



## Ranking Digital Rights' Feedback to Facebook on the Draft Charter for Facebook's Oversight Board

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Ranking Digital Rights is a nonprofit research initiative that works to promote freedom of expression and privacy on the internet by creating global standards and incentives for companies to respect and protect users' rights. We do this by ranking the world's most powerful internet, mobile, and telecommunications companies—including Facebook—on relevant commitments and policies, based on international human rights standards. We are writing today with recommendations for Facebook's proposed Oversight Board, the [Draft Charter](#) for which was published earlier this year.

Results from the [2019 RDR Corporate Accountability Index](#), published on May 16, revealed that [Facebook's](#) grievance and remedy mechanisms—including its appeals process for content removals—were among the weakest of any company in the Index, even after it introduced improvements to its appeals process over the last year. In the 2019 RDR Index, we urged Facebook to be more transparent about its content moderation policies and its appeals processes. We therefore commend Facebook for publicly disclosing the Draft Charter for its Oversight Board, and for any meaningful steps it takes toward improving its content moderation policies and appeals processes.

With that goal in mind, we are taking advantage of Facebook's open feedback period to submit the following recommendations regarding the organization and purpose of the Oversight Board:

### **Clarify the Oversight Board's role in implementing the company's commitment to human rights.**

Facebook's content moderation policies can have a significant impact on the human rights of its users, particularly the rights to freedom of expression and to seek and impart information. As a member of the [Global Network Initiative](#), Facebook has committed to respect the freedom of expression and privacy of its users. However, in its Draft Charter for the Oversight Board, Facebook states that the Board will base its decisions on its Community Standards, "as well as a set of values, which will include concepts like voice, safety, equity, dignity, equality and privacy." Other than privacy, it makes no explicit mention of human rights principles.

Part of the challenge that the Oversight Board will have to grapple with is how to make complicated and tough decisions regarding freedom of expression, and how Facebook users'



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speech affects others on the platform. For example, one of the questions posed in Facebook's Draft Charter for the Oversight Board states: "How can the board ensure cultural sensitivity while also issuing decisions that will affect 2.3 billion people around the globe?" Facebook should be more clear about what it means by ensuring "cultural sensitivity." While an understanding of cultural contexts is vital in order to enforce terms of service in a fair and even manner, in certain contexts, demands for "cultural sensitivity" can also be used by majority ethnic and religious groups to justify tolerance of behavior that discriminates against those who have traditionally been excluded or subjugated for their culture or religion. This, in turn, can lead to the violation of the freedom of expression of groups that are already vulnerable such as women, LGBTQ individuals, and ethnic and religious minorities. This is one example of why Facebook needs to clarify how human rights principles fit into the Oversight Board's mandate and decision framework.

**Conduct human rights impact assessments on its Community Standards and how they are enforced. The Oversight Board should contribute to such assessments by pointing out concerns, cases, and issues that should be covered in such assessments.**

Technology companies have an outsized impact on users' ability to exercise their rights to freedom of expression and privacy. Companies should [conduct regular, comprehensive, and credible human rights impact assessments](#) to identify how aspects of their business affect freedom of expression and privacy and to mitigate any risks posed by those impacts. This includes conducting risk assessments related to the processes and mechanisms used to enforce their own rules, such as Facebook's Community Standards. Results from the 2019 RDR Index show that [Facebook failed to disclose comprehensive information about its human rights impact assessments](#): of particular concern is that it failed to disclose whether it conducts human rights impact assessments on the mechanisms and processes it uses to enforce its terms of service, which includes its Community Standards. If the proposed Oversight Board is to provide meaningful guidance over how Facebook enforces its Community Standards and ensure that the company is accountable for its decisions, the Board must contribute to the process of conducting human rights impact assessments in relation to Facebook's content moderation practices.

**Include a mandate to recommend changes to the Community Standards, as well as to the processes and mechanisms for enforcing them. These recommendations should be made public.**

As mentioned above, Facebook should be conducting comprehensive and regular human rights impact assessments to determine the impact of its Community Standards and the processes it is using to enforce them. The Oversight Board should be involved in this process. When the Oversight Board identifies issues either with Facebook's Community Standards or the process for implementing those standards, it should be able to recommend changes to prevent the standards from contributing to further infringement of users' rights. The Oversight Board's mandate should include making these recommendations public, and Facebook should disclose



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its response to these recommendations, in order to ensure that both are accountable to the public.

