

The Washington Post

Trump Back on Facebook? Why So Much Rides on This Ruling

Megan Crane, Mark Niquette and Kurt Wagner

May 12, 2021

Facebook Inc.'s independent Oversight Board is set to announce on Wednesday whether former President Donald Trump can rejoin the world's largest social network, a decision with deep consequences for Trump, the company and the U.S. political conversation. The decision comes as social media platforms are under pressure to police false or inflammatory content on their sites while being accused of favoring liberal views and punishing conservatives.

1. What is being announced?

Facebook's Oversight Board, a panel of lawyers, academics and journalists from around the world created last year to review controversial policy decisions, will rule on whether Trump should be granted access to his accounts on Facebook and Instagram, which is owned by Facebook. That ruling is binding. It will likely also make non-binding recommendations on how the company should deal with Trump and other former political leaders in the future.

2. When is the decision?

It's expected to be posted shortly after 9 a.m. New York time on Wednesday on the board's website.

3. Why was Trump banned?

The ban dates to Jan. 6, when a violent mob of Trump supporters stormed the U.S. Capitol in an attempt to stop the counting of Electoral College votes for President Joe Biden. Facebook said it removed a video of Trump speaking about the protests, and a subsequent post about the election results, on the grounds that they "contribute to, rather than diminish, the risk of ongoing violence." The ban was extended indefinitely the following day, meaning Trump's page has been frozen for more than three months and he hasn't been able to share content with his 35 million followers. The company portrayed the suspension as being as much about protection as punishment. "We believe the risks of allowing the President to continue to use our service during this period are simply too great," Chief Executive Officer Mark Zuckerberg said in a post on Jan. 7.

4. Why is the ban being reconsidered?

On Jan. 21, the day after Biden's inauguration, Facebook sent the case to the board and asked it to rule on whether Trump's indefinite ban should remain in place. The board says it also received an appeal, or "user statement," on Trump's behalf, along with 9,000 other comments during a public comment period.

5. Who is on the Oversight Board?

The board's initial 20-member roster, unveiled in mid-2020, includes an array of academics, including Michael McConnell, professor and director of the Constitutional Law Center at Stanford Law School; John Samples, vice president of the libertarian Cato Institute; human rights activists such as Maina Kiai, director of Human Rights Watch Global Alliances and Partnerships in Kenya; Helle Thorning-Schmidt, the former prime minister of Denmark; and Tawakkol Karman, a Yemeni journalist and Nobel Peace Prize laureate.

6. How do they decide?

Under the board's procedures, five members are tasked with debating and reaching a decision in any particular case. (Which five were assigned Trump's case hasn't been disclosed.) Their decision is presented to the full board for debate and any recommended changes to the language. Confirming the decision requires a majority vote. Not all board members have to cast a vote, but a majority of those that do must support the panel's decision for it to be finalized. In Trump's case, 19 board members are eligible to vote.

7. What do past cases tell us?

The board has reviewed and issued a ruling in eight cases. Six times, it overturned Facebook's initial decision to take down content, including one post about Covid-19 cures that had been deemed a threat to user safety. That track record was seen as a sign to some on the outside that the Oversight Board would reinstate Trump.

8. How important is Facebook to Trump?

He was far better known for his Twitter feed, which started long before he was president and was his go-to outlet for expressing thoughts about the news, praising loyalists and insulting rivals. As president, he kept up that practice and used the platform as well to fire staff and announce policy decisions. It's unclear whether he can create the same buzz via Facebook, which, unlike Twitter, doesn't deliver posts chronologically. Rather, Facebook's algorithm shows users' posts based on a complex, secret, ever-changing formula of user likes, dislikes, past usage, friends, even location. The company in 2018 decided to emphasize posts from friends and within Facebook groups and downplay news and posts from brands and companies. Trump supporters remain active on Facebook and have hundreds of groups dedicated to highlighting his ideas. But engaging with them is more complicated than a simple post via Trump's own pages.

9. What is Trump's status on Twitter?

Twitter banned Trump permanently “due to the risk of further incitement of violence,” it said after the Jan. 6 riot. Chief Executive Officer Jack Dorsey has stood by the move, calling it “the right decision,” even as conservatives railed against what they saw as a pro-liberal bias. Other company officials have said the ban won’t be reversed even if Trump were to run for office again. Trump had more than 88 million followers on Twitter. Snapchat Inc., another company that suspended Trump following the Capitol riots, also confirmed that Trump’s ban is permanent.

10. What will Facebook’s decision mean for future campaigns and elections?

This is the multimillion dollar question. As a candidate, Trump used Facebook as a fundraising juggernaut, raising hundreds of millions of dollars through pitches for small-dollar donations. It also served as an effective tool for rallying his supporters. He would be able to tap back into that base of support to raise money for himself and other candidates and encourage his supporters to back candidates of his choosing. As 2022 congressional and statewide races start to shape up, Trump is endorsing candidates who have been loyal to him and challenging those who weren’t. Beyond money, getting back on Facebook would give Trump a megaphone to do what he does best: rile up the Republican base and drive online conversation and cable news chatter. For now, he’s limited to issuing press releases and doing interviews with friendly conservative media outlets that don’t provide the same reach.

11. If reinstated, will he have special treatment as a political leader?

A Facebook spokesman confirmed Trump would be subject to Facebook’s Community Standards, though it’s unclear if breaking the rules would lead to the same level of punishment as other users. Before being banned, Trump was subject to looser oversight of his posts than most users because he was designated a political leader, which means his violating posts were not typically removed. If he is reinstated but deemed a regular user -- as most private citizens are -- Facebook would hold him to strict limits on posts it deems abusive, misleading or offensive, and his posts could be removed. Users can eventually be banned for a period of time after a number of “strikes” against them, but the standards are subjective, and the designation of strikes isn’t publicized.

12. Would he be fact-checked?

Yes, like all other Facebook users. While Facebook doesn’t fact-check posts from leaders while they are in office, “former candidates for office or former officials continue to be covered by our third party fact-checking program,” according to a Facebook Help center page. That means Trump’s posts could be reviewed and labeled by some of Facebook’s fact-checking partners.

13. Will this spark new momentum for tech policy regulation?

Expect a flurry of reactions from lawmakers on Capitol Hill. Whether Trump is allowed back on Facebook or not, Republicans will certainly bring up their longstanding complaints that social media platforms censor conservative speech. Democrats will likely raise concerns about hate speech and violence on the platforms, especially if Trump is allowed to return. There will likely be a renewed push to reform Section 230 of the Communications Decency Act, which provides

broad liability protections over third-party content on the social media platforms. Numerous bills have already been introduced seeking to hold tech liable for online content. The ruling may also may push lawmakers to introduce legislation to hold tech companies responsible for the spread of misinformation and disinformation online.