

# Appendix 8.b

IN THE UNITED STATES DISTRICT COURT  
IN THE WESTERN DISTRICT OF TEXAS  
AUSTIN DIVISION

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NETCHOICE, LLC, d/b/a :  
NetChoice, a 501(c)(6) :  
District of Columbia :  
organization, Computer & :  
Communications Industry :  
Association d/b/a CCIA, :  
a 501(c)6 non-stock :  
Virginia Corporation :  
Plaintiffs, :  
v. : Case No.  
1:21-cv-00840-RP

KEN PAXTON, in his official :  
capacity as Attorney General :  
of Texas :  
Defendant. :

2	<p>1 2 Videotaped Deposition of Carl Szabo 3 Washington, District of Columbia 4 Wednesday, November 17, 2021 5 3:12 p.m. 6 7 Pages 1 - 141 8 Reported by: Susan E. Alldridge, RPR 9 10 11 12 13 14 15 16 17 18 19 20 21 22</p>	4	<p>1 2 A P P E A R A N C E S 3 4 ON BEHALF OF THE PLAINTIFFS: 5 TODD DISHER, ESQUIRE 6 LEHOTSKY KELLER LLP 7 919 Congress Avenue 8 Suite 1100 9 Austin, TX 78701 10 (512)840-9370 11 todd@lehotskykeller.com 12 13 CHRISTOPHER MARCHESE, ESQUIRE 14 NETCHOICE 15 1401 K Street, NW 16 Suite 502 17 Washington, DC 20005 18 (631)707-2315 19 cmarchese@netchoice.org 20 21 22</p>
3	<p>1 Deposition of Carl Szabo held at the offices 2 of: 3 4 5 NetChoice 6 1401 K Street, NW 7 Suite 502 8 Washington, DC 20005 9 10 11 12 Pursuant to agreement, before Susan E. Alldridge, 13 Notary Public in and for the District of Columbia. 14 15 16 17 18 19 20 21 22</p>	5	<p>1 2 A P P E A R A N C E S, Cont. 3 4 5 ON BEHALF OF THE DEFENDANT: 6 BENJAMIN LYLES, ESQUIRE 7 COURTNEY B. CORBELLO, ESQUIRE 8 ATTORNEY GENERAL KEN PAXTON 9 P.O. Box 12548 10 Austin, TX 78711-2548 11 (512)463-2798 12 benjamin.lyles@oag.texas.gov 13 courtney.corbello@oag.texas.gov 14 15 ALSO PRESENT: 16 Gene Aronov, Videographer 17 18 19 20 21 22</p>



10

1 Q And if you answer my questions directly,  
 2 is it fair for me to assume that you understand the  
 3 question that I've posed to you?  
 4 A Yes, it is.  
 5 Q Are you on any medications today that  
 6 would alter your ability to truthfully testify  
 7 today?  
 8 A No.  
 9 Q What is your -- your current job title?  
 10 A My current job title --  
 11 Q Yes.  
 12 A -- is vice president and general counsel  
 13 for NetChoice.  
 14 Q How long have you been in that position?  
 15 A Over ten years.  
 16 Q How long specifically?  
 17 A Ten years and approximately eight months.  
 18 Q And were you with NetChoice before that  
 19 role?  
 20 A Yes.  
 21 Q What was your role at NetChoice  
 22 previously?

11

1 A Previously, before becoming vice  
 2 president and general counsel --  
 3 Q Yes.  
 4 A -- my role was as policy counsel.  
 5 Q What does that job -- that job entail?  
 6 A That job entails analyzing legislation,  
 7 advising the NetChoice employees as well as the  
 8 NetChoice president, as well as having conversations  
 9 with members and discussing impending legislation,  
 10 its legal impact.  
 11 We've engaged in legal activity and a  
 12 myriad of other engagements.  
 13 Q How long were you a policy counsel for at  
 14 NetChoice before becoming VP?  
 15 A I do not know exactly, but approximately  
 16 four to six years.  
 17 Q And prior to being policy counsel, what  
 18 was your job title?  
 19 A I was not working at NetChoice prior to  
 20 becoming policy counsel for NetChoice.  
 21 Q Where were you working?  
 22 A I was working at a law firm in Chicago,

12

1 Illinois.  
 2 Q Oh, what law firm?  
 3 A The law firm of Wildman, Harrold, Allen  
 4 and Dickson.  
 5 Q What law school did you go to?  
 6 A I went to the Catholic University law  
 7 school.  
 8 Q Where is that?  
 9 A That is in Washington, DC.  
 10 Q Your current job is VP and general  
 11 counsel for NetChoice.  
 12 What do -- what are your job duties in  
 13 those titles?  
 14 A Some of my job duties include managing  
 15 the legal team at NetChoice. It also involves  
 16 meeting with clients -- or -- sorry -- meeting with  
 17 members. I apologize -- meeting with members,  
 18 membership development.  
 19 It involves speaking with reporters on  
 20 issues that matter. It also involves advocacy for  
 21 our members and on the issues of free expression and  
 22 free enterprise on the internet.

13

1 Q I noticed you post quite a few articles  
 2 on the NetChoice website.  
 3 Is that part of your job duties?  
 4 A Part of my job duties is advocacy for  
 5 free expression and free enterprise. That can  
 6 include publication of articles, statements in the  
 7 media, appearances on TV and also on radio.  
 8 Q Have you testified in front of Congress  
 9 before?  
 10 A Which Congress? The --  
 11 Q Let's start with the U.S.  
 12 A I've testified before the U.S. House of  
 13 Representatives as well as the United States Senate.  
 14 Q For your testimony at the House of  
 15 Representatives, what was the topic for each time  
 16 that you appeared?  
 17 A I testified once at the U.S. House of  
 18 Representatives. It was either Energy and Commerce  
 19 committee or Judiciary committee. I can't recall  
 20 off the top of my head. And the issue was on  
 21 antitrust.  
 22 Q And what about the Senate? How many

<p style="text-align: right;">14</p> <p>1 times did you testify there, and what were the</p> <p>2 topics?</p> <p>3 A I have testified once before the Senate.</p> <p>4 It was the Senate Judiciary committee. And that was</p> <p>5 on the issue of online advertising, the online</p> <p>6 advertising ecosystem, as well as issues of</p> <p>7 government enforcement of antitrust law.</p> <p>8 Q What year did that Senate testimony take</p> <p>9 place?</p> <p>10 A I do not recall off the top of my head</p> <p>11 what year. It was during COVID, however.</p> <p>12 Q It's sad that that's a time frame I</p> <p>13 understand.</p> <p>14 What about state legislatures?</p> <p>15 Have you testified in front of any state</p> <p>16 legislatures before?</p> <p>17 A I testified before many state</p> <p>18 legislatures.</p> <p>19 Q Let's start with Texas.</p> <p>20 Have you ever testified before the Texas</p> <p>21 legislature?</p> <p>22 A I have testified before the Texas</p>	<p style="text-align: right;">16</p> <p>1 A I have testified before the Florida</p> <p>2 legislature on the issue of what happens to your</p> <p>3 digital assets when you die.</p> <p>4 Q Any other topics that you've testified</p> <p>5 on?</p> <p>6 A I have testified before the Florida</p> <p>7 legislature on the issue of data breach legislation.</p> <p>8 Q Anything else?</p> <p>9 A I have testified before the Florida</p> <p>10 legislature on the social media law in the state of</p> <p>11 Florida.</p> <p>12 Q When you say "social media law," is that</p> <p>13 the one that is the subject of NetChoice versus</p> <p>14 Moody that's currently ongoing right now in federal</p> <p>15 court?</p> <p>16 A That is the issue on which I testified,</p> <p>17 yes.</p> <p>18 Q What other issues have you testified on</p> <p>19 before the Florida legislature?</p> <p>20 A That is all that I recall at this time.</p> <p>21 Q Have you testified before the California</p> <p>22 legislature before?</p>
<p style="text-align: right;">15</p> <p>1 legislature.</p> <p>2 Q Okay. And who did you testify before?</p> <p>3 A I do not recall.</p> <p>4 Q Do you remember the topics?</p> <p>5 A I believe one of the issues was on the</p> <p>6 question of taxation. I do not recall which</p> <p>7 subdivision it was on.</p> <p>8 Q Taxation of who exactly?</p> <p>9 A I don't remember.</p> <p>10 Q Do you recall approximately what year</p> <p>11 this was?</p> <p>12 A It was before COVID. But, no, I don't</p> <p>13 recall the exact year.</p> <p>14 Q Have you provided any other testimony at</p> <p>15 the Texas legislative level over than this taxation</p> <p>16 one you just mentioned?</p> <p>17 A Not to my knowledge.</p> <p>18 Q Have you testified before in front of the</p> <p>19 Florida legislature?</p> <p>20 A Yes, I've testified before the Florida</p> <p>21 legislature.</p> <p>22 Q And what was that testimony for?</p>	<p style="text-align: right;">17</p> <p>1 A I do not recall.</p> <p>2 Q Have you provided any testimony before</p> <p>3 the California legislature on the California privacy</p> <p>4 act?</p> <p>5 A I do not recall.</p> <p>6 Q Did NetChoice engage in any lobbying</p> <p>7 activities while the California privacy act was</p> <p>8 passing through the legislative process?</p> <p>9 MR. DISHER: Objection. Form.</p> <p>10 Objection. Scope.</p> <p>11 Go ahead and answer.</p> <p>12 THE WITNESS: What do you mean by</p> <p>13 "lobbying"?</p> <p>14 BY MS. CORBELLO:</p> <p>15 Q Well, we'll back up.</p> <p>16 NetChoice is a trade association.</p> <p>17 What does NetChoice do?</p> <p>18 A NetChoice promotes free expression and</p> <p>19 free enterprise on the internet.</p> <p>20 Q And how does it do that?</p> <p>21 A By advocating with state/federal</p> <p>22 lawmakers through engagement on legal actions, if</p>

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1 necessary, and through education of individuals as  
 2 well as lawmakers.

3 Q So the activities you just described,  
 4 advocating and education, did you engage in any of  
 5 those activities in relation to the California  
 6 privacy act?

7 MR. DISHER: Objection. Scope.  
 8 Go ahead.

9 THE WITNESS: I recall that we engaged  
 10 in -- or to the best of my knowledge, I believe we  
 11 filed and published an op-ed on the California  
 12 Consumer Privacy Act.

13 BY MS. CORBELLO:  
 14 Q Thank you. I was just about to clarify  
 15 that.

16 So I think I used kind of a vague way of  
 17 expressing -- of naming that law.

18 When I said "California privacy act," you  
 19 understood me to mean the California Consumer  
 20 Protection Act; correct?

21 A Correct.

22 Q What other -- besides advocating and

19

1 education, are there any other activities that  
 2 NetChoice engages in in order to meet its goals that  
 3 you've told me about?

4 A We spend considerable resources trying to  
 5 meet with proponents and opponents of legislation to  
 6 better identify concerns, identify potential  
 7 unintended consequences of legislation, as well as  
 8 to discuss the impact of enacted legislation.

9 Q When you say "resources," what sort of  
 10 resources are you talking about?

11 A We spend human capital in the form of  
 12 assigning NetChoice employees and -- to work on  
 13 these various issues.

14 We engage in creation of original content  
 15 from NetChoice such as one papers -- or -- sorry --  
 16 one-pagers, legal analyses such as law review  
 17 articles, as well as occasionally printing copies  
 18 and sharing them with those who are interested in  
 19 learning more.

20 Q Other than human capital, what other  
 21 resources are expended in order to meet NetChoice's  
 22 goals?

20

1 A Much of NetChoice goals are centered  
 2 around engaging directly with individuals.

3 Q So what resources are used in order to do  
 4 that?

5 A I don't think that's necessarily within  
 6 the scope of what we covered in my declaration.

7 Q Can you go ahead and answer the question,  
 8 Mr. Szabo?

9 MR. DISHER: Objection. Scope.  
 10 Go ahead and answer if you can.

11 THE WITNESS: We sometimes engage in  
 12 flying NetChoice employees to various parts of the  
 13 country to engage directly. We attend meetings and  
 14 events.

15 BY MS. CORBELLO:  
 16 Q Any other resources?

17 MR. DISHER: Objection. Scope.  
 18 Go ahead and answer.

19 THE WITNESS: We sometimes retain outside  
 20 counsel.

21 BY MS. CORBELLO:  
 22 Q I'm sorry. Go ahead.

21

1 A And we sometimes do paid advertisements  
 2 through services like Facebook and Twitter.

3 Q Besides Facebook and Twitter, what other  
 4 platforms does NetChoice pay for advertisement?

5 A Hulu. And that is all that I know.

6 Q What are -- what are these advertisements  
 7 advertising exactly?

8 MR. DISHER: Objection. Form.

9 THE WITNESS: These advertisements are  
 10 advertising and promoting the core values of  
 11 NetChoice, which are free expression and free  
 12 enterprise on the internet.

13 BY MS. CORBELLO:  
 14 Q Are the advertisements aimed at the  
 15 public at large, or is there a specific demographic  
 16 that you're trying to reach with these  
 17 advertisements?

18 MR. DISHER: Objection. Form.  
 19 Objection. Scope.  
 20 Go ahead and answer if you can.

21 THE WITNESS: I don't know specifically  
 22 who we are trying to target and who we are trying to

<p style="text-align: right;">22</p> <p>1 reach.</p> <p>2 BY MS. CORBELLO:</p> <p>3 Q Do the ads solicit money in any way?</p> <p>4 A Not to my knowledge.</p> <p>5 Q Do they request donations in any way?</p> <p>6 A Not to my knowledge.</p> <p>7 Q Do they provide viewers of the</p> <p>8 advertisements direction on how to provide donations</p> <p>9 to NetChoice?</p> <p>10 A Not to my knowledge.</p> <p>11 Q How does NetChoice receive any funding or</p> <p>12 income?</p> <p>13 MR. DISHER: Objection form. Objection.</p> <p>14 Scope.</p> <p>15 THE WITNESS: NetChoice receives</p> <p>16 membership dues.</p> <p>17 BY MS. CORBELLO:</p> <p>18 Q Does NetChoice receive any other form of</p> <p>19 revenue other than from membership dues?</p> <p>20 A NetChoice receives revenue from NetChoice</p> <p>21 members primarily who support and promote our</p> <p>22 mission of free expression and free enterprise.</p>	<p style="text-align: right;">24</p> <p>1 BY MS. CORBELLO:</p> <p>2 Q Which members do you have confidentiality</p> <p>3 agreements with?</p> <p>4 MR. DISHER: Objection. Form.</p> <p>5 Objection. Scope.</p> <p>6 I will instruct the witness not to answer</p> <p>7 to the extent that it will disclose information</p> <p>8 outside of the declaration that is not covered by</p> <p>9 the Court's order restricting this deposition to</p> <p>10 topics covered in the declaration.</p> <p>11 To the extent you can disclose the</p> <p>12 identities of those individual companies or entities</p> <p>13 you might have non-disclosure agreements with</p> <p>14 without violating the non-disclosure agreement</p> <p>15 itself, I will allow you to do that.</p> <p>16 To the extent that the existence of those</p> <p>17 non-disclosure agreements itself is somehow</p> <p>18 protected or confidential outside the scope of your</p> <p>19 declaration, I'll instruct you not to answer the</p> <p>20 question.</p> <p>21 THE WITNESS: Being unable to review</p> <p>22 those documents in preparation for this deposition,</p>
<p style="text-align: right;">23</p> <p>1 Q And what are the other sources of revenue</p> <p>2 other than the membership dues?</p> <p>3 MR. DISHER: Objection. Form.</p> <p>4 Objection. Scope.</p> <p>5 THE WITNESS: We receive, sometimes,</p> <p>6 additional revenue in pursuit of specific projects</p> <p>7 directed towards promoting free expression and free</p> <p>8 enterprise.</p> <p>9 BY MS. CORBELLO:</p> <p>10 Q And where does that revenue come from?</p> <p>11 Is it a company or an individual?</p> <p>12 MR. DISHER: Same objections.</p> <p>13 THE WITNESS: They come from companies.</p> <p>14 BY MS. CORBELLO:</p> <p>15 Q Which companies provide that sort of</p> <p>16 revenue that you just described?</p> <p>17 MR. DISHER: Objection. Form.</p> <p>18 Objection. Scope.</p> <p>19 THE WITNESS: I believe to answer that</p> <p>20 would violate confidentiality agreements I have with</p> <p>21 members.</p> <p>22</p>	<p style="text-align: right;">25</p> <p>1 given that those non-disclosure agreements are</p> <p>2 outside the scope of my declaration, I did not</p> <p>3 review them prior to this deposition. So I cannot,</p> <p>4 with confidence, ensure that answering your</p> <p>5 questions will not violate my disclosure agreements.</p> <p>6 MS. CORBELLO: Okay. And just for the</p> <p>7 record, we'll preserve our objection to the</p> <p>8 instruction not to answer there.</p> <p>9 BY MS. CORBELLO:</p> <p>10 Q Sorry. Can you tell me one more time?</p> <p>11 You -- what was this -- this revenue that</p> <p>12 we just had this little dispute over, what was that</p> <p>13 for?</p> <p>14 I didn't have the time to write it down.</p> <p>15 MR. DISHER: Objection. Form.</p> <p>16 Objection. Scope.</p> <p>17 THE WITNESS: Additional funding to</p> <p>18 promote our mission of free expression and free</p> <p>19 enterprise.</p> <p>20 BY MS. CORBELLO:</p> <p>21 Q How does that specific funding promote</p> <p>22 free expression and free enterprise?</p>



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1 MR. DISHER: Same objections.  
 2 THE WITNESS: It enables us to address  
 3 increased threats to free expression and free  
 4 enterprise on the internet.  
 5 BY MS. CORBELLO:  
 6 Q How -- how specifically are those  
 7 increased threats addressed?  
 8 MR. DISHER: Objection. Form.  
 9 Objection. Scope.  
 10 THE WITNESS: We sometimes -- rephrase.  
 11 We use the funding in part to enable us  
 12 to engage at events, to travel for purposes of  
 13 testimony, and to promote our core values of free  
 14 expression and free enterprise.  
 15 BY MS. CORBELLO:  
 16 Q And when you say "increased threats," can  
 17 you give me an example of something that NetChoice  
 18 sees as an increased threat?  
 19 A An example of an increased threat would  
 20 be legislation that violates the editorial rights of  
 21 our members in conflict with their constitutional  
 22 rights given under the First Amendment.

