defined penalty."

The board gave Facebook six months to review the penalty.

In an interview with Axios on Thursday, oversight board member and former Danish Prime Minister Helle Thorning-Schmidt said, "It was a bit lazy of Facebook to send over to us a penalty suggestion that didn't exist in their own rulebook, so to speak."

"We are not here to lift responsibility off of Facebook," she added.

Two other board members said it's simply outside the scope of the board's mandate to make up and enforce Facebook's policies.

"We thought above all, this was not a decision about Donald Trump, but rather a decision about Facebook," John Samples, board member and a Cato Institute vice president, told Axios.

Facebook's decision, he added, included enforcing a rule "that didn't exist at the time" in imposing the indefinite ban.

"It's their job to enforce the rules," he said.

“The board’s job is to make sure Facebook is doing its job,” board member and Columbia University law professor Jamal Greene said at a separate event hosted by the Aspen Institute on Thursday. “The board’s job is not to make decisions about users in the first instance.”

At the same event, Julie Owono, board member and executive director of digital rights organization Internet Sans Frontières, rejected the premise that the board had shirked a decision in this case. She said the board laid out clear guidelines for how Facebook can apply consistent standards in a transparent way across all users on its platform.

“We are saying that all users matter on the platform,” she said. “What we’re doing in that decision is to remind Facebook that it has responsibility to protect public safety and it should do so in a way that’s respectful of international human rights.”

Ronaldo Lemos, board member and law professor at Rio de Janeiro State University, said that while he’s heard many critiques of the limited nature of the board’s power, it has already had a significant impact on the company.

While the board’s policy recommendations are not binding, Facebook has agreed to be held to its decisions about whether to reinstate or take down content. Facebook funded a trust to sustain the board, but it cannot revoke the money or remove members. Still, Facebook is ultimately entitled to make its own business decisions.

While the oversight board’s decision was likely not what Facebook expected, Thorning-Schmidt said she doesn’t think the company will regret forming the body.

“In the long run, they will benefit from the clarity and the principled decision-making that we are pushing them into,” she said. “I do think this will be the last day where they will make an arbitrary sanction.”