Oversight Board

Oversight Board overturns Facebook decision: Case 2020-006-FB-FBR

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T he Oversight Board has overturned Facebook's decision to remove a post which it claimed, "contributes to the risk of imminent… physical harm." The Board found Facebook's misinformation and imminent harm rule (part of its Violence and Incitement Community Standard) to be inappropriately vague and recommended, among other things, that the company create a new Community Standard on health misinformation.

About the case

In October 2020, a user posted a video and accompanying text in French in a public Facebook group related to COVID-19. The post alleged a scandal at the Agence Nationale de Sécurité du Médicament (the French agency responsible for regulating health products), which refused to authorize hydroxychloroquine combined with azithromycin for use against COVID-19, but authorized and promoted remdesivir. The user criticized the lack of a health strategy in France and stated that "[Didier] Raoult's cure" is being used elsewhere to save lives. The user's post also questioned what society had to lose by allowing doctors to prescribe in an emergency a "harmless drug" when the first symptoms of COVID-19 appear.

In its referral to the Board, Facebook cited this case as an example of the challenges of addressing the risk of offline harm that can be caused by misinformation about the COVID-19 pandemic.

Key findings

Facebook removed the content for violating its misinformation and imminent harm rule, which is part of its Violence and Incitement Community Standard, finding the post contributed to the risk of imminent physical harm during a global pandemic. Facebook explained that it removed the post as it contained claims that a cure for COVID-19 exists.

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The Board observed that, in this post, the user was opposing a governmental policy and aimed to change that policy. The combination of medicines that the post claims constitute a cure are not available without a prescription in France and the content does not encourage people to buy or take drugs without a prescription. Considering these and other contextual factors, the Board noted that 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 also found that Facebook's decision did not comply with international human rights standards on limiting freedom of expression. Given that Facebook has a range of tools to deal with misinformation, such as providing users with additional context, the company failed to demonstrate why it did not choose a less intrusive option than removing the content.

The Board also found Facebook's misinformation and imminent harm rule, which this post is said to have violated, to be inappropriately vague and inconsistent with international human rights standards. A patchwork of policies found on different parts of Facebook's website make it difficult for users to understand what content is prohibited. Changes to Facebook's COVID-19 policies announced in the company's Newsroom have not always been reflected in its Community Standards, while some of these changes even appear to contradict them.

The Oversight Board's decision

The Oversight Board overturns Facebook's decision to remove the content and requires that the post be restored.

In a policy advisory statement, the Board recommends that Facebook:

- Create a new Community Standard on health misinformation, consolidating and clarifying the existing rules in one place. This should define key terms such as "misinformation."

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- Increase transparency around how it moderates health misinformation, including publishing a transparency report on how the Community Standards have been enforced during the COVID-19 pandemic. This recommendation draws upon the public comments the Board received.

For further information:

To read the full case decision, click here.

To read a synopsis of public comments for this case, click here.

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