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1 Q Can you give me an example of something  
 2 that would not fall into that category and, yet,  
 3 NetChoice would still be, in whatever way, working  
 4 to address it?  
 5 A Another example would be a state  
 6 attempting to apply discriminatory taxes to digital  
 7 advertisements exclusively in violation of the  
 8 Permanent Internet Tax Fairness Act.  
 9 Q And this might be my fault, but are you  
 10 saying that that's not an increased threat to  
 11 NetChoice?  
 12 MR. DISHER: Objection. Form.  
 13 THE WITNESS: A law that violates our  
 14 members' constitutional protections, whether it is  
 15 for digital ads or for their right to engage in  
 16 editorial discretion with respect to the content on  
 17 their services, are both threats to NetChoice  
 18 members.  
 19 BY MS. CORBELLO:  
 20 Q Understood.  
 21 But the phrase you used was "increased  
 22 threats." So I guess I'm trying to understand. Are

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1 there two different categories for NetChoice?  
 2 And if there's -- if they're not, that's  
 3 fine. If they're all increased threats, you can  
 4 tell me that.  
 5 But are there some threats that are seen  
 6 as the increased threats versus just an ordinary  
 7 threat, for lack of a better word?  
 8 Does that make sense?  
 9 A Yes.  
 10 A threat would be a piece of legislation  
 11 that is moving. That threat is increased when that  
 12 piece of legislation becomes law. That is an  
 13 example of an increased threat.  
 14 Q Thank you.  
 15 This additional revenue we've been  
 16 talking about, is that used to fund litigation  
 17 brought by NetChoice?  
 18 MR. DISHER: Objection. Form.  
 19 Objection. Scope.  
 20 THE WITNESS: I do not know if answering  
 21 that question will violate my NDA with members.  
 22

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1 BY MS. CORBELLO:  
 2 Q Understood.  
 3 The membership dues that NetChoice  
 4 receives, are the membership dues the same across  
 5 all members?  
 6 A Membership dues are the same across all  
 7 members.  
 8 Q All members pay the exact same amount --  
 9 amount in terms of membership dues?  
 10 A All members are charged the same amount  
 11 in membership dues.  
 12 Q Regardless of the members' size or market  
 13 power; is that right?  
 14 A Regardless of members' market size or  
 15 market power, they are all charged the same  
 16 membership dues.  
 17 Q And they all pay the same dollar amount  
 18 for membership dues; is that right? Your members?  
 19 A To the extent that some members may not  
 20 be able to afford a membership, we have, rarely,  
 21 offered discounts. However, the membership dues  
 22 remain the same for all members.

<p style="text-align: right;">30</p> <p>1 Q And I -- just to clarify, when you say 2 "the same," are you saying the same in terms of 3 dollar amount? 4 A The same dollars for annual dues is what 5 I meant by "the same." 6 Q Thank you. 7 I'm sure you understand, CCIA is the 8 other plaintiff in this matter; correct? 9 A CCIA is our co-plaintiff in this lawsuit. 10 Q Are you currently -- is NetChoice 11 currently a plaintiff -- or co-plaintiff with CCIA 12 in any other litigation? 13 A NetChoice and CCIA are co-plaintiffs in 14 our litigation against Moody. 15 Q That's the Florida litigation you're 16 talking about? 17 A Correct. 18 Q Any other litigation besides the Moody 19 case that NetChoice and CCIA are currently 20 co-plaintiffs on? 21 A Not to my knowledge. 22 Q Has NetChoice and CCIA been co-plaintiffs</p>	<p style="text-align: right;">32</p> <p>1 A We have posted a tweet on Twitter, for 2 example, of how we think about the CCIA document and 3 provided a link to that document. 4 Q Does NetChoice pay any of its members to 5 promote either NetChoice's content or CCIA's content 6 on their platforms? 7 MR. DISHER: Objection. Form. 8 Objection. Scope. 9 THE WITNESS: In what way do you mean pay 10 our members? 11 BY MS. CORBELLO: 12 Q Well, similarly to the way advertisers 13 would pay to have their content on a social media 14 platform, is NetChoice paying any of their members 15 in order to promote the content we just talked about 16 so that it maybe is more easily seen by users or 17 appears higher up in a search engine search? 18 Does that make sense? 19 MR. DISHER: Same objections. 20 THE WITNESS: NetChoice does, on 21 occasion, pay for advertising. 22</p>
<p style="text-align: right;">31</p> <p>1 on any past, now-completed litigation? 2 A Not -- not that I'm aware of. 3 Q Does NetChoice partner with CCIA in any 4 other context besides this lawsuit or the Florida 5 lawsuit? 6 MR. DISHER: Objection. Form. 7 THE WITNESS: What do you mean by 8 "partner"? 9 BY MS. CORBELLO: 10 Q I mean that term as broadly as possible. 11 Are there any other avenues in which 12 NetChoice and CCIA have chosen to partner up in any 13 way, whether it's sharing of resources, sharing of 14 ideas, any -- any way that you can interpret the 15 word "partner." 16 A NetChoice and CCIA have promoted one 17 another's content at times. For example, if CCIA 18 releases an interesting article or publication, we 19 have used social media to raise awareness of that 20 publication. 21 Q And when you say "used social media," 22 what does that mean?</p>	<p style="text-align: right;">33</p> <p>1 BY MS. CORBELLO: 2 Q Does NetChoice's ability to advertise 3 with any of its members play any role in the 4 membership of these members to NetChoice's trade 5 association? 6 MR. DISHER: Objection. Form. 7 THE WITNESS: Can you clarify the 8 question, please? 9 BY MS. CORBELLO: 10 Q Well -- so NetChoice's members pay dues; 11 correct? 12 A NetChoice's members pay dues. 13 Q And then they are considered members of 14 NetChoice; right? 15 MR. DISHER: Objection. Form. 16 THE WITNESS: NetChoice's members pay 17 dues, and they agree to support our mission of 18 promoting free expression and free enterprise. 19 BY MS. CORBELLO: 20 Q And as part of membership into 21 NetChoice's -- into the trade association that is 22 NetChoice, are members required or obligated in any</p>

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1 way to advertise for NetChoice on their platforms?  
 2 MR. DISHER: Object to form. Object to  
 3 scope.  
 4 THE WITNESS: Are you asking a quid pro  
 5 quo? Is that the suggestion?  
 6 BY MS. CORBELLO:  
 7 Q I don't think it necessarily has to be a  
 8 quid pro quo. But to me it seems like there can  
 9 either be -- there's the membership side. Your  
 10 members benefit. NetChoice, you know, works on  
 11 behalf of its members to achieve its goals. And  
 12 then NetChoice also operates, as any advertiser  
 13 would, to pay the members it wants to to advertise  
 14 on those platforms.  
 15 Are these two separate activities that  
 16 NetChoice engages in, or is one part of the other?  
 17 A NetChoice advertises where we think it  
 18 will be most effective.  
 19 Q And are your members obligated in any way  
 20 to host that advertisement as a result of being  
 21 members of NetChoice?  
 22 A NetChoice has had advertisements rejected

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1 when we try to publish them on members' sites.  
 2 Q What were those advertisements rejected  
 3 for?  
 4 A I do not recall.  
 5 Q Do you -- are there any documents that  
 6 would help you to recall?  
 7 MR. DISHER: Object to form. Object to  
 8 scope.  
 9 THE WITNESS: Not particularly, no.  
 10 BY MS. CORBELLO:  
 11 Q NetChoice doesn't keep any record of the  
 12 advertisements it attempts to submit to platforms?  
 13 MR. DISHER: Objection. Form.  
 14 Objection. Scope.  
 15 THE WITNESS: Not to my knowledge.  
 16 BY MS. CORBELLO:  
 17 Q We talked about one way in which CCIA and  
 18 NetChoice partner with each other outside of the  
 19 context of the lawsuits they're currently engaged in  
 20 just promoting each other's content.  
 21 Are there any other ways in which CCIA  
 22 and NetChoice partner currently?

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1 A Not to my knowledge.  
 2 Q I've left you a binder there for the sake  
 3 of ease. And I'm going to hand you very quickly  
 4 what's been -- will be marked as Defense Exhibit 1  
 5 in a moment.  
 6 (Szabo Deposition Exhibit 1 was marked  
 7 for identification and attached to the transcript.)  
 8 BY MS. CORBELLO:  
 9 Q I'll ask you to just look this over.  
 10 A Thank you.  
 11 Q And -- oh, yeah. Feel free to look at  
 12 the other pile, if you'd like.  
 13 MR. DISHER: This is in tab 4 of the  
 14 binder?  
 15 MS. CORBELLO: Yes.  
 16 MR. DISHER: Okay.  
 17 BY MS. CORBELLO:  
 18 Q If you could just verify that that marked  
 19 exhibit is your declaration for the purposes of the  
 20 court reporter. And then for ease, if you'd like to  
 21 follow along in tab 4 instead, you could do that.  
 22 Just let me know when you're done

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1 reviewing that.  
 2 MS. CORBELLO: Todd, do you mind if we go  
 3 off the record so we can give Mr. Szabo as much time  
 4 as he needs to review?  
 5 MR. DISHER: That's fine.  
 6 THE VIDEOGRAPHER: We're going off the  
 7 record.  
 8 The time is 3:49 p.m.  
 9 (Off the record.)  
 10 THE VIDEOGRAPHER: We're back on the  
 11 record.  
 12 The time is 3:50 p.m.  
 13 BY MS. CORBELLO:  
 14 Q Mr. Szabo, now that you've had a chance  
 15 to look at it, is the document I handed you marked  
 16 as Defense Exhibit 1 a true and correct copy of the  
 17 declaration you submitted in support of Plaintiffs'  
 18 motion for preliminary injunction in this case?  
 19 A Yes.  
 20 Q You can go ahead and, if you want, hand  
 21 that to the court reporter and use the tab instead.  
 22 A Thank you.

<p style="text-align: right;">38</p> <p>1 Q I want to turn you first to paragraph 2.</p> <p>2 If you need a second to read that, let me know.</p> <p>3 Are you ready?</p> <p>4 So here in paragraph 2 you're talking</p> <p>5 about advocacy before legislative bodies, courts,</p> <p>6 and government agencies.</p> <p>7 Can you tell me what kind of advocacy was</p> <p>8 done, in relation to HB20 as it was passing through</p> <p>9 the legislative process, by NetChoice?</p> <p>10 MR. DISHER: Objection. Form.</p> <p>11 Objection. Scope.</p> <p>12 THE WITNESS: NetChoice testified before</p> <p>13 the Texas legislature in opposition to HB20.</p> <p>14 BY MS. CORBELLO:</p> <p>15 Q What other advocacy measures did</p> <p>16 NetChoice take in relation to HB20 while it was</p> <p>17 passing through the legislative process?</p> <p>18 MR. DISHER: Same objections.</p> <p>19 THE WITNESS: NetChoice engaged in</p> <p>20 publishing an editorial outlining how HB20 would, in</p> <p>21 part -- sorry. NetChoice filed -- I'm sorry.</p> <p>22 NetChoice published an op-ed outlining how HB20</p>	<p style="text-align: right;">40</p> <p>1 you to recall?</p> <p>2 MR. DISHER: Objection. Scope.</p> <p>3 THE WITNESS: For purposes of this</p> <p>4 declaration, I looked at -- sorry. For purposes of</p> <p>5 this deposition, I instead focused primarily on the</p> <p>6 issues covered in my declaration.</p> <p>7 Seeing as how this editorial was</p> <p>8 published before enactment of the law, it did not</p> <p>9 seem pertinent and is not pertinent to the scope of</p> <p>10 my declaration.</p> <p>11 BY MS. CORBELLO:</p> <p>12 Q I understand that you may not have</p> <p>13 reviewed any documents regarding the editorial.</p> <p>14 However, my question was a little bit different.</p> <p>15 Are there any documents -- and you can</p> <p>16 simply name them or identify them in any way</p> <p>17 possible -- that would help you to recall the facts</p> <p>18 that I've asked you about in regards to this</p> <p>19 editorial?</p> <p>20 MR. DISHER: Objection. Form.</p> <p>21 THE WITNESS: The publicly available</p> <p>22 newspaper in which it was published would allow me</p>
<p style="text-align: right;">39</p> <p>1 violates the editorial discretion of NetChoice</p> <p>2 members and would lead to the production of lawful</p> <p>3 but awful content on the internet.</p> <p>4 BY MS. CORBELLO:</p> <p>5 Q Where was this op-ed published?</p> <p>6 A I do not recall.</p> <p>7 Q Did NetChoice pay to promote this op-ed</p> <p>8 in any way?</p> <p>9 MR. DISHER: Objection. Form.</p> <p>10 THE WITNESS: I do not know.</p> <p>11 BY MS. CORBELLO:</p> <p>12 Q And was it just one editorial that was</p> <p>13 published in relation to HB20 as it was passing</p> <p>14 through the legislative process?</p> <p>15 A I do not know.</p> <p>16 Q You don't know of any other editorials</p> <p>17 that were published at that time?</p> <p>18 A Not off the top of my head, no.</p> <p>19 Q Is -- the editorial you just spoke about,</p> <p>20 is that one that you drafted yourself?</p> <p>21 A I do not recall.</p> <p>22 Q Are there any documents that would help</p>	<p style="text-align: right;">41</p> <p>1 to recall those facts.</p> <p>2 BY MS. CORBELLO:</p> <p>3 Q Any other documents you could think of?</p> <p>4 A Not off the top of my head.</p> <p>5 Q Other than testifying in opposition to</p> <p>6 HB20 and publishing this editorial we just spoke</p> <p>7 about, are there any other advocacy actions that</p> <p>8 NetChoice took in relation to HB20 as it passed</p> <p>9 through the legislative process?</p> <p>10 MR. DISHER: Objection. Scope.</p> <p>11 THE WITNESS: We spoke with members about</p> <p>12 how this legislation would impact their ability to</p> <p>13 engage in their editorial discretion guaranteed</p> <p>14 under the First Amendment, how it would permanently</p> <p>15 impact their ability to not only find customers and</p> <p>16 advertisers but would actually have a detrimental</p> <p>17 value on their brand, as well as violate their</p> <p>18 ability to engage in editorial conduct as they see</p> <p>19 fit.</p> <p>20 BY MS. CORBELLO:</p> <p>21 Q Any other advocacy action that NetChoice</p> <p>22 took in relation to HB20 while it was passing</p>

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1 through the legislative process?  
 2 MR. DISHER: Objection. Scope.  
 3 THE WITNESS: Not off the top of my head,  
 4 no.  
 5 BY MS. CORBELLO:  
 6 Q Did NetChoice pay any opposition -- any  
 7 groups that were in opposition to HB20 in relation  
 8 to HB20 passing through the legislative process?  
 9 MR. DISHER: Same objection.  
 10 THE WITNESS: Is it -- did we pay any  
 11 groups who opposed? Is that the question?  
 12 BY MS. CORBELLO:  
 13 Q Well, I understand that there might be  
 14 groups who opposed HB20 but, perhaps, NetChoice  
 15 didn't pay them because of that opposition. Maybe  
 16 something else.  
 17 So I tried to qualify it the best I  
 18 could. Unfortunately, I had to use a lot of the  
 19 same words.  
 20 Did NetChoice pay any groups opposed to  
 21 HB20 in relation to that opposition to HB20?  
 22 Does that make more sense?

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1 A To the best of my knowledge, NetChoice  
 2 did not pay any group to oppose HB20.  
 3 Q Did NetChoice pay any groups that were  
 4 already opposing HB20 in order to fund their  
 5 abilities to oppose HB20?  
 6 A To the best of my knowledge, NetChoice  
 7 did not fund or provide support financially to any  
 8 group that was already opposed to HB20 to oppose  
 9 HB20.  
 10 Q The -- well, let me ask this. Any other  
 11 advocacy actions that we haven't already talked  
 12 about that NetChoice took in relation to HB20 as it  
 13 passed through the legislative process?  
 14 MR. DISHER: Objection. Scope.  
 15 THE WITNESS: As I answered previously,  
 16 to the best of my knowledge, I -- I have given you  
 17 all the activities.  
 18 BY MS. CORBELLO:  
 19 Q I apologize if I asked and answered that.  
 20 I couldn't remember.  
 21 You said one of the activities was that  
 22 NetChoice spoke with its members about HB20.

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1 Who initiated those conversations? Was  
 2 it NetChoice or its members?  
 3 MR. DISHER: Objection. Form.  
 4 THE WITNESS: NetChoice engaged its  
 5 members to discuss how HB20 might impact them.  
 6 BY MS. CORBELLO:  
 7 Q And when you use the word "engaged," you  
 8 mean NetChoice initiated the conversations with its  
 9 members?  
 10 A NetChoice did initiate conversations with  
 11 its members on how HB20 would impact their ability  
 12 to engage in editorial discretion over the content  
 13 on their site.  
 14 Q Did these meetings take place in person  
 15 or in some other way?  
 16 MR. DISHER: Objection. Form.  
 17 THE WITNESS: NetChoice engaged in phone  
 18 and video conference meetings with its members to  
 19 discuss how HB20 would impact their ability to  
 20 engage in editorial discretion over the content on  
 21 their services.  
 22

45

1 BY MS. CORBELLO:  
 2 Q Did NetChoice engage in any form of  
 3 written communication between its members in regards  
 4 to HB20?  
 5 A NetChoice provided members copies of  
 6 written testimony that was given before the Texas  
 7 legislature in opposition to HB20.  
 8 Q Are there any other written  
 9 communications between NetChoice and its members in  
 10 regards to HB20?  
 11 MR. DISHER: Objection. Form.  
 12 THE WITNESS: NetChoice spoke with  
 13 NetChoice members about how HB20 would prevent them  
 14 from engaging in the editorial conduct for their  
 15 sites and services, and some of that communication  
 16 was written.  
 17 BY MS. CORBELLO:  
 18 Q What was the written form of  
 19 communication?  
 20 Was it email or something else?  
 21 A The form of communication was email.  
 22 Q Which members did this email

<p style="text-align: right;">46</p> <p>1 communication take place with between NetChoice and 2 its members?</p> <p>3 MR. DISHER: Objection. Form.</p> <p>4 THE WITNESS: There were many emails that 5 engaged with NetChoice members. NetChoice does its 6 best to speak with all of its members on issues that 7 will impact them directly.</p> <p>8 BY MS. CORBELLO:</p> <p>9 Q The phone and video communication you 10 just mentioned, were any of those communication 11 platforms recorded?</p> <p>12 A Not to my knowledge.</p> <p>13 Q Did NetChoice speak with all of its 14 members in regards to HB20 while it was in the 15 legislative process?</p> <p>16 A NetChoice spoke to many of our members 17 about HB20 and its impact on their ability to engage 18 in editorial discretion with regard to the content 19 on their sites in violation of their First Amendment 20 protections.</p> <p>21 Q Are there any of NetChoice's members that 22 it did not speak to at any time regarding HB20?</p>	<p style="text-align: right;">48</p> <p>1 BY MS. CORBELLO:</p> <p>2 Q Did -- did you or any other agent of 3 NetChoice speak to any Texas legislators about HB20 4 while it was in the legislative process?</p> <p>5 MR. DISHER: Objection. Form. 6 Objection. Scope.</p> <p>7 THE WITNESS: NetChoice spoke with Texas 8 legislature -- legislators when it was testifying 9 before the Texas legislature on HB20 in opposition 10 due to its impact on our members and their removal 11 of their ability to engage in editorial discretion 12 given to them under the First Amendment.</p> <p>13 BY MS. CORBELLO:</p> <p>14 Q Did you or any other agent of NetChoice 15 speak to Texas legislators individually regarding 16 HB20?</p> <p>17 MR. DISHER: Objection. Form. 18 Objection. Scope.</p> <p>19 THE WITNESS: NetChoice spoke directly to 20 lawmakers individually as part of their testimony 21 during our opposition to HB20. 22</p>
<p style="text-align: right;">47</p> <p>1 A I'm going to review my list of members 2 and let you know.</p> <p>3 Given the ambiguity in the legislation 4 and its impact on many NetChoice members, we made 5 outreaches to, I believe, all NetChoice members as 6 they could be potentially impacted by HB20 due to 7 the vagaries of the statute.</p> <p>8 Q Other than phone, video, email, and I 9 assume spoken communications with its members, did 10 NetChoice communicate with its members in any other 11 way regarding HB20?</p> <p>12 A Not to my knowledge.</p> <p>13 MR. DISHER: Objection to form. 14 Go ahead.</p> <p>15 THE WITNESS: Sorry. 16 Not to my knowledge.</p> <p>17 BY MS. CORBELLO:</p> <p>18 Q Do you or any other agent of NetChoice 19 text with any of the employees of its members? 20 MR. DISHER: Objection. Form. 21 THE WITNESS: We do not engage in SMS 22 communication with members.</p>	<p style="text-align: right;">49</p> <p>1 BY MS. CORBELLO:</p> <p>2 Q Other than the testimony you just told me 3 about, did anyone at NetChoice -- you or any other 4 agents of NetChoice speak to any Texas legislators 5 individually about HB20?</p> <p>6 MR. DISHER: Same objections. 7 THE WITNESS: As I did not speak to any 8 other Texas legislators about HB20, I cannot 9 100 percent guarantee that a NetChoice agent spoke 10 directly with a Texas lawmaker about HB20.</p> <p>11 BY MS. CORBELLO:</p> <p>12 Q Are you aware even from third-party 13 information of any NetChoice employees who spoke 14 with a Texas legislator regarding HB20?</p> <p>15 MR. DISHER: Same objections. 16 THE WITNESS: Any suggestion would be 17 hearsay.</p> <p>18 BY MS. CORBELLO:</p> <p>19 Q That's fine. 20 MR. DISHER: Same objections. 21 THE WITNESS: I believe NetChoice 22 employees did meet with Texas lawmakers in advance</p>

