



Facebook 'Supreme Court' Orders Social Network To Restore 4 Posts In 1st Rulings

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Facebook's oversight board on Thursday directed the company to restore several posts that the social network had removed for breaking its rules on hate speech, harmful misinformation and other matters.

The decisions are the first rulings for the board, which Facebook created last year as a kind of supreme court, casting the final votes on the hardest calls the company makes about what it does and does not allow users to post.

The rulings announced on Thursday do not include the most high-profile and high-stakes case on the board's docket: Facebook's suspension of former President Donald Trump from both its namesake platform and Instagram, which the company owns. Facebook banned Trump earlier this month, after a mob of his supporters stormed the U.S. Capitol.

The Trump case, which the board has 90 days to consider since receiving it last week, is seen as a crucial test of the panel's legitimacy. The board will begin taking public comment on it on Friday.

Still, Thursday's decisions are an important first glimpse into how the board sees its governance role, and indicated dissatisfaction among members with how Facebook has communicated and enforced several key policies.

"We believe the board has the ability to provide a critical independent check on how Facebook moderates content and to begin reshaping the company's policies over the long term," Helle Thorning-Schmidt, a former prime minister of Denmark who is one of the board's four co-chairs, told reporters on a press call on Thursday.

In its first batch of decisions, the board overturned Facebook's post removals in four of five cases:

- It overruled Facebook's removal of a post from a user in France criticizing the government for withholding an alleged "cure" for COVID-19. Facebook had removed the post because it said it could lead to imminent harm, but the board said the user's comments were directed at opposing government policy. "Facebook had not demonstrated the post would rise to the level of imminent harm, as required by its own rule in the Community Standards," the board said. It also recommended that the company

create a new policy specifically about health misinformation, "consolidating and clarifying the existing rules in one place."

- It overruled a case in which Facebook took down a post from a user in North America allegedly quoting Joseph Goebbels, a Nazi official on Facebook's list of "dangerous individuals." The board found it "was a criticism, not a celebration of the attitude exemplified by the alleged Goebbels quote," board co-chair Michael McConnell, director of Stanford Law School's Constitutional Law Center, told reporters.
- In a case dealing with nudity, the board overturned the removal of an Instagram post promoting breast cancer awareness in Brazil that showed women's nipples. The board pointed out that Facebook's nudity rules include an exception for posts about breast cancer. Facebook restored the post back in December, after the board announced it would be reviewing the case.

"I think this is a really good example of how the mere prospect of a board review has already begun to alter how Facebook acts," McConnell said.

The board also sounded the alarm that the Instagram post was initially removed by automated systems. "The incorrect removal of this post indicates the lack of proper human oversight which raises human rights concerns," it said in its decision. It recommended that Facebook tell users when their posts have been taken down by automated systems and make sure they can appeal those decisions to a person.

- The final two cases dealt with hate speech. In the first, the board overruled the removal of a post from a Facebook user in Myanmar that Facebook said violated its rules against hate speech for disparaging Muslims as psychologically inferior. While the board found the post "pejorative," taking into account the full context, it did not "advocate hatred or intentionally incite any form of imminent harm," the board said in its decision.
- The board upheld Facebook's removal of another post for breaking hate-speech rules, however. It said the company was right to remove a post that used a slur against Azerbaijanis. "The context in which the term was used makes clear it was meant to dehumanize its target," the board said in its decision.

Facebook has said it will abide by the board's decisions and has already reinstated the posts the board said shouldn't have come down.

The board also issued recommendations that Facebook be more transparent, including explaining to users whose posts are removed which rules they had violated and giving more clarity and definitions for issues including health misinformation and dangerous individuals. Facebook has 30 days to respond to the board.

"We believe that the board included some important suggestions that we will take to heart. Their recommendations will have a lasting impact on how we structure our policies," Monika Bickert, Facebook's vice president of content policy, said in a blog post.

The board is funded by Facebook through an independent trust, and made up of 20 experts around the world. They include specialists in law and human rights, a Nobel Peace laureate from Yemen, the vice president of the libertarian Cato Institute and several former journalists. Each case was reviewed by a group of 5 randomly selected members, with the final decision approved by the full board.