## **Ensure that the Oversight Board membership is as diverse as Facebook’s user base.**

Facebook has a global user base, with a range of languages spoken, religious and ethnic affiliations, interests, and backgrounds. More than 80% of Facebook users are outside of North America. The members of the Oversight Board will likely be considering appeals related to a range of content with specific regional, religious, cultural, and linguistic context. The Oversight Board should therefore be composed of members with diverse backgrounds, experiences, and perspectives.

## **Simultaneously strengthen Facebook’s appeals mechanisms outside of the Oversight Board.**

As Facebook stated in the Draft Charter, “The primary function of the board is to review specific decisions we make when enforcing our Community Standards.” It’s clear that the Oversight Board will not review all appeals that users request—whether to have their content reinstated, or content they flagged re-reviewed—and Facebook’s current appeals mechanisms lack clarity. In April 2018, Facebook unveiled a new process for users to appeal wrongful takedowns, but it was not clear whether the process covered all types of possible violations under Facebook’s Community Standards. Results from the 2019 RDR Index found that Facebook also [failed to disclose any data regarding the number of appeals it had received, or evidence that it was providing remedy](#). This process needs to be stronger and more transparent. In addition, some appeals will likely be more time sensitive than the Oversight Board process can reasonably accommodate. Facebook should work to ensure that it is simultaneously strengthening its appeals mechanisms for everyday users, in addition to the resources it is devoting to the Oversight Board.

## **Improve and clarify the process for the public to provide feedback about the Oversight Board.**

The process by which people can submit feedback regarding the Oversight Board should be clear, open, and democratic. We recognize Facebook’s efforts in this regard. Currently, however, it’s unclear how people can submit feedback other than filling out Facebook’s pre-determined survey, and it’s unclear what the deadline is for submitting feedback. The timeline for the creation of the Oversight Board is also unclear. Stakeholders should not have to have inside information in order to understand how to provide timely feedback on this process. The company should improve its efforts to make this process more transparent and inclusive.



## **Grant the Oversight Board access to internal data about Facebook's content moderation practices.**

As an independent body tasked with reviewing Facebook's most challenging content decisions, the Oversight Board will need to be able to see more than just isolated cases of content that was reported and removed for violating Facebook's Community Standards. The Board will also need insight into patterns of removals and flagged content occurring on the platform: there might be 100 similar cases of content from a particular community or of a certain topic being removed because the reviewers or Facebook's algorithms lack proper context. In isolation, one case may not warrant review by the Oversight Board; however, certain patterns or spikes of similar cases together might signal a greater issue on which the Board should provide feedback to Facebook's Community Standards and enforcement practices moving forward. The Oversight Board should be able to highlight these types of issues where Facebook may be exhibiting a pattern of what would be perceived externally as bias or blind spots. Thus it needs to be able to see broader trends and patterns, not just isolated instances that are escalated to the Oversight Board for its review.

## **Publish data about the Oversight Board's decisions.**

Facebook should commit to regularly publish data on the number of appeals that are escalated to the Board, how each request was escalated (whether by Facebook or users themselves), the number of decisions made by the Board, the subject matter associated with each appeal, and how many decisions resulted in content being reinstated. On this point, we reiterate [recommendations](#) put forth by our colleagues at the Open Technology Institute:

Data points that should be included in this reporting:

- The total number of cases that were brought to the Board in the given reporting period.
- A breakdown of how the Board responded in each of the cases surfaced to them.
- A breakdown of cases by which Community Standard they violated or were related to.
- A breakdown of cases by format or content at issue (e.g. text, image, video, livestream).
- A breakdown of cases by who escalated it to the Board (e.g. Facebook, users, civil society).
- A breakdown of cases by country or region from which it originated.
- The number of accounts and pieces of content covered by the cases considered by the Board (e.g. some cases may involve multiple accounts).
- The number of accounts and pieces of content that were taken down or otherwise actioned as a result of the Board's decision in each of the cases considered by the Board.