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1 of the passage of HB20 to make them aware of how the  
 2 law not only violates the First Amendment and  
 3 impedes the ability of our members to engage in  
 4 editorial discretion given to them under the  
 5 First Amendment but also how it would unleash lawful  
 6 but awful content onto the internet.  
 7 BY MS. CORBELLO:  
 8 Q And what are the names of those  
 9 lawmakers?  
 10 MR. DISHER: Same objections.  
 11 THE WITNESS: I do not know of any  
 12 lawmakers except for Senator Bryan Hughes.  
 13 BY MS. CORBELLO:  
 14 Q Do you know approximately how many  
 15 lawmakers these employees spoke to?  
 16 A I--  
 17 MR. DISHER: Go ahead.  
 18 THE WITNESS: I do not know of any  
 19 lawmakers aside from Senator Bryan Hughes.  
 20 BY MS. CORBELLO:  
 21 Q And who are the employees that you either  
 22 know of or at least heard of that spoke with Texas

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1 legislators about HB20?  
 2 MR. DISHER: Objection. Form.  
 3 Objection. Scope.  
 4 THE WITNESS: To the best of my  
 5 knowledge, the only employee to engage with  
 6 Senator Bryan Hughes on HB20 is Steve DelBianco.  
 7 BY MS. CORBELLO:  
 8 Q Can you spell that last name for me?  
 9 A D-E-L, capital B-I-A-N-C-O.  
 10 Q Are there any other employees that you  
 11 know of that either did or may have spoken to Texas  
 12 legislators about HB20?  
 13 MR. DISHER: Same objections.  
 14 THE WITNESS: To the best of my  
 15 knowledge, the only NetChoice employee to speak to a  
 16 Texas legislator is Steve DelBianco.  
 17 BY MS. CORBELLO:  
 18 Q Do you know if these communications  
 19 between Mr. DelBianco and Senator Bryan Hughes were  
 20 done over written communication at all?  
 21 A I do not know that.  
 22 Q Let's go to paragraph 3, if you don't

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1 mind. Feel free to look it over and just let me  
 2 know when you're ready.  
 3 You good?  
 4 A I am ready.  
 5 Q I want to point you to the second-to-last  
 6 sentence of paragraph 3 where it says: "Texans  
 7 looking for a less moderated experience can use  
 8 social media platforms like Parler, Gab, or Rumble."  
 9 Do you see that there?  
 10 A Yes, I see that there.  
 11 Q Are you familiar with Parler, just  
 12 generally, what it is?  
 13 A Yes, I'm familiar with the existence of  
 14 Parler as a social media platform where people can  
 15 post content.  
 16 Q Do you know if any of NetChoice's members  
 17 currently do not allow Parler on their app store for  
 18 users to download?  
 19 MR. DISHER: Object to form.  
 20 THE WITNESS: To the best of my  
 21 knowledge, Parler is allowed on the Apple app store,  
 22 and I do not know if it is allowed on the Google app

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1 store.  
 2 BY MS. CORBELLO:  
 3 Q Would you be surprised to know that  
 4 Google is currently blocking Parler from its app  
 5 store?  
 6 MR. DISHER: Objection. Form.  
 7 THE WITNESS: To the best of my  
 8 knowledge, Parler is available on the Apple app  
 9 store.  
 10 BY MS. CORBELLO:  
 11 Q I will represent to you that it is not.  
 12 Are you aware that Google does not allow  
 13 Parler on its app store?  
 14 MR. DISHER: Objection. Form.  
 15 THE WITNESS: The Android operating  
 16 system allows users to what is called sideload  
 17 applications which enables them to add their own  
 18 applications through services outside of the app  
 19 store structure.  
 20 BY MS. CORBELLO:  
 21 Q My question's a little different. It's  
 22 specifically about the app store.

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1 Are you aware that Google does not  
2 currently allow Parler on its app store?  
3 MR. DISHER: Objection. Form.  
4 THE WITNESS: If Google does not allow  
5 Parler on its app store, it is part of its editorial  
6 discretion to make sure that the apps on its app  
7 store conform to its viewpoint.  
8 BY MS. CORBELLO:  
9 Q So you said "if."  
10 Does that mean, yes, you are aware of it,  
11 or am I the first one telling you this?  
12 MR. DISHER: Objection. Form.  
13 THE WITNESS: I was unaware that Parler  
14 was unavailable on the Google app store.  
15 BY MS. CORBELLO:  
16 Q Same question looking for the same sort  
17 of answer.  
18 Are you aware that Amazon currently does  
19 not allow Parler on its app store?  
20 MR. DISHER: Objection. Form.  
21 THE WITNESS: I was unaware that Amazon  
22 allows [sic] Parler on its app store.

55

1 BY MS. CORBELLO:  
2 Q The next one you mentioned, Gab. Are you  
3 generally aware of what Gab is?  
4 A Gab, like Parler, is accessible on every  
5 Web browser where users can go, post comments, and  
6 review comments.  
7 Q So is Gab a social media platform?  
8 MR. DISHER: Objection. Form.  
9 THE WITNESS: What's your differentiation  
10 of "social media platform"?  
11 BY MS. CORBELLO:  
12 Q Well, I guess I'm -- it says here in your  
13 declaration "can use social media platforms like  
14 Parler, Gab, or Rumble."  
15 So what's your definition of "social  
16 media platform"?  
17 A My definition of "social media platform"  
18 is a place where people can post comments and review  
19 comments in an online space.  
20 Q And do those two functions you just  
21 described have to be the primary function of the  
22 platform in order to be a social media platform?

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1 MR. DISHER: Objection. Form.  
2 THE WITNESS: They do not need to be the  
3 primary function to be a social media platform.  
4 BY MS. CORBELLO:  
5 Q Okay. So based on the definition you  
6 just gave me for "social media platform," do you  
7 understand Gab to be a social media platform?  
8 A Yes.  
9 Q Are you aware that Gab is currently  
10 blocked from being present on the Google app store?  
11 MR. DISHER: Objection. Form.  
12 THE WITNESS: Gab is blocked on the  
13 Google app store as part of Google's efforts to  
14 engage in its editorial discretion to maintain an  
15 app store that conforms to its viewpoint under the  
16 First Amendment protections.  
17 BY MS. CORBELLO:  
18 Q So is it NetChoice's position that there  
19 is nothing wrong with Google lessening the  
20 accessibility of Gab or Parler to users?  
21 MR. DISHER: Objection. Form.  
22 Objection. Scope.

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1 THE WITNESS: NetChoice's view is that  
2 private businesses can decide what is best for their  
3 users and their advertisers.  
4 BY MS. CORBELLO:  
5 Q Do you know how many users Google has?  
6 A I do not know exactly how many users  
7 Google has.  
8 Q Do you know an approximate number of  
9 users that Google has?  
10 MR. DISHER: Objection. Form.  
11 THE WITNESS: I know that they have more  
12 than 50 million.  
13 BY MS. CORBELLO:  
14 Q So if Google, as I represent to you, is  
15 blocking Gab from its platforms, is it fair to say  
16 that the 50 million users that use Gab -- or that  
17 use Google are not being exposed to Gab on that  
18 platform?  
19 MR. DISHER: Objection. Form.  
20 THE WITNESS: No, that is not a fair  
21 statement.  
22



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1 BY MS. CORBELLO:  
 2 Q Why not?  
 3 MR. DISHER: Same objection.  
 4 THE WITNESS: The platform is the Android  
 5 device. The platform is connected devices. And  
 6 with that, not only Android devices, but Android  
 7 tablets, Chrome-based PCs all have the capability of  
 8 accessing the Websites run by Gab.  
 9 BY MS. CORBELLO:  
 10 Q Fair enough. Let me limit it down a  
 11 little bit.  
 12 Is it fair to say that Google's  
 13 50 million users, if, as I represent to you, Gab is  
 14 not allowed on the app store, is it fair to say that  
 15 those users do not have access to Gab as a  
 16 downloadable app on the app store?  
 17 MR. DISHER: Objection. Form.  
 18 THE WITNESS: As part of its editorial  
 19 discretion, Google has chosen to not allow Gab for  
 20 download as part of its right as a private business  
 21 to engage in editorial and viewpoint expression  
 22 under its rights from the First Amendment of the

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1 U.S. Constitution.  
 2 MS. CORBELLO: I'm going to object as  
 3 non-responsive.  
 4 BY MS. CORBELLO:  
 5 Q I want to be clear. My question is not  
 6 why Google has denied access to Gab. My question is  
 7 whether its 50 million users can access Gab on  
 8 Google's platform currently.  
 9 MR. DISHER: Objection. Form.  
 10 THE WITNESS: As I answered previously,  
 11 the Google platform is robust. There are many  
 12 Google devices including --  
 13 BY MS. CORBELLO:  
 14 Q I apologize.  
 15 Did I say "platform"?  
 16 A Yes.  
 17 Q I apologize. I meant app store.  
 18 MS. CORBELLO: Oh, God, I really don't  
 19 want to ask this a third time.  
 20 BY MS. CORBELLO:  
 21 Q Is it true that Google's 50 million users  
 22 currently cannot access the Gab app on Google's app

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1 store?  
 2 MR. DISHER: Objection. Form.  
 3 THE WITNESS: It is accurate to say that  
 4 Google users -- actually, let me rephrase.  
 5 It's accurate to say that the Gab app is  
 6 not accessible on the Android app store.  
 7 BY MS. CORBELLO:  
 8 Q Are you aware that Apple currently blocks  
 9 Gab from being a downloadable app on its app store?  
 10 MR. DISHER: Objection. Form.  
 11 THE WITNESS: Yes, I am aware that Apple  
 12 blocks Gab's app from being downloadable from the  
 13 Apple app store.  
 14 BY MS. CORBELLO:  
 15 Q And it's NetChoice's position that Apple  
 16 is allowed to deny access to its users to Gab as an  
 17 app in its app store?  
 18 MR. DISHER: Objection. Form.  
 19 Objection. Scope.  
 20 THE WITNESS: Apple is not a member of  
 21 NetChoice.  
 22

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1 BY MS. CORBELLO:  
 2 Q Well, we'll strike that, then.  
 3 Let's go to paragraph 4.  
 4 If you need some time to look it over,  
 5 let me know.  
 6 MR. DISHER: Is this a good stop -- good  
 7 point for our first break?  
 8 MS. CORBELLO: Yeah. Sure.  
 9 THE VIDEOGRAPHER: We are going off the  
 10 record.  
 11 This is the end of media unit number 1.  
 12 The time is 4:17 p.m.  
 13 (A recess was taken.)  
 14 THE VIDEOGRAPHER: We are back on the  
 15 record.  
 16 This is the beginning of media unit  
 17 number 2.  
 18 The time is 4:30 p.m.  
 19 BY MS. CORBELLO:  
 20 Q So we were talking about paragraph 4.  
 21 Paragraph 4 contains a list of  
 22 NetChoice's members; right?

<p style="text-align: right;">62</p> <p>1 A That is correct.</p> <p>2 Q Is this list in paragraph 4 current, or</p> <p>3 have any members been added or removed from this</p> <p>4 list?</p> <p>5 A To the best of my knowledge, this list is</p> <p>6 accurate.</p> <p>7 Q So when we were talking earlier about</p> <p>8 conversations with members regarding HB20, are these</p> <p>9 the members, this list here, who you were talking</p> <p>10 about?</p> <p>11 A When I use the term "NetChoice members,"</p> <p>12 I am referring to the members in this list.</p> <p>13 Q When those conversations with these</p> <p>14 members took place about HB20, did any of these</p> <p>15 members express opposition to bringing this lawsuit</p> <p>16 that we're all here for?</p> <p>17 A To the best of my knowledge, every member</p> <p>18 with whom we spoke to about HB20 raised concerns</p> <p>19 about how this law going into effect would impact</p> <p>20 their ability to engage an editorial discretion.</p> <p>21 Q Did any of these members ask NetChoice</p> <p>22 not to bring this lawsuit on their behalf?</p>	<p style="text-align: right;">64</p> <p>1 that at least YouTube, which is a subsidiary of</p> <p>2 Google, Facebook, and Twitter would be covered by</p> <p>3 HB20.</p> <p>4 Q A little while ago, you gave me your own</p> <p>5 definition of social media platform.</p> <p>6 Do you remember that?</p> <p>7 A I do remember giving you a definition of</p> <p>8 social media platform.</p> <p>9 Q Putting HB20 and its definition of social</p> <p>10 media platform aside for a second, which of these</p> <p>11 members listed in paragraph 4 do you believe fall</p> <p>12 under your definition of social media platform as</p> <p>13 you discussed it with me earlier?</p> <p>14 MR. DISHER: Objection. Form.</p> <p>15 Go ahead.</p> <p>16 THE WITNESS: Airbnb, Alibaba, Amazon,</p> <p>17 AOL, DJI, DRN, eBay, Etsy, Expedia, Fluid Truck,</p> <p>18 Google, HomeAway, Lime, Nextdoor, Lyft, Oath,</p> <p>19 OfferUp, PayPal, Pinterest, StubHub, TikTok,</p> <p>20 TravelTech, Turo, Twitter, Verisign, Vrbo, Waymo,</p> <p>21 and Yahoo would all be covered under my definition</p> <p>22 of social media platform.</p>
<p style="text-align: right;">63</p> <p>1 MR. DISHER: Objection. Form.</p> <p>2 THE WITNESS: I believe answering the</p> <p>3 question would violate my NDA with these businesses.</p> <p>4 BY MS. CORBELLO:</p> <p>5 Q This list here in paragraph 4, which of</p> <p>6 these members does NetChoice contend will be</p> <p>7 affected by HB20?</p> <p>8 MR. DISHER: Objection. Form.</p> <p>9 MS. CORBELLO: What's the basis of that</p> <p>10 objection, Todd?</p> <p>11 MR. DISHER: Calls for a legal</p> <p>12 conclusion.</p> <p>13 BY MS. CORBELLO:</p> <p>14 Q Go ahead and answer.</p> <p>15 A Due to the vagaries of the definition of</p> <p>16 "social media" in HB20, many of the members listed</p> <p>17 here may or may not be covered.</p> <p>18 Likewise, because they must have</p> <p>19 50 million monthly active users, I cannot for</p> <p>20 certain tell you which of these members is or is not</p> <p>21 covered by HB20.</p> <p>22 Having said that, I can say certainly</p>	<p style="text-align: right;">65</p> <p>1 BY MS. CORBELLO:</p> <p>2 Q Did you mean to not mention Facebook in</p> <p>3 that list?</p> <p>4 A I did not -- I intended to mention</p> <p>5 Facebook in that list.</p> <p>6 Q I might have just missed it, but I just</p> <p>7 wanted to clarify.</p> <p>8 Facebook is a part of the list you just</p> <p>9 gave; right?</p> <p>10 A That is correct.</p> <p>11 MR. DISHER: And to clarify, you said</p> <p>12 "DJI"?</p> <p>13 THE WITNESS: Yes.</p> <p>14 MR. DISHER: And this says "DII."</p> <p>15 THE WITNESS: That is a typo.</p> <p>16 MR. DISHER: Okay.</p> <p>17 BY MS. CORBELLO:</p> <p>18 Q Oh, okay.</p> <p>19 MR. DISHER: Thank you.</p> <p>20 BY MS. CORBELLO:</p> <p>21 Q So the DII that comes after AOL in</p> <p>22 paragraph 4 is meant to say DJ, as in James, I?</p>

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1 A Correct.

2 Q I still don't know what it's --

3 Do all of these members moderate their

4 user-generated content in the same way?

5 MR. DISHER: Objection. Form.

6 THE WITNESS: These members engage in

7 content moderation and their editorial discretion in

8 the way that they see is best for promoting their

9 viewpoints and the interests of their users and

10 their advertisers.

11 BY MS. CORBELLO:

12 Q So is your answer, no, the members do not

13 moderate content in the exact same way?

14 A Members engage in their content

15 moderation in ways that they think is best for their

16 users, their advertisers, and promoting their

17 viewpoints. Sometimes that content moderation will

18 be similar; sometimes that content moderation will

19 be different. Sometimes the methods of enforcement

20 are similar; sometimes the methods of enforcement

21 are different.

22

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1 BY MS. CORBELLO:

2 Q Do you understand which members are

3 different from one another versus which members are

4 similar?

5 MR. DISHER: Objection. Form.

6 THE WITNESS: You are speaking with

7 regard to their engagement and content moderation?

8 BY MS. CORBELLO:

9 Q Yes.

10 A I am familiar with ways in which members

11 are similar with regard to their content moderation

12 and ways in which they are different with regard to

13 their content moderation both in what they engage in

14 content moderation as well as the manner in which

15 they engage in content moderation.

16 Q Do all of these members listed in

17 paragraph 4 have the same policies regarding content

18 moderation?

19 A Members listed in paragraph 4 may have

20 similar or same content moderation policies and

21 enforcement mechanisms, and they may have similar --

22 or different content moderation policies and

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1 different enforcement mechanisms.

2 Q So is the answer to my question, no, all

3 of the members listed in paragraph 4 do not have the

4 exact same content moderation policies?

5 A To the best of my knowledge, the members

6 listed in paragraph 4 engage in the content

7 moderation they think is best for their users that

8 express their viewpoints. And they maybe and

9 sometimes are different.

10 Q Do all of your members listed here in

11 paragraph 4 use AI in any way -- we don't need to

12 get into specifics -- but in any way to moderate

13 content on their platforms?

14 A Can you explain what do you mean by "AI"?

15 Q Sure.

16 Do any of these members have algorithms

17 that interact with user-generated content once that

18 content is generated in order to moderate the

19 content for its platform?

20 MR. DISHER: Objection. Form.

21 THE WITNESS: Many of the members of

22 NetChoice use algorithms written by their employees

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1 and sometimes people they hire to enforce and engage

2 in the content moderation decisions that are made in

3 an effort to promote their editorial discretion and

4 their viewpoints.

5 BY MS. CORBELLO:

6 Q Do any of the members exclusively use

7 humans to review user-generated content?

8 A I do not know.

9 Q Do any of these members exclusively use

10 AI or algorithms in order to review user-generated

11 content?

12 A I do not know.

13 Q Have any of these members shared the

14 substance of the algorithms we've been talking about

15 with NetChoice?

16 MR. DISHER: Objection. Form.

17 THE WITNESS: NetChoice members have

18 shared with us the content moderation guidelines,

19 the editorial discretion, and the viewpoints that

20 they use in the creation and development of the

21 algorithms.

22

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1 MS. CORBELLO: Objection.  
2 Non-responsive.  
3 BY MS. CORBELLO:  
4 Q My question is a little bit more specific  
5 than just overall views.  
6 The algorithms themselves that address  
7 and interact with user-generated content, have those  
8 algorithms been shared by any of NetChoice's members  
9 with NetChoice?  
10 A If such information were shared with  
11 NetChoice, they would be subject to our NDA.  
12 Q Have any of the members' source codes  
13 related to content moderation been shared with  
14 NetChoice?  
15 MR. DISHER: Objection. Form.  
16 THE WITNESS: Think about the question.  
17 Can you repeat which source code you are  
18 describing, please?  
19 BY MS. CORBELLO:  
20 Q When I say "source code," I mean the  
21 source codes that are used in order to provide data  
22 to algorithms in order to inform them or update them

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1 on the type of content that these members are trying  
2 to moderate in order to comply with their policies.  
3 So when I say "source codes," those are the ones I'm  
4 talking about.  
5 Does that make it more clear?  
6 MR. DISHER: Objection. Form.  
7 Go ahead.  
8 THE WITNESS: They have not provided  
9 source code to NetChoice.  
10 BY MS. CORBELLO:  
11 Q Have any of NetChoice's members provided  
12 their training data sets related to content  
13 moderation with NetChoice?  
14 MR. DISHER: Objection. Form.  
15 THE WITNESS: Can you be more specific on  
16 training data sets?  
17 Who is the audience for which training  
18 data set?  
19 BY MS. CORBELLO:  
20 Q The -- well, the audience, I guess, for  
21 lack of a better word, would be the algorithms.  
22 So when I say "training data sets," I

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1 mean any data sets created by a programmer or an AI  
2 that then interacts with the algorithm in order to  
3 train it to either better recognize content it's  
4 supposed to moderate, differently recognize content  
5 it's supposed to moderate. Any training data sets  
6 that are used to train the algorithms and the  
7 content that they're -- it's moderating.  
8 A Any such disclosure will be subject to  
9 our NDA.  
10 Q Have any of NetChoice's members shared  
11 documentation with NetChoice related to content  
12 moderation?  
13 MR. DISHER: Objection. Form.  
14 THE WITNESS: NetChoice members have  
15 shared with NetChoice their community guidelines and  
16 their content moderation standards which are part of  
17 the terms of service and underlying agreements that  
18 users enter into when they sign up for the service.  
19 BY MS. CORBELLO:  
20 Q Maybe this will clarify my question a  
21 little bit. I'm sorry if it was vague.  
22 Have any of NetChoice's members shared

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1 its Wiki, Readme, or other similar documentation  
2 related to software utilized for content moderation  
3 with NetChoice?  
4 A No.  
5 Q Have any of NetChoice's members shared  
6 their workflow diagrams related to content  
7 moderation with NetChoice?  
8 MR. DISHER: Objection. Form.  
9 THE WITNESS: NetChoice members have not  
10 shared with us their internal workflow on  
11 programming for content moderation.  
12 BY MS. CORBELLO:  
13 Q Have NetChoice's members shared any  
14 external workflow diagrams related to content  
15 moderation with NetChoice?  
16 A NetChoice members have met with us -- or  
17 met with NetChoice several times to discuss how  
18 content moderation policies operate within their  
19 services.  
20 Q Go to paragraph 5 for me. It's on  
21 pages 3 and 4.  
22 Let me know when you're ready to talk

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1 about it.

2 A Okay.

3 Q I want to point you to -- it's on page 4,

4 still on paragraph 5, subsection i there where you

5 talk about --

6 MR. DISHER: Page 3 of the document.

7 THE WITNESS: Thank you.

8 MR. DISHER: Page 4 is at the top here.

9 THE WITNESS: Thank you.

10 MR. DISHER: UCF pagination.

11 MS. CORBELLO: Yeah. Sorry. I was

12 trying to be helpful, but --

13 BY MS. CORBELLO:

14 Q Still on paragraph 5, subsection i where

15 you mention NetChoice members "are open to the

16 public, subject to their representative terms and

17 conditions and community guidelines."

18 Do you see that?

19 A Yes, I see that.

20 Q When you say they "are open to the

21 public," what did you mean by that?

22 A It means that they are accessible on

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1 websites and other devices and that some people may

2 be able to sign up for their services subject to

3 agreeing to the community guidelines which are the

4 viewpoints and editorial discretion of those sites

5 and services.

6 Q Do you have personal knowledge of how

7 each one of NetChoice's members permit the public to

8 become users on their platforms?

9 MR. DISHER: Objection. Form.

10 THE WITNESS: I am -- I have personal

11 knowledge of several NetChoice members on how they

12 allow users to access their platforms.

13 BY MS. CORBELLO:

14 Q I really don't want to ask you about all

15 if you don't have the knowledge.

16 Are there any members that you do not

17 know how members of the public are able to access

18 your members' platforms?

19 A Virtually every single NetChoice member

20 has a terms of service to which all users agree when

21 they access the platform.

22 Q I understand. My question's a little

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1 different.

2 Are you personally aware of each member's

3 process for allowing a member of the public to

4 become a user on its platform, or are there any

5 members in that list that, sitting here today, you

6 don't have knowledge of how that works?

7 A I have knowledge for all NetChoice

8 members of how members of the public can gain access

9 to the underlying service.

10 Q So let's use Facebook as an example.

11 How does one become a user on Facebook?

12 A Facebook users or potential Facebook

13 users can visit Facebook through a myriad of sources

14 whether through an application, visiting the

15 website. On both they are presented with a terms of

16 service or terms of use and a privacy policy. In

17 order to access certain parts of that site and

18 service, they must also expressly agree -- sorry.

19 Let me rephrase that.

20 By visiting that site, they agree to the

21 terms of service which also include agreement to the

22 community guidelines. These terms of service and

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1 its subsidiary, the community guidelines, allow

2 these platforms to engage in editorial discretion,

3 in the case of Facebook, as well as promoting the

4 viewpoints that are best for its users and its

5 advertisers. This is a contract that users enter

6 into with Facebook when they visit the website.

7 Q What personal information does a member

8 of the public have to provide Facebook when signing

9 up for an account with Facebook?

10 A Can you give me a definition of "personal

11 information"?

12 Q Well, we can go one by one.

13 Does a member of the public have to

14 provide their first and last name to Facebook as

15 part of the process to sign up as a user?

16 A Members of the public are required to

17 provide their real name as part of the terms of

18 service. Failure to do so is a violation of the

19 contract with Facebook.

20 Q Are users required to provide their

21 birthdate as part of the process in signing up to be

22 a user on Facebook?

<p style="text-align: right;">78</p> <p>1 A No, users are not required to provide 2 their birth date to become a user on Facebook. 3 Q Other than providing their first and last 4 name and agreeing to the terms of service, what else 5 do users have to do, if anything, to become a user 6 on Facebook? 7 A Because it's changing regularly, to the 8 best of my knowledge, it can be either an email 9 address or possibly a phone number coupled with a 10 user-created password. 11 Q Any other information you can think of 12 that someone has to provide before becoming a 13 Facebook user? 14 A Not to my knowledge. 15 Q Once the information we just talked about 16 is provided and the terms of service are agreed to, 17 does a member of the public gain immediate access to 18 Facebook's platform? 19 A Define "Facebook's platform" for me, 20 please, because they have many different businesses. 21 Q Well, I guess the way I'm using it is in 22 its social media function.</p>	<p style="text-align: right;">80</p> <p>1 BY MS. CORBELLO: 2 Q Well, the content moderation policies 3 that Facebook has, you're aware of what those are; 4 right? 5 A Yes. 6 Q Those policies, are they applied to every 7 piece of user-generated content that comes to the 8 site regardless of who the user is that is 9 generating that content? 10 MR. DISHER: Object to form. 11 THE WITNESS: Facebook will use its 12 editorial discretion as well as its viewpoint to 13 decide what content is appropriate for its users, 14 its advertisers. 15 BY MS. CORBELLO: 16 Q My question's a little different. 17 When user-generated content comes to 18 Facebook -- I'm sure "comes to" is not the right 19 technical term. But when user-generated content is 20 generated, does Facebook apply its terms of service 21 and its community standards equally to that 22 user-generated content regardless of which user</p>
<p style="text-align: right;">79</p> <p>1 Did that clarify it? 2 A Users, once they have been authorized by 3 Facebook to access the site, may gain access to the 4 site subject to compliance with their agreement 5 which includes the terms of service and community 6 guidelines. 7 Q So what I'm hearing is is that once the 8 users gain access to the site after creating a user 9 account, they are, then, subject to the terms and 10 conditions and the content policies that Facebook 11 has in place; is that right? 12 A Users are subject to the terms of service 13 and privacy policies when they visit a Facebook 14 website. Those terms of service include, as a 15 subsidiary, the community guidelines. 16 Q Do you know whether those terms of 17 service and community guidelines are applied equally 18 across all users of Facebook? 19 MR. DISHER: Objection. Form. 20 THE WITNESS: Can you explain to me 21 "equally," please. 22</p>	<p style="text-align: right;">81</p> <p>1 generated that content? 2 A Facebook applies its community guidelines 3 in the ways that it best believes will promote its 4 viewpoint and its editorial content and -- or its 5 editorial discretion. 6 In doing so, it may promote some 7 viewpoints and demote others as part of its 8 editorial discretion as guaranteed under the 9 First Amendment. 10 Q So does Facebook do that promotion or 11 de-prioritization based on the user that created the 12 content, or is it based on the content itself? 13 A Facebook will remove content that 14 violates their community guidelines and community 15 standards. It will also select and promote content 16 that they think is best for that particular user or 17 most useful to that particular user. 18 Q Mr. Szabo, I desperately do not want to 19 ask the Court for more time and actually want to do 20 less than the four hours we've been granted. So I 21 very much ask you to focus on the question I'm 22 asking and answer it.</p>

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1 My question is -- it goes to how Facebook  
 2 is treating its content.  
 3 Is it moderating its content pursuant to  
 4 its content moderation policies because of the users  
 5 that are generating that content, or is it  
 6 moderating that content based on its community  
 7 guidelines based on the content itself?  
 8 Does that make sense?  
 9 MR. DISHER: Objection. Form.  
 10 THE WITNESS: Facebook will engage in  
 11 content moderation based on the content of the  
 12 publication and if it violates the community  
 13 standards or community guidelines. It will also  
 14 engage in content moderation when it sees users  
 15 violating that type of community guidelines.  
 16 So when users are known to abuse  
 17 community guidelines, Facebook may choose to not  
 18 publish their content.  
 19 BY MS. CORBELLO:  
 20 Q And those users who abuse the guidelines,  
 21 are they treated in the same way regardless of who  
 22 that user is --

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1 MR. DISHER: Objection. Form.  
 2 BY MS. CORBELLO:  
 3 Q -- by Facebook?  
 4 MR. DISHER: Objection. Form.  
 5 THE WITNESS: Facebook will treat users  
 6 in foreign nations differently than they treat users  
 7 in the United States of America.  
 8 BY MS. CORBELLO:  
 9 Q Thanks for that clarification.  
 10 So to be more specific, in the  
 11 United States, will Facebook treat its users  
 12 differently based on who that user is when they're  
 13 violating Facebook's policies?  
 14 A Due to its goal of promoting its  
 15 editorial discretion and viewpoints, Facebook will  
 16 sometimes treat an individual differently than a  
 17 different user based on, for example, their status  
 18 as a politician due to Facebook's editorial and  
 19 viewpoint intent to promote political discussion.  
 20 Q So Facebook's terms and conditions and  
 21 community guidelines get applied differently to  
 22 users based on who those users are?

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1 MR. DISHER: Objection. Form.  
 2 THE WITNESS: Facebook's community  
 3 guidelines, if they are applied differently to  
 4 different users, is part of the editorial discretion  
 5 and viewpoint of Facebook in its decision for what  
 6 is best for its users, its advertisers, and the  
 7 advancement of Facebook's viewpoint.  
 8 BY MS. CORBELLO:  
 9 Q So you used the word "if."  
 10 Is your -- just to clarify: Is your  
 11 testimony that Facebook might be discriminating  
 12 against its users in applying its community  
 13 guidelines differently, or you have personal  
 14 knowledge that that is what they are currently  
 15 doing?  
 16 MR. DISHER: Objection. Form.  
 17 THE WITNESS: I do not have firsthand  
 18 knowledge of any discriminatory application of  
 19 Facebook's community guidelines against any user.  
 20 BY MS. CORBELLO:  
 21 Q Does Facebook share its algorithms with  
 22 NetChoice, the algorithms that are applied to users

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1 as they are creating Facebook accounts?  
 2 MR. DISHER: Objection. Form.  
 3 THE WITNESS: Sorry. You lost me halfway  
 4 through that question.  
 5 BY MS. CORBELLO:  
 6 Q Sure. Maybe I'll back up a little bit.  
 7 Do you know if Facebook applies any sort  
 8 of algorithms or human review to a user account  
 9 once -- or immediately after a user has created that  
 10 account --  
 11 MR. DISHER: Objection. Form.  
 12 BY MS. CORBELLO:  
 13 Q -- in order to verify the legitimacy of  
 14 the account -- the account or the illegitimacy of  
 15 the account?  
 16 MR. DISHER: Same objection.  
 17 THE WITNESS: Facebook will analyze the  
 18 legitimacy of a user creation to ensure and stop  
 19 things like fraud, attempts to engage in criminal  
 20 activity, and requests coming from known IP  
 21 addresses of criminals.  
 22

<p style="text-align: right;">86</p> <p>1 BY MS. CORBELLO:  2 Q And does Facebook do that solely through  3 human review?  4 MR. DISHER: Objection. Form.  5 THE WITNESS: Facebook uses a mixture of  6 algorithmic activity written by Facebook employees  7 and Facebook contractors to advance the community  8 guidelines and viewpoints of Facebook as well as  9 human review.  10 BY MS. CORBELLO:  11 Q And so -- sorry. Just to clarify. You  12 said "to advance the community guidelines."  13 Are you talking specifically about this  14 topic, users gaining entry to Facebook and screening  15 those users, are algorithms used for that purpose?  16 A Algorithms are used alongside,  17 potentially, human review when a user attempts to  18 create a new account on Facebook to stop known bad  19 actors and prevent spammers as well as fraudulent  20 accounts.  21 Q So now that we've kind of specified what  22 algorithms we're talking about, those algorithms --</p>	<p style="text-align: right;">88</p> <p>1 That also continued at my work at the  2 Electronic Software Association engaging in IP  3 violations on social media platforms as well as my  4 work at the Motion Picture Association in pursuing  5 viol- -- IP violations of online platforms.  6 It continued with my work as an attorney  7 in private practice creating terms of service,  8 privacy policy, interpreting community guidelines on  9 services that include Facebook for clients, as well  10 as more than a decade working at NetChoice and  11 engaging, on a weekly basis, with most all NetChoice  12 members to better understand how their specific  13 systems work, how their programs are effectuated,  14 and how they make the decisions that they do.  15 This also includes analysis of their  16 business models with regard to advertising and the  17 impact that their editorial discretion and  18 viewpoints have on their business.  19 BY MS. CORBELLO:  20 Q Can I -- can I ask: So for the current  21 business models -- I assume you're intimately  22 familiar with the current business models of your</p>
<p style="text-align: right;">87</p> <p>1 has Facebook shared those algorithms with NetChoice?  2 A Facebook has not shared those algorithms  3 with NetChoice.  4 Q Go to paragraph 6 for me, and let me know  5 when you're ready to talk about it.  6 A Okay.  7 Q So pointing to the second half of that  8 first sentence in paragraph 6, it says: "So we are  9 intimately familiar with the business models our  10 members use and rely on to provide services to users  11 and advertisers alike."  12 Do you see that?  13 A Yes, I see that.  14 Q Okay. This intimate familiarity you have  15 with your members' business models, can you describe  16 to me how that familiarity came about?  17 MR. DISHER: Objection. Form.  18 THE WITNESS: That familiarity was  19 developed over decades of work in the internet  20 ecosystem starting with my initial efforts as a  21 computer science major at Rice University. Prior to  22 that, I was a website programmer for NASA.</p>	<p style="text-align: right;">89</p> <p>1 members? Yes?  2 A I'm intimately familiar with the business  3 models of my members.  4 Q As they currently stand?  5 A Cor- -- as of the time of this  6 declaration, yes.  7 Q And as to these current business models  8 of NetChoice's members, how are those current  9 business models communicated to NetChoice?  10 Is it -- are there meetings involved? Is  11 it a written communication? Do they provide  12 their -- some sort of report to NetChoice?  13 MR. DISHER: Objection. Form.  14 THE WITNESS: Before joining NetChoice,  15 we speak with our members about what issues impact  16 their business directly. As they continue their  17 journey as NetChoice members, we continue to update  18 ourselves on how changes in their business models  19 are impacted by changes in the policy and legal  20 landscape, and we are regularly informed by members  21 of changes in their business model.  22</p>



<p style="text-align: right;">90</p> <p>1 BY MS. CORBELLO:</p> <p>2 Q Are NetChoice's members required to</p> <p>3 inform of any updates to their business models?</p> <p>4 A NetChoice does not require members to</p> <p>5 provide updates, but members do because that is part</p> <p>6 of the benefit of being part of a trade association.</p> <p>7 Q Does NetChoice do any sort of independent</p> <p>8 investigation of what the members tell it inasmuch</p> <p>9 as how their business models work?</p> <p>10 MR. DISHER: Objection. Form.</p> <p>11 THE WITNESS: NetChoice regularly reviews</p> <p>12 and studies changes in business practices of its</p> <p>13 members including reviewing things like transparency</p> <p>14 reports or community standards and community</p> <p>15 guidelines at length.</p> <p>16 BY MS. CORBELLO:</p> <p>17 Q So the two examples you just gave me,</p> <p>18 unless I'm mistaken, those are both documents or</p> <p>19 information that are created by the members</p> <p>20 themselves; right?</p> <p>21 MR. DISHER: Objection. Form.</p> <p>22 THE WITNESS: The community standards for</p>	<p style="text-align: right;">92</p> <p>1 A NetChoice regularly reviews, on its own,</p> <p>2 changes by members to their business model as well</p> <p>3 as changes to the business landscape.</p> <p>4 BY MS. CORBELLO:</p> <p>5 Q How are those changes communicated to</p> <p>6 NetChoice?</p> <p>7 MR. DISHER: Objection. Form.</p> <p>8 THE WITNESS: NetChoice members will</p> <p>9 contact NetChoice to inform us of changes in their</p> <p>10 business models.</p> <p>11 BY MS. CORBELLO:</p> <p>12 Q Okay. I'm going to try this question</p> <p>13 again. I think I've made it clear, but I'll try one</p> <p>14 more time -- or maybe several other times.</p> <p>15 Aside from any data or information that</p> <p>16 NetChoice's members create and provide -- either</p> <p>17 provide to NetChoice or they simply create and</p> <p>18 NetChoice investigates it themselves, other than</p> <p>19 member-created information, does NetChoice do any</p> <p>20 investigation outside of that in order to determine</p> <p>21 what the business models of these members is?</p> <p>22 MR. DISHER: Objection. Form.</p>
<p style="text-align: right;">91</p> <p>1 each member that NetChoice reviews are the community</p> <p>2 standards created by that business as part of their</p> <p>3 editorial and viewpoint discretion.</p> <p>4 BY MS. CORBELLO:</p> <p>5 Q And the transparency reports you</p> <p>6 mentioned, are those the transparency reports that</p> <p>7 the members themselves create?</p> <p>8 A The transparency reports are created by</p> <p>9 several NetChoice members.</p> <p>10 Q So other than information created by the</p> <p>11 members -- or communicated by the members to</p> <p>12 NetChoice, does NetChoice do any independent</p> <p>13 investigation of the way in which the members'</p> <p>14 business models work?</p> <p>15 MR. DISHER: Objection. Form.</p> <p>16 THE WITNESS: NetChoice regularly reviews</p> <p>17 and extrapolates changes in our members' business</p> <p>18 models as well as using our extensive knowledge to</p> <p>19 identify how business models may change in the</p> <p>20 future.</p> <p>21 BY MS. CORBELLO:</p> <p>22 Q So is the answer to my question "yes"?</p>	<p style="text-align: right;">93</p> <p>1 Go ahead.</p> <p>2 THE WITNESS: NetChoice regularly reviews</p> <p>3 writings by third parties on activities and business</p> <p>4 models of NetChoice members.</p> <p>5 BY MS. CORBELLO:</p> <p>6 Q When you say "writings," what do you mean</p> <p>7 by that?</p> <p>8 A These writings can take the form of</p> <p>9 books, exposés, investigative reporting, position</p> <p>10 papers, and analyses by third parties.</p> <p>11 Q Has NetChoice ever deactivated a member</p> <p>12 from membership of NetChoice?</p> <p>13 MR. DISHER: Objection. Scope.</p> <p>14 THE WITNESS: To the best of my</p> <p>15 knowledge, NetChoice has never -- and by</p> <p>16 "deactivated," I presume you mean kicked out or</p> <p>17 removed --</p> <p>18 BY MS. CORBELLO:</p> <p>19 Q Uh-huh.</p> <p>20 A -- a member.</p> <p>21 Q Turning back to paragraph 6. The last</p> <p>22 sentence there talks about HB20 creating long-term</p>

<p style="text-align: right;">94</p> <p>1 adverse impacts when it comes to NetChoice's 2 members' reputations. 3 Do you see that? 4 A Yes, I see that. 5 You're referring to the phrase "would 6 irreparably harm" when you say "adversely"? 7 Q Yes -- sorry -- starting with "would 8 irreparably harm our members and their business 9 models by repelling users and advertisers and 10 creating long-term adverse impacts when it comes to 11 our members' reputation." 12 Do you have personal knowledge as to how 13 each one of NetChoice's members would be irreparably 14 harmed were HB20 to go into effect? 15 MR. DISHER: Objection. Form. 16 THE WITNESS: You're calling for me to 17 speculate? 18 BY MS. CORBELLO: 19 Q No. 20 I'm asking do you have personal knowledge 21 as to how each one of your members would be 22 irreparably harmed were HB20 to go into effect.</p>	<p style="text-align: right;">96</p> <p>1 Will you be able to tell me that? 2 MR. DISHER: Objection. Form. 3 THE WITNESS: I cannot give you the exact 4 cost for each member as it will be different for 5 each member. However -- and such costs include 6 permanent and irreparable harm to brands which 7 oftentimes does not have a clear financial number 8 but can range anywhere from hundreds of thousands to 9 millions to billions of dollars due to lost future 10 revenue and lost immediate revenue. 11 BY MS. CORBELLO: 12 Q And as you sit here today, for each one 13 of the members that you've listed, do you have any 14 sort of approximation on that second cost figure you 15 just talked about for any of them? 16 MR. DISHER: Objection. Form. 17 THE WITNESS: Due for the vagaries of 18 HB20, I cannot for certain say which member will or 19 will not be covered due to the vague definition of 20 social media nor the requirement of 50 million 21 active users. 22</p>
<p style="text-align: right;">95</p> <p>1 If the answer is no, I do not want you to 2 speculate. 3 MR. DISHER: Objection. Form. 4 THE WITNESS: If HB20 went into effect, 5 based on prior actions of advertisers and users, we 6 know that NetChoice members would be forced to host 7 lawful but awful content including hate speech, 8 self-harm, mutilation, abuse of animals, Nazi 9 propaganda, holocaust denial, many other forms of 10 speech that would be offensive to its users and its 11 advertisers causing irreparable harm to the brands 12 of those businesses along with the financial losses 13 that they would see as a result of being required to 14 host this horrible content. 15 BY MS. CORBELLO: 16 Q So if I'm -- if I were to turn back to 17 your list of members -- and I believe it was 18 paragraph 4 -- and we go one by one, will you be 19 able to tell me how each one of those members is 20 irreparably harmed, how that irreparable harm comes 21 about, and what it will cost each one of them once 22 this irreparable harm takes place?</p>	<p style="text-align: right;">97</p> <p>1 BY MS. CORBELLO: 2 Q Mr. Szabo, you just talked about a cost 3 that you cannot define for several reasons. You 4 said it could be, you know, hundreds of dollars, 5 several million, billions. That's the number I'm 6 talking about. 7 If we go member by member, are you going 8 to be able to give me what each member's 9 approximation of what that cost is going to be? 10 MR. DISHER: Objection. Form. 11 THE WITNESS: I cannot give you each 12 member's direct impact because it is unclear whether 13 they would be covered by HB20. 14 For the members that are -- that would be 15 covered, which include Facebook, Google, and 16 Twitter, we know from prior experience when this 17 type of offensive content was on one of these 18 services, they lost hundreds of millions of dollars 19 due to lost advertising revenue. 20 It does not include, in that figure, the 21 lost brand recognition and irreparable harm from the 22 damage to the brand often gaining future advertisers</p>

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1 and future users.  
 2 BY MS. CORBELLO:  
 3 Q Let's take Twitter, for example, then.  
 4 What is Twitter's estimated cost -- or  
 5 loss of -- well, how do I want to ask this?  
 6 What has Twitter estimated would be the  
 7 cost associated with having to comply with HB20?  
 8 MR. DISHER: Objection. Form.  
 9 THE WITNESS: I do not know what Twitter  
 10 has estimated their costs to be.  
 11 BY MS. CORBELLO:  
 12 Q And with respect to just Twitter, what  
 13 within their algorithms would have to change in  
 14 order to comply with HB20 were it to go into effect?  
 15 MR. DISHER: Objection. Form.  
 16 THE WITNESS: With respect to their  
 17 algorithms, they would have to be reprogrammed in  
 18 ways to allow for offensive content that is  
 19 currently not allowed under the existing community  
 20 standards, community guidelines, editorial  
 21 discretion, and viewpoints of Twitter.  
 22

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1 BY MS. CORBELLO:  
 2 Q How would that reprogramming take place?  
 3 A Twitter would be required to hire -- or  
 4 use human labor to engage in reprogramming as well  
 5 as attorneys to review new community guidelines to  
 6 write and update new terms of service and could  
 7 likely result in the -- or actually would result in  
 8 the loss of users and advertisers.  
 9 Q And what you just -- you just described,  
 10 how much would this cost Twitter?  
 11 MR. DISHER: Objection. Form.  
 12 THE WITNESS: If Twitter were to retain  
 13 an estimated 50 programmers, each of whom bill out,  
 14 for assumption let's say \$1,000 an hour, you're  
 15 already looking at \$50,000 per hour. If this takes  
 16 200 hours, you're now looking at \$20 million for the  
 17 programmers alone which does not include the  
 18 requisite attorneys and other infrastructure  
 19 necessary to implement this and also does not  
 20 include the need to integrate their advertising  
 21 division to speak with advertisers about the  
 22 impending awful content that will soon be present on

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1 the Twitter site.  
 2 BY MS. CORBELLO:  
 3 Q Has Twitter told NetChoice that it would  
 4 have to hire programmers if HB20 were to go into  
 5 effect?  
 6 A Twitter has not told NetChoice that it  
 7 would need to hire programmers if HB20 went into  
 8 effect.  
 9 Q When user-generated content is created  
 10 and goes to any one of NetChoice member's platforms,  
 11 do you understand that there's a process that takes  
 12 place, whether a combination of AI and human, solely  
 13 AI, solely human, in which that content is reviewed?  
 14 Is that -- do we have the same  
 15 understanding of how that works?  
 16 A It will depend on the platform that we  
 17 are talking about.  
 18 Q When you say "it will depend," it'll  
 19 depend how that content gets moderated by each  
 20 platform?  
 21 MR. DISHER: Objection. Form.  
 22 THE WITNESS: Different platforms have

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1 different content moderation procedures. Some  
 2 engage in a top-down content moderation process;  
 3 some engage in a bottom-up content moderation  
 4 process; some have an exceptionally limited content  
 5 moderation process.  
 6 BY MS. CORBELLO:  
 7 Q Which of NetChoice's members permit users  
 8 to moderate the content in any way that they do or  
 9 do not want to see?  
 10 MR. DISHER: Objection. Form.  
 11 THE WITNESS: In what ways are you saying  
 12 content moderate?  
 13 BY MS. CORBELLO:  
 14 Q Well, so Facebook, for example, a user  
 15 accesses the -- what is it called? The blue site?  
 16 I don't use Facebook.  
 17 MR. MARCHESE: The main one?  
 18 MS. CORBELLO: The main one.  
 19 BY MS. CORBELLO:  
 20 Q -- blue site.  
 21 They have essentially what's called a  
 22 news feed; correct?

<p style="text-align: right;">102</p> <p>1 A Yes.</p> <p>2 Q Okay. Are users on Facebook able to</p> <p>3 moderate what they see in their news feed or what</p> <p>4 they don't want to see in their news feed in any</p> <p>5 way?</p> <p>6 A Users on Facebook can put requests in to</p> <p>7 not show again. And, likewise, as they use the</p> <p>8 site, the site will better identify what type of</p> <p>9 content the user is seeking.</p> <p>10 Simultaneously, Facebook will make its</p> <p>11 editorial discretion and advance its viewpoints as</p> <p>12 part of news feeds.</p> <p>13 MS. CORBELLO: Okay. I'm going to object</p> <p>14 as non-responsive for everything after "Facebook</p> <p>15 will make."</p> <p>16 BY MS. CORBELLO:</p> <p>17 Q The abilities of the users on Facebook</p> <p>18 that you just described, let's now apply that to all</p> <p>19 its members.</p> <p>20 Do you know whether or not each one of</p> <p>21 NetChoice's members offer its users the ability to</p> <p>22 moderate the content that it does or does not see</p>	<p style="text-align: right;">104</p> <p>1 BY MS. CORBELLO:</p> <p>2 Q Not Alibabi. Their users.</p> <p>3 Do their users, when they log onto the</p> <p>4 site and they see this shopping -- I think you</p> <p>5 called it a shopping cart or shopping page -- do</p> <p>6 those users have any ability to modify or dictate</p> <p>7 what content they view?</p> <p>8 MR. DISHER: Objection. Form.</p> <p>9 THE WITNESS: By using the site, users</p> <p>10 dictate what type of content will be shown to them</p> <p>11 as Alibaba seeks to provide the best results and the</p> <p>12 most likely products for that specific user.</p> <p>13 BY MS. CORBELLO:</p> <p>14 Q So how do users dictate what they see on</p> <p>15 the Alibaba site?</p> <p>16 A By using the site, Alibaba will identify</p> <p>17 what products are most likely to be appealing to</p> <p>18 that user.</p> <p>19 Q Can users choose to hide certain products</p> <p>20 on the Alibabi site that they don't want to see?</p> <p>21 A I do not know.</p> <p>22 Q Let's go to paragraph 9.</p>
<p style="text-align: right;">103</p> <p>1 somewhat in the same way that we just talked about</p> <p>2 with Facebook?</p> <p>3 MR. DISHER: Objection. Form.</p> <p>4 THE WITNESS: Because of the diversity of</p> <p>5 the NetChoice membership, many NetChoice members do</p> <p>6 not have a news feed as you described. Alibaba or</p> <p>7 OfferUp are two examples of that.</p> <p>8 BY MS. CORBELLO:</p> <p>9 Q So when a user logs onto Alibaba, what do</p> <p>10 they see?</p> <p>11 A They would see a shopping center which</p> <p>12 involves content posted by sellers.</p> <p>13 Q Can a user of Alibaba -- do they have any</p> <p>14 discretion to dictate what that site looks like when</p> <p>15 they log on?</p> <p>16 A Alibaba will engage in its editorial</p> <p>17 discretion to decide and show what is best for its</p> <p>18 customers and present them with products that they</p> <p>19 think might be most appealing.</p> <p>20 MS. CORBELLO: Okay. I'm going to object</p> <p>21 as non-responsive.</p> <p>22</p>	<p style="text-align: right;">105</p> <p>1 Go ahead and just let me know when you're</p> <p>2 ready.</p> <p>3 A Okay.</p> <p>4 Q Paragraph 9 talks about the World</p> <p>5 Federation of Advertisers; right?</p> <p>6 A Yes.</p> <p>7 Q And is this paragraph meant to,</p> <p>8 essentially, summarize the World Federation of</p> <p>9 Advertisers' point of view of -- well, let me ask it</p> <p>10 this way: What are you trying to -- what</p> <p>11 information are you trying to summarize in</p> <p>12 paragraph 9?</p> <p>13 A Many NetChoice members' entire business</p> <p>14 model ultimately results from advertising revenue.</p> <p>15 The World Federation of Advertisers, which is a</p> <p>16 leading global trade association for the</p> <p>17 advertisers, makes clear that the presence of</p> <p>18 content that would be required to be hosted under</p> <p>19 HB20 on our member sites would result in a harm to</p> <p>20 advertisers and, likewise, a harm to the advertising</p> <p>21 ecosystem on which many NetChoice members rely for</p> <p>22 revenue.</p>

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1 Q Are you aware that Facebook funds the  
 2 World Federation of Advertisers?  
 3 MR. DISHER: Objection. Form.  
 4 Objection. Scope.  
 5 THE WITNESS: I did not know that.  
 6 BY MS. CORBELLO:  
 7 Q Are you aware that Google contributes to  
 8 the World Federation of Advertisers financially?  
 9 MR. DISHER: Same objections.  
 10 THE WITNESS: No.  
 11 BY MS. CORBELLO:  
 12 Q Are you aware that there -- the World  
 13 Federation of Advertisers' website says, quote,  
 14 Google and Facebook are a big part of the market  
 15 estimated to take more than 75 percent of digital  
 16 ads spent worldwide, unquote?  
 17 MR. DISHER: Objection. Form.  
 18 THE WITNESS: Yes, I was aware.  
 19 BY MS. CORBELLO:  
 20 Q Does the fact that these two plat- -- or  
 21 these two members take up this much digital ad space  
 22 change your opinion at all about how willing

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1 advertisers would be to abandon those sites?  
 2 MR. DISHER: Objection. Form.  
 3 THE WITNESS: It does not change the  
 4 willingness of advertisers to abandon those  
 5 websites.  
 6 MS. CORBELLO: Can we take a quick break?  
 7 MR. DISHER: Sure.  
 8 THE VIDEOGRAPHER: We are going off the  
 9 record.  
 10 This is the end of media unit number 2.  
 11 The time is 5:29 p.m.  
 12 (A recess was taken.)  
 13 THE VIDEOGRAPHER: We are back on the  
 14 record.  
 15 This is the beginning of media unit  
 16 number 3.  
 17 The time is 5:38 p.m.  
 18 BY MS. CORBELLO:  
 19 Q Do you remember talking a little bit ago  
 20 about the California Consumer Protection Act?  
 21 A Yes.  
 22 Q If I start saying "CCPA," can we agree

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1 that I mean the California Consumer Protection Act?  
 2 A Yes.  
 3 Q Okay. You said NetChoice was involved  
 4 in -- well, scratch that.  
 5 CCPA is in effect now; right?  
 6 A CCPA took effect, yes.  
 7 Q Do you know approximately when it took  
 8 effect?  
 9 A Approximately June of -- I believe it was  
 10 2019, 2020.  
 11 Q Once the CCPA took effect or just  
 12 immediately prior to that happening, how did each  
 13 one of NetChoice's members have to modify their  
 14 practices to comply with that law?  
 15 MR. DISHER: Objection. Scope.  
 16 Objection. Form.  
 17 THE WITNESS: Billions of dollars were  
 18 spent on legal expenses to come into compliance with  
 19 CCPA by NetChoice members.  
 20 BY MS. CORBELLO:  
 21 Q The legal costs were about compliance  
 22 with CCPA?

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1 Were any of those for litigation against  
 2 CCPA?  
 3 A To the best of my knowledge, no NetChoice  
 4 member has brought litigation against CCPA.  
 5 Q For any of those members, do you know why  
 6 they have chosen to not bring a suit against CCPA?  
 7 MR. DISHER: I will instruct the witness  
 8 you may answer but not to the extent that it might  
 9 disclose any conversations you've had with legal  
 10 counsel.  
 11 THE WITNESS: I do not know.  
 12 BY MS. CORBELLO:  
 13 Q Are any of your members currently not in  
 14 compliance with the CCPA?  
 15 MR. DISHER: Objection. Scope.  
 16 Objection. Form.  
 17 THE WITNESS: To the best of my  
 18 knowledge, all NetChoice members comply with all  
 19 applicable laws and regulations.  
 20 BY MS. CORBELLO:  
 21 Q And that includes CCPA?  
 22 MR. DISHER: Same objection.

<p style="text-align: right;">110</p> <p>1 THE WITNESS: To the best of my 2 knowledge, all NetChoice members comply with CCPA. 3 BY MS. CORBELLO: 4 Q Do any of NetChoice's members have to 5 treat users in California differently than users in 6 any other part of the United States as a result of 7 CCPA being in effect? 8 MR. DISHER: Objection. Form. 9 Objection. Scope. 10 THE WITNESS: The CCPA law requires 11 NetChoice members to treat California residents in a 12 way in compliance with that law. 13 However, some NetChoice members may have 14 been required, due to legal costs, technological 15 challenges, to apply CCPA to all users. 16 BY MS. CORBELLO: 17 Q Are you aware of which members fall into 18 the first category you're talking about, treating 19 California users differently, versus members that 20 fall into the second one in which they apply CCPA 21 compliance across all users in the United States? 22 MR. DISHER: Objection. Scope.</p>	<p style="text-align: right;">112</p> <p>1 MR. DISHER: Objection. Form. 2 THE WITNESS: Discussion of such issues 3 would violate an NDA that we have with our members. 4 BY MS. CORBELLO: 5 Q When, approximately, did you draft this 6 declaration that's been marked as Defense Exhibit 1? 7 A Are you asking when I began drafting? 8 Q Sure. Let's start with that. 9 When did you begin drafting this 10 declaration, Defense Exhibit 1? 11 A I began drafting this declaration, 12 Exhibit 1, in September of 2021. 13 Q Do you remember the approximate date that 14 you started drafting it? 15 A I do not recall. 16 Q Was it early September 2021? 17 A I do not recall. 18 Q Who -- and I don't need to know the 19 content of the discussions, but who did you speak 20 with during the course of your drafting of this 21 declaration, Defense Exhibit 1? 22 A During the drafting of this declaration,</p>
<p style="text-align: right;">111</p> <p>1 THE WITNESS: I did not review that 2 information prior to this deposition as such 3 information is not addressed in my declaration. 4 BY MS. CORBELLO: 5 Q Are you able to identify what documents 6 would provide you that information? 7 A To identify that information, I would 8 need to review the publicly available privacy 9 policies of each NetChoice member to identify how 10 they address compliance with CCPA. 11 Q Is NetChoice currently involved in any 12 activities aimed at getting rid of the CCPA? 13 A NetChoice is not actively involved in any 14 activities to get rid of the CCPA. 15 Q Does NetChoice fund any other groups for 16 the purpose of attempting to get rid of the CCPA? 17 A NetChoice does not fund any other groups 18 for purposes of repealing CCPA. 19 Q Thank you. That was the word I was 20 looking for. 21 Are any of NetChoice's members actively 22 working to repeal CCPA?</p>	<p style="text-align: right;">113</p> <p>1 this exhibit, I spoke with NetChoice in-house 2 counsel and NetChoice outside counsel. 3 Q Who else did you speak with? 4 A Those are the only two individuals I 5 spoke with in the drafting of this declaration. 6 Q So between the time you started drafting 7 this declaration and, it looks like, 8 September 30th, when you signed the declaration, 9 you spoke to both NetChoice in-house counsel and 10 NetChoice outside counsel and no one else; is that 11 right? 12 A To the best of my knowledge, that is 13 correct. 14 Q The statements made in this declaration 15 reflect your personal knowledge of the issues 16 discussed; right? 17 A That is correct. 18 Q You produced documents that you consulted 19 in drafting this declaration; right? 20 A We produced documents that we used and 21 consulted in drafting this declaration. 22 Q When you say "we," who are you referring</p>

<p style="text-align: right;">114</p> <p>1 to?</p> <p>2 A NetChoice.</p> <p>3 Q And did you personally review each one of</p> <p>4 the documents that have been produced?</p> <p>5 A I reviewed the documents that were</p> <p>6 reviewed -- or -- sorry. I reviewed the documents</p> <p>7 that NetChoice produced in response to the ones used</p> <p>8 in the creation of this declaration.</p> <p>9 Q You reviewed every single one of the</p> <p>10 documents?</p> <p>11 A I reviewed the documents that were used</p> <p>12 and submitted in the creation of this declaration.</p> <p>13 Q Are there any documents that were</p> <p>14 produced that you did not personally review?</p> <p>15 A Not to my knowledge.</p> <p>16 Q Are there any documents outside of those</p> <p>17 that were already produced that you relied on when</p> <p>18 drafting this declaration?</p> <p>19 A Not to my knowledge.</p> <p>20 Q Your declaration discusses the various</p> <p>21 burdens that will -- that your members will suffer</p> <p>22 should HB20 go into effect. Is that fair?</p>	<p style="text-align: right;">116</p> <p>1 content moderation.</p> <p>2 BY MS. CORBELLO:</p> <p>3 Q Just to clarify, this loss of inability</p> <p>4 to stop bad actors, is this not contained in your</p> <p>5 declaration currently?</p> <p>6 Is this an example you're giving me of</p> <p>7 irreparable harm that you did not provide within the</p> <p>8 declaration?</p> <p>9 A This is an example of an irreparable harm</p> <p>10 that is not explicitly stated in the declaration but</p> <p>11 is part of the greater irreparable harm that will be</p> <p>12 faced by NetChoice members.</p> <p>13 Q Okay. So other than this loss of</p> <p>14 inability to stop bad actors, what are all of the</p> <p>15 other specific irreparable harms that have not</p> <p>16 already been identified in the declaration that</p> <p>17 NetChoice's members will suffer if HB20 goes into</p> <p>18 effect?</p> <p>19 A One of the irreparable harms that is</p> <p>20 alluded to but not specifically called out in the</p> <p>21 declaration is enabling bad actors such as spammers,</p> <p>22 hate-speech mongers, Neo-Nazis, Holocaust deniers to</p>
<p style="text-align: right;">115</p> <p>1 A Our declaration discusses the irreparable</p> <p>2 harms that our members will suffer if HB20 goes into</p> <p>3 effect as part of the overall statements in the</p> <p>4 declaration.</p> <p>5 Q Does your declaration provide all of the</p> <p>6 irreparable harms that NetChoice contends will</p> <p>7 befall its members if HB20 goes into effect?</p> <p>8 A Given that that will require me to make</p> <p>9 speculations about all possible things, that was not</p> <p>10 necessarily included in our declaration.</p> <p>11 However, we did include in our</p> <p>12 declaration clear irreparable harms that our members</p> <p>13 will face if HB20 goes into effect.</p> <p>14 Q As you sit here today, are there any</p> <p>15 specific irreparable harms that you know of that are</p> <p>16 not included somewhere in this declaration?</p> <p>17 MR. DISHER: Objection. Form.</p> <p>18 THE WITNESS: So one irreparable harm, as</p> <p>19 an example, that would be incurred would be a loss</p> <p>20 of inability to stop bad actors from posting content</p> <p>21 on member services due to the mandated disclosure of</p> <p>22 proprietary ways that NetChoice members engage in</p>	<p style="text-align: right;">117</p> <p>1 know ways to circumvent the values and content</p> <p>2 moderation standards and editorial discretion of</p> <p>3 NetChoice members.</p> <p>4 Q What other specific irreparable harms did</p> <p>5 you not discuss in your declaration?</p> <p>6 A That is all that I can think of right</p> <p>7 now.</p> <p>8 Q Is there a reason that you did not</p> <p>9 specify these two irreparable harms we just talked</p> <p>10 about within your declaration?</p> <p>11 MR. DISHER: I'll instruct the witness</p> <p>12 not to answer to the extent it discloses any</p> <p>13 communications you've had with counsel.</p> <p>14 Other than that, please go ahead and</p> <p>15 answer.</p> <p>16 THE WITNESS: On advice of my counsel, I</p> <p>17 will not answer.</p> <p>18 BY MS. CORBELLO:</p> <p>19 Q Your declaration discusses broadly your</p> <p>20 members' content moderation practices and how those</p> <p>21 may be affected by HB20; is that correct?</p> <p>22 A That is correct, in broad descriptions of</p>

<p style="text-align: right;">118</p> <p>1 how HB20 will impact the ability of NetChoice 2 members to express their values and their editorial 3 discretion. 4 Q So specifically as to the ways in which 5 HB20 will impact NetChoice's members' content 6 moderation abilities or policies, is there 7 anything -- are any of those impacts not discussed 8 within this disclosure? 9 MR. DISHER: Objection. Form. 10 THE WITNESS: Sorry. Can you -- is this 11 substantially different from the prior question? 12 BY MS. CORBELLO: 13 Q No. It's essentially the burden's 14 question but as to the impacts on content -- the 15 ability to moderate content. 16 MR. DISHER: Objection. Form. 17 THE WITNESS: By forcing NetChoice 18 members to engage in detailed descriptions of 19 certain content moderation practices, it will, in 20 part, impede the ability to adapt to new threats 21 that violate the values and editorial discretion of 22 NetChoice members. It will simultaneously empower</p>	<p style="text-align: right;">120</p> <p>1 disclosure a moment ago; right? 2 MR. DISHER: Objection. Form. 3 THE WITNESS: Yes. 4 BY MS. CORBELLO: 5 Q So my question's a little different. 6 Maybe -- well, let me give you an example. 7 There's discussion in this declaration 8 about how maybe the algorithms might have to change 9 that are used to moderate content because of the way 10 in which HB20 will affect these -- the members; is 11 that right? 12 A That is correct. 13 Q So that is one way in which HB20 will be 14 affecting members' content moderation practices in 15 that they will have to modify what their content 16 moderation algorithms currently look like; is that 17 right? 18 A Under HB20, NetChoice members will be 19 required to change content moderation practices, 20 which include computer and human review, in ways 21 that violate their values and their editorial 22 discretion and in ways that they do not view as best</p>
<p style="text-align: right;">119</p> <p>1 bad actors whose viewpoints, values, and 2 editorial -- and opinions do not match those of 3 NetChoice members. 4 BY MS. CORBELLO: 5 Q Does your declaration contain all the 6 ways in which HB20 will impact NetChoice's members 7 in regards to their content moderation practices and 8 policies? 9 MR. DISHER: Objection. Form. 10 THE WITNESS: It is -- it does not cover 11 all the myriad of costs and harms and irreparable 12 harms that will befall NetChoice members when they 13 lose the ability to express their values -- 14 BY MS. CORBELLO: 15 Q Well -- 16 A -- and their -- 17 Q Okay. 18 A -- editorial discretion in the way that 19 is best for their users and their advertisers as 20 guaranteed under the First Amendment. 21 Q Well -- so we've talked about the 22 irreparable harms that were missing from your</p>	<p style="text-align: right;">121</p> <p>1 for their values, their users, and their 2 advertisers. 3 Q Are there any other ways in which HB20 4 will impact -- let's start with will impact the 5 content moderation practices of each one of 6 NetChoice's members that are -- that is not 7 contained in this declaration? 8 MR. DISHER: Objection. Form. 9 THE WITNESS: The ways that HB20 will 10 create irreparable harm in the content moderation 11 manner that NetChoice members engage in that is not 12 included in this declaration as stated in 13 paragraph 20 when we state that the non-exclusive 14 list of harmful and offensive content is clear that 15 there is much more, such as abuse of animals, such 16 as Holocaust denial, neither of which were included 17 in the non-exclusive list listed in paragraph 20. 18 MS. CORBELLO: I'm going to object as 19 non-responsive. 20 BY MS. CORBELLO: 21 Q We'll talk about paragraph 20 since you 22 referred to it.</p>



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1 Right before that list, it says:  
 2 "NetChoice members would be forced to host harmful  
 3 and offensive content"; right?  
 4 A That is what the declaration says.  
 5 Q And so you are attesting that one of the  
 6 ways in which HB20's policies will affect the way in  
 7 which the members moderate content is that it will  
 8 require them to host harmful and offensive content.  
 9 Is that fair?  
 10 A The declaration states that NetChoice  
 11 members will be forced to host harmful and offensive  
 12 content including, but not limited to --  
 13 Q You don't need to read the list again.  
 14 A Okay.  
 15 Q I'm really trying to get us out of here.  
 16 Do NetChoice members currently host  
 17 harmful and offensive content?  
 18 MR. DISHER: Objection. Form.  
 19 BY MS. CORBELLO:  
 20 Q Or is this a change that will have to  
 21 occur as a result of HB20?  
 22 MR. DISHER: Same objection.

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1 Go ahead.  
 2 THE WITNESS: NetChoice members expend  
 3 millions of dollars to ensure that harmful and  
 4 offensive content, as listed in paragraph 20, does  
 5 not appear on its site and does so to the best of  
 6 their ability.  
 7 BY MS. CORBELLO:  
 8 Q And HB- -- is it NetChoice's position  
 9 that HB20 requires harmful and offensive content to  
 10 be posted on these members' platforms?  
 11 MR. DISHER: Objection. Form.  
 12 THE WITNESS: HB20 will require NetChoice  
 13 members to host harmful and offensive content  
 14 including, but not limited to --  
 15 BY MS. CORBELLO:  
 16 Q You really don't need to read the list  
 17 over again. I promise.  
 18 So what you just discussed, is one of the  
 19 ways -- getting back to my original question. Is  
 20 one of the ways in which HB20 modifies the practices  
 21 of NetChoice's members insomuch as they relate to  
 22 content moderation?

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1 Are you with me on that?  
 2 A HB20 modifies the values and editorial  
 3 decisions of NetChoice members which are reflected  
 4 in the ways that they engage in content moderation.  
 5 Q Where it says "NetChoice members would be  
 6 forced to host harmful and offensive content," you  
 7 are saying that that is because of the provisions  
 8 within HB20 and -- were they to go into effect?  
 9 Is that what you're attempting to say in  
 10 that sentence?  
 11 A In the last sentence in paragraph 20, we  
 12 are making clear that, under HB20, NetChoice members  
 13 will be forced to host harmful and offensive content  
 14 including, but not limited to, racial epithets, Nazi  
 15 anti-Semitism --  
 16 Q I promise you, you don't need to read  
 17 them over.  
 18 So would you agree with me that you -- in  
 19 this sentence, you are providing one way in which  
 20 you contend HB20's provisions are going to alter the  
 21 way in which members moderate content, or are you  
 22 saying that this is the only way in which HB20's

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1 provisions are going to alter the way members  
 2 moderate content?  
 3 A We are using, in this last sentence in  
 4 paragraph 20, an illustrative list that is  
 5 including, but not limited to --  
 6 Q I'm not talking about the list.  
 7 A -- those listed to explain the types of  
 8 loss of values and editorial discretion the  
 9 NetChoice members will be faced with if HB20 came  
 10 into effect.  
 11 Q So one example?  
 12 MR. DISHER: Objection. Form.  
 13 THE WITNESS: One example of what?  
 14 BY MS. CORBELLO:  
 15 Q Well, I'm trying to get my original  
 16 question asked and answered.  
 17 NetChoice's members would be forced to  
 18 host harmful and offensive content. Is that one  
 19 example?  
 20 I'm not asking about the list but the  
 21 broader statement of having to host harmful and  
 22 offensive content. Is that one example of the way

<p style="text-align: right;">126</p> <p>1 in which HB20's provisions are going to impact  2 NetChoice's members' content moderation practices or  3 is it the only way?  4 A It is one way in which HB20 will cause  5 irreparable harm to NetChoice members.  6 Q I didn't ask about irreparable harm. I  7 asked about a modification of content moderation  8 practices.  9 Can you answer the question as it relates  10 to that?  11 A HB20 will have other impacts than those  12 listed for harmful and offensive content when it  13 takes effect for NetChoice members.  14 MS. CORBELLO: Can you read out my  15 original question again, please.  16 (Whereupon, the requested question  17 was  18 read back.)  19 THE WITNESS: So the example listed in  20 the last sentence of paragraph 20 is one example of  21 the type of impact to content moderation practices  22 that HB20 will have --</p>	<p style="text-align: right;">128</p> <p>1 declaration?  2 MR. DISHER: Objection. Form.  3 MS. CORBELLO: What's the basis of the  4 objection, Todd?  5 MR. DISHER: It calls for a legal  6 conclusion about how HB20 is going to take effect,  7 what its provisions --  8 MS. CORBELLO: I'm asking what he hasn't  9 said in his own declaration.  10 MR. DISHER: And the effects of HB20  11 depend on interpreting the often-vague provisions of  12 HB20 as a matter of law.  13 To the --  14 MS. CORBELLO: So is the sentence in  15 paragraph 20 a legal conclusion, then?  16 MR. DISHER: To the extent that he can  17 answer the question, go ahead.  18 To the extent it calls for a legal  19 conclusion -- he's not here to testify as a lawyer  20 about what NetChoice's legal positions are in the  21 case. But to the extent you have factual knowledge  22 or can answer the question as a matter of fact,</p>
<p style="text-align: right;">127</p> <p>1 BY MS. CORBELLO:  2 Q Okay.  3 A -- on NetChoice members.  4 Q Now, taking the understanding that we  5 were talking about ways in which NetChoice's members  6 will be impacted in the way that they are able to  7 moderate content, are there any other specific ways  8 in which HB20 will impact NetChoice members' content  9 moderation practices that are not discussed in your  10 declaration?  11 MR. DISHER: Objection. Form.  12 THE WITNESS: Yes, there are other ways  13 that NetChoice members will be impacted in content  14 moderation practices that are not described in the  15 last sentence of paragraph 20.  16 BY MS. CORBELLO:  17 Q I didn't ask solely about the last  18 sentence of paragraph 20.  19 In the entirety of your declaration,  20 which ways in which HB20 will impact specifically  21 NetChoice members' content moderation practices are  22 not already contained in the entirety of your</p>	<p style="text-align: right;">129</p> <p>1 please, by all means.  2 THE WITNESS: In addition to being forced  3 to host the content described in the last sentence  4 of paragraph 20, NetChoice members will have to work  5 with -- sorry -- some NetChoice members will be  6 required to work with human reviewers to update them  7 to new content moderation practices specifically  8 forcing them to host the harmful and offensive  9 content including, but not limited to, the  10 content --  11 BY MS. CORBELLO:  12 Q Please don't. Please, you don't need to  13 read them out.  14 A -- in the last sentence of paragraph 20.  15 Q Thank you.  16 And so this one example you just gave,  17 that's not contained in your declaration currently?  18 The having to -- I think you said interact with  19 human programmers?  20 A It is not expressly stated in the  21 declaration.  22 Q What are the other ways in which HB20</p>

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1 will impact the members' content moderation  
 2 practices that are not stated in the declaration  
 3 already?  
 4 A One of the ways that members' content  
 5 moderation practices will be impacted that is not  
 6 stated in the declaration include the changes to the  
 7 way the advertising division works with its  
 8 customers to make them aware that harmful and  
 9 offensive content will become present on NetChoice  
 10 members' platforms.  
 11 Q Does every one of NetChoice members have  
 12 an ad division?  
 13 A Can you give me a definition of  
 14 "advertising division," please?  
 15 Q You used the term first. So however  
 16 you -- whatever you believe that term encompasses.  
 17 A All NetChoice members engage in  
 18 advertising.  
 19 Q That wasn't my question.  
 20 Do all -- do all NetChoice members have a  
 21 specific ad division within their company?  
 22 A To the best of my knowledge, every

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1 NetChoice members -- every NetChoice member has a  
 2 division within its business that engages in  
 3 advertising.  
 4 Q Okay. What are the other ways in which  
 5 HB20 will affect the members' content moderation  
 6 practices that are not already contained in your  
 7 declaration?  
 8 MR. DISHER: Objection. Form.  
 9 THE WITNESS: At this point, what I would  
 10 say will be speculative and potentially require me  
 11 to reach a legal conclusion which the vagaries of  
 12 HB20, its definitions and its requirements for  
 13 applicability, would demand, and I do not have that  
 14 power to do that right now for purposes of this  
 15 declaration and deposition.  
 16 BY MS. CORBELLO:  
 17 Q So just to be clear, as you sit here  
 18 today, you don't have any other specific ways in  
 19 which HB20 impacts NetChoice's members' ability to  
 20 moderate content other than what we've already  
 21 discussed?  
 22 A Beyond what we have already discussed

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1 would require me to engage in speculation and  
 2 drawing legal conclusions which are beyond the scope  
 3 of the purpose of this deposition and limited to  
 4 what is included in this declaration.  
 5 Q Well, your declaration talks about the  
 6 ways in which HB20 will impact your members'  
 7 abilities to engage in content moderation; right?  
 8 A My declaration discusses ways in which my  
 9 members will be impacted by HB20 and in ways in  
 10 which the content moderation decisions of my members  
 11 will be impacted by HB20.  
 12 Q So yes?  
 13 A To?  
 14 Q My original question.  
 15 A My declaration outlines ways in which  
 16 NetChoice members will have to engage in harm --  
 17 irreparable -- sorry. My declaration explains how  
 18 NetChoice members will suffer irreparable harm and  
 19 have to engage in -- as they engage in content  
 20 moderation changes due to HB20.  
 21 MS. CORBELLO: Objection.  
 22 Non-responsive.

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1 BY MS. CORBELLO:  
 2 Q You just told me a moment ago that any  
 3 other ways in which HB20 impacts NetChoice's members  
 4 and the ways in which they moderate content you  
 5 cannot provide because it would be speculative, and  
 6 it would require you to reach a legal conclusion.  
 7 Is that accurate?  
 8 MR. DISHER: Objection. Form.  
 9 THE WITNESS: I previously stated that  
 10 further examples of irreparable harm of content  
 11 moderation that NetChoice members would suffer due  
 12 to HB20 would require me to be speculative and reach  
 13 a legal conclusion.  
 14 BY MS. CORBELLO:  
 15 Q So based on that, is it fair to say that  
 16 you do have other ways in which you believe, even  
 17 based on a speculative reasoning, that HB20 will  
 18 impact NetChoice's members' content moderation  
 19 practices, but you are not going to disclose those  
 20 ways for the reasons you stated?  
 21 MR. DISHER: Objection. Form.  
 22 THE WITNESS: Doing so would -- to make

<p style="text-align: right;">134</p> <p>1 such an assertion would require me to be -- to                  2 engage in speculation and/or make a legal conclusion                  3 which is beyond the scope of my declaration and the                  4 purpose of this deposition.                  5 BY MS. CORBELLO:                  6 Q I'll keep asking it.                  7 Do you either have more ways in which                  8 HB20 will -- will affect your members' ability to                  9 moderate content and you are not providing it for                  10 the reasons you discussed, or do you not have any                  11 other specific ways and you're simply not providing                  12 them because you don't have them?                  13 MR. DISHER: Objection. Form.                  14 THE WITNESS: To identify other ways                  15 NetChoice members will be irreparably harmed in                  16 their content moderation decisions, which include                  17 their choice of editorial activities and advancing                  18 their values, would require me to engage in                  19 speculation and/or draw a legal conclusion.                  20 BY MS. CORBELLO:                  21 Q So as you sit here today, you have more                  22 ways in which HB20 will affect your members' content</p>	<p style="text-align: right;">136</p> <p>1 (Whereupon, the last question was                  2 read back.)                  3 MR. DISHER: Objection. Form.                  4 THE WITNESS: I am unable to provide the                  5 other ways in which NetChoice members will be                  6 adversely impacted and irreparably harmed in their                  7 content moderation decisions because such activity                  8 would be speculative and/or require me to reach a                  9 legal conclusion.                  10 BY MS. CORBELLO:                  11 Q I don't need you to tell me why you                  12 cannot provide the reasons or the ways in which HB20                  13 impacts members' content moderation practices. I                  14 simply need you to respond to whether or not you                  15 currently have more ways -- as you sit here today                  16 and are thinking about it, you know of more ways in                  17 which HB20 would impact its members in terms of                  18 content moderation but are not providing them.                  19 MR. DISHER: Objection. Form.                  20 THE WITNESS: To answer that question, it                  21 would require two different answers because it's                  22 very close to a compound question going to my</p>
<p style="text-align: right;">135</p> <p>1 moderation practices, but you are not going to                  2 provide them. Is that accurate? Yes or no?                  3 MR. DISHER: Objection. Form.                  4 THE WITNESS: The other ways in which                  5 NetChoice members would be irreparably harmed due to                  6 their content moderation decisions required under                  7 HB20 would be either a legal conclusion or require                  8 speculation.                  9 MS. CORBELLO: Objection.                  10 Non-responsive.                  11 BY MS. CORBELLO:                  12 Q Mr. Szabo, do you need the court reporter                  13 to read it back to you, or can you please provide a                  14 responsive answer?                  15 MR. DISHER: Objection. Form.                  16 THE WITNESS: Could you read back the                  17 question, please.                  18 Thank you.                  19 MR. MARCHESE: If I could jump in?                  20 No.                  21 MS. CORBELLO: Huh?                  22</p>	<p style="text-align: right;">137</p> <p>1 mens rea. So if you'd like to rephrase the question                  2 into two parts, we can maybe answer it that way.                  3 MS. CORBELLO: I'm going to object as                  4 non-responsive.                  5 BY MS. CORBELLO:                  6 Q As you sit here today, is there anything                  7 that you want to tell me that is not contained in                  8 your declaration in regards to HB20 and its effects                  9 on -- on NetChoice's members?                  10 MR. DISHER: Objection. Form.                  11 THE WITNESS: There is nothing that I                  12 want to tell you today with -- that has not already                  13 been stated with regard to the impact and                  14 irreparable harm NetChoice members will suffer to                  15 their content moderation decisions, their values,                  16 and their ability to engage in editorial discretion                  17 that I have not yet shared with you today.                  18 BY MS. CORBELLO:                  19 Q As you sit here today, is there anything                  20 you can think of that you left out of this                  21 declaration, Defense Exhibit 1?                  22 MR. DISHER: Objection. Form.</p>

138	<p>1 THE WITNESS: There's much information</p> <p>2 that is not included in Exhibit 1.</p> <p>3 BY MS. CORBELLO:</p> <p>4 Q This "much information" you referred to,</p> <p>5 why is it not included in your declaration?</p> <p>6 MR. DISHER: Objection. Form.</p> <p>7 THE WITNESS: There's lots of information</p> <p>8 that is not pertinent to this case, that is</p> <p>9 irrelevant, that is in existence, that is not</p> <p>10 included in the declaration.</p> <p>11 However, the declaration itself is a</p> <p>12 fully formed legal filing that NetChoice has</p> <p>13 produced that shows the NetChoice members will</p> <p>14 suffer irreparable harm and lose the ability to</p> <p>15 engage in editorial discretion and express their</p> <p>16 values if HB20 is allowed to take effect.</p> <p>17 BY MS. CORBELLO:</p> <p>18 Q Is there anything that you left out of</p> <p>19 your declaration that you meant to include?</p> <p>20 A Anything that is or is not included is</p> <p>21 subject to the discussions of myself and my</p> <p>22 attorneys.</p>	140	<p>1 We are off the record at 6:18 p.m.</p> <p>2 This concludes today's testimony given by</p> <p>3 Carl Szabo.</p> <p>4 (Off the record at 6:18 p.m.)</p> <p>5</p> <p>6</p> <p>7</p> <p>8</p> <p>9</p> <p>10</p> <p>11</p> <p>12</p> <p>13</p> <p>14</p> <p>15</p> <p>16</p> <p>17</p> <p>18</p> <p>19</p> <p>20</p> <p>21</p> <p>22</p>
139	<p>1 Q I'm not asking about any discussions</p> <p>2 between your attorneys. It's a yes or no. You</p> <p>3 don't have to discuss the content.</p> <p>4 Is there anything left out of your</p> <p>5 declaration that you meant to include?</p> <p>6 MR. DISHER: Please answer.</p> <p>7 Go ahead.</p> <p>8 THE WITNESS: The declaration represents</p> <p>9 a complete filing on behalf of NetChoice and myself.</p> <p>10 BY MS. CORBELLO:</p> <p>11 Q So there is nothing missing from this</p> <p>12 declaration, as you sit here today, that you can</p> <p>13 think of?</p> <p>14 MR. DISHER: Objection. Form.</p> <p>15 THE WITNESS: To the best of my</p> <p>16 knowledge, there is nothing that we have not</p> <p>17 included in this declaration.</p> <p>18 MS. CORBELLO: Pass the witness.</p> <p>19 MR. DISHER: We have nothing at this</p> <p>20 time.</p> <p>21 MS. CORBELLO: I think we're good.</p> <p>22 THE VIDEOGRAPHER: Please stand by.</p>	141	<p>1</p> <p>2 Certificate of shorthand reporter - notary public</p> <p>3 I, Susan E. Alldridge, Registered Professional</p> <p>4 Reporter, Certified Shorthand Reporter, the officer</p> <p>5 before whom the foregoing deposition was taken, do</p> <p>6 hereby certify that the foregoing transcript is a</p> <p>7 true and correct record of the testimony given; that</p> <p>8 said testimony was taken by me stenographically and</p> <p>9 thereafter reduced to typewriting under my</p> <p>10 supervision; that reading and signing was requested;</p> <p>11 and that I am neither counsel for or related to, nor</p> <p>12 employed by any of the parties to this case and have</p> <p>13 no interest, financial or otherwise, in its outcome.</p> <p>14 IN WITNESS WHEREOF, I have hereunto set my hand</p> <p>15 and affixed my notarial seal this 19th day of</p> <p>16 November 2021.</p> <p>17</p> <p>18</p> <p>19 _____</p> <p>20 NOTARY PUBLIC IN AND FOR THE DISTRICT OF COLUMBIA</p>

# Appendix 8.c

IN THE UNITED STATES DISTRICT COURT  
IN THE WESTERN DISTRICT OF TEXAS  
AUSTIN DIVISION

-----X

NETCHOICE, LLC, d/b/a :

NetChoice, a 501(c)(6) :

District of Columbia :

organization, Computer & :

Communications Industry :

Association d/b/a CCIA, :

a 501(c)6 non-stock :

Virginia Corporation :

Plaintiffs, :

v. : Case No.

1:21-cv-00840-RP

KEN PAXTON, in his official :

capacity as Attorney General :

of Texas :

Defendant. :

2	<p>1 2 Videotaped Deposition of Alexandra Veitch 3 Washington, District of Columbia 4 Wednesday, November 17, 2021 5 9:42 a.m. 6 7 Pages 1 - 151 8 Reported by: Susan E. Alldridge, RPR 9 10 11 12 13 14 15 16 17 18 19 20 21 22</p>	4	<p>1 2 A P P E A R A N C E S 3 4 ON BEHALF OF THE PLAINTIFFS: 5 TODD DISHER, ESQUIRE 6 LEHOTSKY KELLER LLP 7 919 Congress Avenue 8 Suite 1100 9 Austin, TX 78701 10 (512)840-9370 11 todd@lehotskykeller.com 12 13 ON BEHALF OF THE DEFENDANT: 14 BENJAMIN LYLES, ESQUIRE 15 COURTNEY B. CORBELLO, ESQUIRE 16 ATTORNEY GENERAL KEN PAXTON 17 P.O. Box 12548 18 Austin, TX 78711-2548 19 (512)463-2798 20 benjamin.lyles@oag.texas.gov 21 courtney.corbello@oag.texas.gov 22</p>
3	<p>1 Deposition of Alexandra Veitch held at the 2 offices of: 3 4 5 Wilson Sonsini Goodrich &amp; Rosati 6 1700 K Street, NW 7 Fifth Floor 8 Washington, DC 20006 9 10 11 12 Pursuant to agreement, before Susan E. Alldridge, 13 Notary Public in and for the District of Columbia. 14 15 16 17 18 19 20 21 22</p>	5	<p>1 2 A P P E A R A N C E S, Cont. 3 4 ON BEHALF OF THE DEPONENT: 5 MING JIA YANG, ESQUIRE 6 WILSON SONSINI GOODRICH &amp; ROSATI 7 650 Page Mill Road 8 Palo Alto, CA 94304-1050 9 (650)849-3321 10 mjyang@wsgr.com 11 12 MICHAEL TRINH, ESQUIRE 13 GOOGLE 14 1600 Amphitheatre Parkway 15 Mountain View, CA 94043 16 mtrinh@google.com 17 18 ALSO PRESENT: 19 Gene Aronov, Videographer 20 21 22</p>



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<p>1 PROCEEDINGS</p> <p>2</p> <p>3 THE VIDEOGRAPHER: Good morning. We are</p> <p>4 going on the record at 9:42 a.m.</p> <p>5 This begins the video deposition of</p> <p>6 Alexandra Veitch taken by Defendant in the matter of</p> <p>7 NetChoice, LLC, et al., versus Ken Paxton, et al.,</p> <p>8 filed in the United States District Court for the</p> <p>9 Western District of Texas, Austin Division, Civil</p> <p>10 Action Number 1:21-CV-00840-RP.</p> <p>11 This deposition is being held at the</p> <p>12 Wilson located at 1700 K Street, Northwest,</p> <p>13 Washington, DC, on November 17th, 2021, at</p> <p>14 approximately 9:43 a.m.</p> <p>15 My name is Gene Aronov with Integrity</p> <p>16 Legal Support Solutions, and I'm the legal video</p> <p>17 specialist.</p> <p>18 The court reporter is Sue Alldridge in</p> <p>19 association with Integrity Legal Support Solutions.</p> <p>20 Will counsel please introduce themselves.</p> <p>21 MR. LYLES: Benjamin Lyles for the</p> <p>22 defendant, Ken Paxton.</p>	<p>7</p> <p>8</p> <p>9</p> <p>10</p> <p>11</p> <p>12</p> <p>13</p> <p>14</p> <p>15</p> <p>16</p> <p>17</p> <p>18</p> <p>19</p> <p>20</p> <p>21</p> <p>22</p>

10

1 Q And it's true that YouTube is a  
 2 subsidiary of Google; correct?  
 3 A Correct.  
 4 Q Where were you before Google?  
 5 A Immediately prior to working at Google, I  
 6 worked at Tesla.  
 7 Q And how long were you at Tesla for?  
 8 A I joined Tesla in -- sorry. I just have  
 9 to replay in my memory here -- April of 2018; so  
 10 just under two years.  
 11 Q And what were your job duties at Tesla?  
 12 A At Tesla, I was the senior director  
 13 responsible for North American government relations.  
 14 Q So what -- what did being responsible for  
 15 government relations entail?  
 16 A Sure.  
 17 It was my responsibility to represent the  
 18 company before policymakers in both U.S. and Canada  
 19 and, to a lesser extent, Mexico. And also to  
 20 explain policy issues to my company.  
 21 Q Would it be fair to say that that  
 22 encompassed lobbying activities?

11

1 A Yes. I was a registered lobbyist. Yes.  
 2 Q And what are your job duties at YouTube?  
 3 A Similarly, it's my -- so I'm the director  
 4 of government affairs and public policy for YouTube  
 5 in the Americas and emerging markets. It's my  
 6 responsibility to represent YouTube before  
 7 policymakers in that region and also explain policy  
 8 issues to key executives at my company.  
 9 Q And do those activities include blogging  
 10 activities?  
 11 A No.  
 12 Q So your work for YouTube does not involve  
 13 you working as a lobbyist?  
 14 A So I -- I just want to make sure that,  
 15 you know, you and I are clear.  
 16 I am -- I -- I do not meet the threshold  
 17 to register as a lobbyist currently. There are --  
 18 certainly, I represent the company's interest before  
 19 policymakers.  
 20 But if you're using "lobbyist" as a term  
 21 of art, you know, requiring disclosure under the  
 22 Lobbying Disclosure Act, I'm not a lobbyist.

12

1 Q Okay. Have you represented YouTube  
 2 before Congress?  
 3 A I have, yes.  
 4 Q So you've given testimony before  
 5 Congress --  
 6 A I have.  
 7 Q -- on behalf of YouTube?  
 8 A Yes.  
 9 Q Okay. I'm going to hand you your  
 10 declaration that you filed in this suit, Ms. Veitch,  
 11 marked as Exhibit 1.  
 12 (Veitch Deposition Exhibit 1 was marked  
 13 for identification and attached to the transcript.)  
 14 THE WITNESS: Thank you.  
 15 BY MR. LYLES:  
 16 Q Are you familiar with that document?  
 17 A I am.  
 18 Q Who drafted that document?  
 19 A I drafted this document working in  
 20 conjunction with Google attorneys.  
 21 Q What were the names of the people you  
 22 worked with on that document?

13

1 A Sure.  
 2 Michael Trinh, Angela Kim, Meng Jia Yang,  
 3 Brian Willen. Those are the people I recall.  
 4 Q Did you correspond with anybody other  
 5 than those people on that document?  
 6 A About the specifics of this document?  
 7 No. About the fact that I was in -- generally  
 8 involved in the document, I certainly let, for  
 9 example, my manager know that I was working on this.  
 10 But about the specifics of this document,  
 11 only that group.  
 12 Q So you had no discussions with any -- any  
 13 other NetChoice members about the document?  
 14 A I don't believe I've ever spoken to  
 15 anybody at NetChoice.  
 16 Q What about any of the other members of  
 17 NetChoice?  
 18 It's a trade association.  
 19 A Yeah. No. I understand.  
 20 I don't believe so, no.  
 21 Q What about CCIA, the other plaintiff in  
 22 the case?

<p style="text-align: right;">14</p> <p>1 A I don't believe I've ever spoken to 2 anybody at CCIA. 3 Q Okay. About anything at all. 4 A Ever. 5 Q What about anybody at NetChoice about 6 anything at all? 7 A Not that I recall. 8 Q Okay. And to any of CCIA's members? 9 A I certainly have conversations with CCIA 10 member companies -- 11 Q Right. 12 A -- right? 13 But these are folks here in town working 14 in a similar industry as me. 15 About the specifics of this declaration, 16 I have had no conversations. 17 Q Okay. And just to be clear, about the 18 specifics of the declaration, no conversations with 19 any NetChoice members either? 20 A Correct. 21 Q Okay. Why -- why is Google not suing my 22 client independently?</p>	<p style="text-align: right;">16</p> <p>1 A That is correct. 2 But in my role as director of government 3 affairs and public policy, it is my responsibility 4 to understand, generally speaking, how laws would 5 impact the company. It is not my job to provide 6 legal advice. 7 Q Understood. 8 Could you turn to paragraph 5 -- 5 and 6 9 of your declaration, please. 10 A Sure. 11 Q So in here there's -- there's talk, in 12 paragraph 5, about YouTube supporting the free flow 13 of ideas. Again in paragraph 5, being as open as 14 possible. 15 What are the -- what are the requirements 16 to post on YouTube? 17 MS. YANG: Objection. Form. 18 THE WITNESS: Could I just ask you to 19 clarify? 20 So YouTube has a terms of service we 21 require users to comply with. Those terms of 22 service govern whether you're able to post on</p>
<p style="text-align: right;">15</p> <p>1 MS. YANG: Objection. Form. 2 THE WITNESS: Can you rephrase the 3 question so I can understand it better? 4 BY MR. LYLES: 5 Q So Google has filed a declaration in 6 support of a suit brought by the two trade 7 associations, NetChoice and CCIA, against my client. 8 Why is YouTube not bringing its own 9 lawsuit against my client? 10 A To be honest, I don't know the answer to 11 that question. And -- and I fear I probably will 12 have to say this too again today. I'm not a lawyer. 13 So advising on legal strategy like that question is 14 not my area of expertise. 15 Q But you -- you admit that your 16 declaration contains a lot of interpretation of a 17 state statute; correct? 18 A Correct. 19 MR. DISHER: Objection. Form. 20 BY MR. LYLES: 21 Q But as you said, you're not a lawyer; 22 correct?</p>	<p style="text-align: right;">17</p> <p>1 YouTube or not. But you tell me if there's 2 something more specific you're looking for. 3 BY MR. LYLES: 4 Q So if a person wanted to post something 5 on YouTube, what would that have to -- have to do as 6 a practical matter? 7 MS. YANG: Objection. Form. 8 THE WITNESS: So my understanding is they 9 would have to have a Google account, and they would 10 have to meet the requirements of our terms of 11 service. 12 BY MR. LYLES: 13 Q So is that -- do they self-certify that 14 they meet the requirements of your terms of service, 15 or do you -- does Google check whether they meet the 16 terms of service? 17 MS. YANG: Objection. Form. 18 THE WITNESS: So I have actually never 19 posted on YouTube. But my understanding is that you 20 are given an opportunity to review our terms of 21 service and then an opportunity to affirmatively 22 agree with them.</p>

18

1 Q And that's all that needs to happen?

2 A I think we're getting out of my depth

3 here. But my understanding is that is what is

4 required.

5 Q So if somebody represents online in that

6 process that they comply with the terms of service,

7 is there an immediate check by you-all, or does the

8 account just open?

9 MR. DISHER: Objection.

10 MS. YANG: Objection. Form.

11 MR. DISHER: Form.

12 MS. YANG: Objection. Exceeds the scope

13 of the deposition as allowed in the Court's order

14 dated November 2nd, 2021.

15 MR. LYLES: Could you explain that

16 objection, please?

17 We're talking about -- paragraph 5 and 6

18 talk about how YouTube is open to the public. It's

19 as open as possible. So I'm trying to tease out

20 what that -- what that openness involves.

21 MS. YANG: Counsel, the Court's order

22 allows the scope of the deposition to be the

19

1 information contained within the declaration. You

2 directed the witness to paragraph 5 which speaks to

3 the openness of YouTube, as you're saying right now.

4 However, your question pertains to the

5 check of information or communication that the user

6 provides to YouTube at the time of signing up, as I

7 understand your question, which I find to exceed the

8 scope of the declaration.

9 MR. LYLES: Okay. So I find it to be

10 exactly in line with seeing what this "open as

11 possible" means.

12 So are you instructing the witness not to

13 answer the question?

14 MS. YANG: I am not. I'm stating the

15 basis of my objection on the record.

16 The witness may answer.

17 MR. LYLES: Okay.

18 MR. DISHER: I'll also object to

19 mischaracterizing the declaration, but go ahead and

20 answer.

21 THE WITNESS: So let me try and tackle

22 this a different way.

20

1 Over 2 billion people, distinct

2 individuals, every month visit YouTube. I think

3 that -- that is -- that fact recognizes that this is

4 a place where -- of openness where many voices, many

5 different individuals come to share ideas,

6 creativity, et cetera.

7 BY MR. LYLES:

8 Q Okay. And in terms of my question

9 whether Google or YouTube checks if the -- you know,

10 the users saying they comply with the terms of

11 service is true or not, is there a check or is there

12 not a check?

13 MS. YANG: Objection. Scope.

14 MR. DISHER: Objection. Form.

15 THE WITNESS: I'm sorry. I think -- I

16 think we're just outside of my area of expertise

17 here.

18 I am not entirely sure what happens on

19 the back end once a user accepts our terms of

20 service.

21 BY MR. LYLES:

22 Q Does the account open, then?

21

1 A Yes, that is my understanding. The

2 account opens.

3 Q Immediately upon accepting terms of

4 service?

5 MS. YANG: Objection. Scope.

6 THE WITNESS: That is my understanding.

7 Now, to be clear, there are limitations

8 that exist about how the service can be used

9 depending on, for example -- this is just one that

10 I'm familiar with -- if you are a new creator, you

11 are not allowed to immediately livestream.

12 Livestreaming poses unique risks to the

13 platform, to our users, to our community. So that

14 would be a privilege that is not immediately

15 available to you upon opening an account.

16 BY MR. LYLES:

17 Q Okay. But you could post other content?

18 A I believe so, yes.

19 Q Okay.

20 MR. LYLES: And just to go back to these

21 objections, any objection beyond leading or form is

22 in violation of Western District Rule 30(b); so

22	<p>1 please limit all your objections accordingly.</p> <p>2 BY MR. LYLES:</p> <p>3 Q In paragraph 6, you talk about harmful</p> <p>4 content on YouTube makes it less open, not more.</p> <p>5 A Uh-huh.</p> <p>6 Q Could you explain that, please?</p> <p>7 A Sure.</p> <p>8 So we want YouTube to be a space where</p> <p>9 people -- our users, our creators -- are free to</p> <p>10 express themselves. There are certain types of</p> <p>11 harmful content that make people feel less</p> <p>12 comfortable expressing themselves.</p> <p>13 So, for example, hateful content about</p> <p>14 people's gender or people's race or people's</p> <p>15 religion would make YouTube a less open place rather</p> <p>16 than a more open place.</p> <p>17 (Veitch Deposition Exhibit 2 was marked</p> <p>18 for identification and attached to the transcript.)</p> <p>19 BY MR. LYLES:</p> <p>20 Q I'm going to hand you what's marked as</p> <p>21 defense Exhibit --</p> <p>22 A Got it.</p>
23	<p>1 Q -- Number 2.</p> <p>2 It should be Bates-stamped 69, but they</p> <p>3 got -- in your production, but they got cut off.</p> <p>4 I don't know. Do you want to turn to it</p> <p>5 just so you can -- the tab --</p> <p>6 MR. LYLES: What's the tab again?</p> <p>7 MS. CORBELLO: It's 17.</p> <p>8 BY MR. LYLES:</p> <p>9 Q Tab 17.</p> <p>10 MS. YANG: I apologize, Counsel. I don't</p> <p>11 think tab 17 corresponds to the document that I'm</p> <p>12 looking at.</p> <p>13 MS. CORBELLO: No. It'll be in there,</p> <p>14 but it's -- all the Bates stamps were too low in the</p> <p>15 document; so they got cut off.</p> <p>16 It's about maybe a third of the way in.</p> <p>17 MS. YANG: Thank you. I'll search for</p> <p>18 it.</p> <p>19 MS. CORBELLO: Yeah.</p> <p>20 MR. DISHER: Is this the document titled</p> <p>21 "Free Speech and Corporate Responsibility Can</p> <p>22 Coexist Online"?</p>
24	<p>1 MR. LYLES: Yeah.</p> <p>2 MR. DISHER: Thank you.</p> <p>3 BY MR. LYLES:</p> <p>4 Q So who's Susan Wojcicki?</p> <p>5 A Susan Wojcicki is the CEO of YouTube.</p> <p>6 Q Okay. And can you go down to the third</p> <p>7 paragraph in that first page, please?</p> <p>8 A Sure.</p> <p>9 Q Do you see where it says "YouTube makes</p> <p>10 information available to anyone with an internet</p> <p>11 connection"?</p> <p>12 A Yep.</p> <p>13 Q Is that a true statement, in your view?</p> <p>14 MS. YANG: Counsel, I don't mean to</p> <p>15 interrupt.</p> <p>16 Can we give the witness an opportunity to</p> <p>17 read the document?</p> <p>18 MR. LYLES: Yeah.</p> <p>19 THE WITNESS: Sure.</p> <p>20 So, Mr. Lyles, to return to your</p> <p>21 question.</p> <p>22 Generally speaking, I believe this is a</p>
25	<p>1 true statement.</p> <p>2 BY MR. LYLES:</p> <p>3 Q Okay. So would it be fair to say that</p> <p>4 the barriers to entry to see information on YouTube</p> <p>5 are only having an internet connection?</p> <p>6 A I am sure there are novel reasons what --</p> <p>7 that would make for barriers to entry. But,</p> <p>8 generally speaking, I believe that the information</p> <p>9 available on YouTube is available to those with</p> <p>10 an -- with an internet connection, yes.</p> <p>11 Q Do you need an account to view the</p> <p>12 information on YouTube?</p> <p>13 A You do not. There is a logged-out</p> <p>14 experience that is available to people to come to</p> <p>15 YouTube and view YouTube without a Google account.</p> <p>16 Q And to enjoy that logged-out experience,</p> <p>17 do you need to make any representation about</p> <p>18 complying with Google's terms and conditions?</p> <p>19 A I want to be sure that I'm being accurate</p> <p>20 with you.</p> <p>21 I don't believe so, but I am not certain.</p> <p>22 But I believe if you come to YouTube as -- under</p>

26

1 a -- you know, with that logged-out experience, you  
 2 will not have all the privileges of YouTube  
 3 available to you.  
 4 For example, as we discussed before, you  
 5 will not be able to upload content. You will not be  
 6 able to be a creator. But you would be able to view  
 7 content available on YouTube that way.  
 8 Q Okay. So you said there were -- there  
 9 were activities in YouTube that you could not engage  
 10 in just by creating an account; right? That you  
 11 needed to do more --  
 12 A For example, the --  
 13 Q -- in order to livestream.  
 14 A -- example about livestreaming. Yep.  
 15 Q What more would you need to do to be able  
 16 to livestream?  
 17 A I -- I believe the standard for  
 18 livestreaming is you have to have had an account for  
 19 a certain period of time. You have to have a  
 20 certain number of followers. You have to -- to  
 21 summarize, have a good track record of not abusing  
 22 the platform.

27

1 And there are specific requirements that  
 2 I don't recall exactly what they are.  
 3 Q What about being able to monetize your  
 4 content?  
 5 A Sure.  
 6 Q Well, first, can you describe what  
 7 that -- what it means to monetize content on  
 8 YouTube, please?  
 9 A Sure.  
 10 So YouTube is unique in that we share the  
 11 majority of our advertising revenue with the  
 12 creators who create the content. So it's a 55/45  
 13 revenue share split with 55 percent of that revenue  
 14 going to creators who are part of what's known as  
 15 the YouTube Partner Program, or YPP.  
 16 Those creators have met additional  
 17 standards, as you note, and are eligible for  
 18 monetization on our platform -- eligible to receive  
 19 that portion of the revenue share of the  
 20 advertisements that appear on their content.  
 21 Q Okay. So can I gather from  
 22 paragraph 5 -- if you could go back and look at that

28

1 again, your declaration.  
 2 A Yep.  
 3 Q Okay. Actually, let's go to -- let's go  
 4 to paragraph 10. Sorry about that.  
 5 This is where H- -- it says -- you say:  
 6 "HB20 would eliminate much of our ability to make  
 7 these kinds of choices." I'm not going to read the  
 8 whole thing.  
 9 But can I gather from 10 that YouTube  
 10 prefers to its platform to be as accessible as  
 11 possible?  
 12 MS. YANG: Objection. Form.  
 13 THE WITNESS: YouTube -- YouTube --  
 14 freedom of expression is a fundamental value for  
 15 YouTube. So is responsibility. Every day we are  
 16 trying to balance those two sometimes competing  
 17 dynamics of freedom of expression and  
 18 responsibility.  
 19 We want to allow for the maximum amount  
 20 of content that -- that is consistent with that  
 21 freedom of expression value but not -- but is not  
 22 inconsistent with our responsibility to our users,

29

1 to our creators, and to our advertisers.  
 2 BY MR. LYLES:  
 3 Q So where -- I just heard that you balance  
 4 freedom of expression with responsibility, and then  
 5 something about your obligations to your  
 6 advertisers; is that --  
 7 A Well, I think you have not entirely  
 8 summarized my thought there, but that was part of my  
 9 thought. Sure.  
 10 Q Okay. How does YouTube make its money?  
 11 A YouTube makes its -- YouTube primarily  
 12 makes its money by advertising revenue.  
 13 Q And how does that work? if you could just  
 14 explain --  
 15 A Sure.  
 16 Q -- the process.  
 17 A So, generally speaking, advertisers --  
 18 large companies around the world, some of the best  
 19 known brands, spend money to have their  
 20 advertisements appear alongside the user-generated  
 21 content that appears on our platform.  
 22 To be clear, there are other smaller

30

1 revenue streams for YouTube, but that is the largest  
2 revenue stream.

3 Q How does user engagement play into  
4 advertising?

5 MS. YANG: Objection. Form.

6 THE WITNESS: Could I just ask you to  
7 rephrase that so I make sure I understand your  
8 question?

9 BY MR. LYLES:

10 Q So how do advertisers decide, like, where  
11 they're going to ask YouTube to place their ads?

12 A Sure.

13 So advertisers have a wide range of  
14 controls about what sort of content they want their  
15 advertisements to appear -- to appear on. And they  
16 can be -- they can be sort of general or reasonably  
17 specific about the type of content they want their  
18 advertisements to appear alongside.

19 Q And does YouTube recommend this content  
20 to users that the advertisements appear alongside?

21 A YouTube recommends content to our users,  
22 and some of that content may be -- may have

31

1 advertisements appear alongside it, yes.

2 Q How do you understand the term "user  
3 engagement"?

4 A I actually don't understand that term.  
5 That's not necessarily a term we use at YouTube. So  
6 maybe you could define it for me.

7 Q Okay. So YouTube recommends content to  
8 its users --

9 A Correct.

10 Q -- is that correct?

11 A That's correct.

12 Q And what guides those recommendations?

13 A Oh, sure.

14 So we want to recommend content to our  
15 users that they will love, new content that they  
16 will enjoy, content that they might not otherwise  
17 discover.

18 There's three general baskets of signals  
19 that we use to determine what content to recommend  
20 to any user. So the first is about the user  
21 themselves. What -- what sort of content have you  
22 watched before. What are your general interests.

32

1 What channels do you subscribe to.

2 Second are general context clues about a  
3 user. So less specific than to you, Mr. Lyles, in  
4 particular. But where in the world are you. What  
5 language does it seem that you speak. What time of  
6 day it is.

7 And then the third are signals we pick up  
8 about the individual content itself. As I began, we  
9 want to recommend content to our users that users  
10 will love. So we like to recommend videos that not  
11 only have gotten a lot of watch time on our platform  
12 but, for example, are watched from beginning to end,  
13 which is a signal to us that users started that  
14 video and then sufficiently enjoyed it to continue  
15 watching it. Or videos that have gotten a lot of  
16 likes on them. Another signal that this is the kind  
17 of content that users enjoy.

18 Q So part of the feedback that shows you  
19 you're recommending the right thing to the user is  
20 some action by the user?

21 A Sure. By both that user and by other  
22 users as well.

33

1 Q Okay. Clicks, for example, would be one.  
2 Would that be --

3 A So --

4 MS. YANG: Objection. Form.

5 THE WITNESS: I'm actually going to  
6 disagree with you there, because, as I said, clicks  
7 are a very imperfect measure of whether users  
8 actually like that content.

9 BY MR. LYLES:

10 Q Okay.

11 A A better measure is did you click and  
12 then continue to watch the video all the way  
13 through.

14 Q Okay.

15 Okay. And would it be fair to say that  
16 YouTube strives to give users -- or recommend to  
17 users the kind of content that results in those --  
18 those types of actions? Clicking on a video and  
19 watching it all the way through.

20 A There is some -- some additional nuance  
21 probably required there, which is that, on certain  
22 subjects, we want to index in the direction of

<p style="text-align: right;">34</p> <p>1 authoritative information even over engagement.  2 So, for example, on a subject like  3 COVID -- obviously, very relevant right now -- the  4 most sensational video, the video that gets the most  5 views that is watched the most might not actually be  6 the most useful video for our community. And so on  7 subjects like COVID, on subjects like news,  8 politics, we also index toward authoritative  9 content.  10 Q Okay. But indexing toward engagement is  11 also something you do?  12 A Well, to be clear, on those subjects we  13 will index toward authoritative at the -- at the  14 sacrifice of engagement.  15 Q Okay.  16 A But engagement is, as you are accurately  17 pointing out, an important signal, that this is the  18 kind of content that users love and that other users  19 may love as well.  20 Q Are there areas in which engagement is  21 the primary form of -- the primary priority in  22 recommending content?</p>	<p style="text-align: right;">36</p> <p>1 skateboarding.  2 So on that content on skateboarding,  3 whether users are watching it all the way through,  4 whether they're clicking the "like" button, whether  5 they're sharing it with other people, that would  6 indicate to us that that's content about  7 skateboarding that other users would enjoy. We  8 would recommend that content to other users.  9 Q You spoke earlier about how you balance  10 freedom of expression against responsibility.  11 Do you also balance it against the  12 engagement concerns we were talking about?  13 MS. YANG: Objection. Form.  14 THE WITNESS: So I think we're aligning  15 sort of two concepts here. And maybe if I could  16 just take a big step back.  17 So when we talk about YouTube, we often  18 talk about it in the context of the four R's. And I  19 believe this is discussed in my declaration.  20 So remove what content is -- what content  21 lives on YouTube and what content cannot live on  22 YouTube. Remove -- raise what content we -- what</p>
<p style="text-align: right;">35</p> <p>1 A So I just want to make sure I'm entirely  2 accurate here. And we've started to use engagement  3 in a -- in a particular way. So maybe if you could  4 define for me how you're using it. Because, again,  5 you know, number of views does not necessarily equal  6 engagement.  7 Q Right.  8 Okay. So, for instance, you said that a  9 better -- a better metric for engagement was whether  10 somebody clicks on the video and watches the whole  11 thing.  12 A Yep.  13 Q So are there areas where those concerns  14 are paramount over whether the content is  15 authoritative or not?  16 A There are -- there are subjects in which  17 authoritative isn't a metric that we use; right? I  18 mean, if it's a video about skateboarding, there is  19 no sort of authoritative -- you know, just to pull  20 that ex- -- there is no authoritative source on  21 skateboarding. We're not going to look for -- we're  22 not going to index toward authoritativeness on</p>	<p style="text-align: right;">37</p> <p>1 authoritative content we elevate to our users.  2 Reduce what content we do not recommend to our  3 users. And then reward, as we discussed  4 monetization for our creators.  5 When we talk about that balance between  6 responsibility and freedom of expression, we're  7 often talking about it in that context of the remove  8 conversation. What content can live on our platform  9 and what cannot.  10 So I just don't want to confuse that with  11 the idea of recommendations and what content we  12 raise up versus what we reduce.  13 BY MR. LYLES:  14 Q Okay.  15 A But you tell me if I didn't answer  16 your --  17 Q So --  18 A -- question.  19 Q Yeah.  20 So putting aside the stuff that gets  21 taken away --  22 A Sure.</p>



38	<p>1 Q -- right? --</p> <p>2 A Okay.</p> <p>3 Q -- where it sounds, from what you said,</p> <p>4 there's no -- there's no discussion at all; right?</p> <p>5 It's like it violates the community guidelines; so</p> <p>6 it's removed --</p> <p>7 A Content that violates our community</p> <p>8 guidelines is --</p> <p>9 MR. DISHER: Objection. Form.</p> <p>10 Go ahead.</p> <p>11 BY MR. LYLES:</p> <p>12 Q Okay.</p> <p>13 A Content that violates the community</p> <p>14 guidelines is removed from our platform.</p> <p>15 Q But then in -- in cases where there's</p> <p>16 actually a -- a pro- -- like, a -- it's not -- it</p> <p>17 doesn't violate the guidelines. It bumps up against</p> <p>18 them; is that --</p> <p>19 A Sure. Yep.</p> <p>20 Q Is engagement -- is there a sort of</p> <p>21 balancing between --</p> <p>22 A Oh, I see.</p>	40	<p>1 make this real. I think one I mention in my</p> <p>2 declaration is about suggesting that the moon</p> <p>3 landing was faked.</p> <p>4 As we want to balance having the maximum</p> <p>5 amount of information available to our users for</p> <p>6 that freedom of expression but we also want to be</p> <p>7 responsible, one of the ways that we strike that</p> <p>8 balance is by allowing that borderline content to be</p> <p>9 on our platform but by minimizing our</p> <p>10 recommendations of that content to our users.</p> <p>11 BY MR. LYLES:</p> <p>12 Q And how does giving users what they want</p> <p>13 to see play into that calculus?</p> <p>14 MS. YANG: Objection. Form.</p> <p>15 THE WITNESS: So on borderline content</p> <p>16 for that subset of content, we do still allow users</p> <p>17 to see that on our platform. And we do balance</p> <p>18 that -- right? -- that the content is still there.</p> <p>19 If it's from a channel that users are</p> <p>20 subscribed to, that -- that content will still</p> <p>21 appear. They will receive a notification, if</p> <p>22 they've opted into notifications, that that content</p>
39	<p>1 Q -- YouTube search for engagement and --</p> <p>2 A Sure. Sure. Sure.</p> <p>3 Q -- not de-prioritizing it or leaving it</p> <p>4 out, or whatever?</p> <p>5 A Sure. Yeah.</p> <p>6 MS. YANG: Objection. Form.</p> <p>7 And I'm going to remind both counsel and</p> <p>8 witness: Let's limit the crosstalk -- so talking</p> <p>9 during the other person's question or the answer --</p> <p>10 just to make it easier for the court reporter.</p> <p>11 MR. LYLES: Okay.</p> <p>12 MS. YANG: So let's let the other person</p> <p>13 finish.</p> <p>14 MR. LYLES: Thank you.</p> <p>15 THE WITNESS: Apologies.</p> <p>16 MS. YANG: That's -- no worries.</p> <p>17 THE WITNESS: So the borderline -- I</p> <p>18 think you used the word border- -- borderline</p> <p>19 content. That's content that we consider that comes</p> <p>20 close to but does not go over the line of violating</p> <p>21 our community guidelines.</p> <p>22 And just to give an example to sort of</p>	41	<p>1 is available to them. But we will not recommend it</p> <p>2 to users who are not seeking out that content.</p> <p>3 BY MR. LYLES:</p> <p>4 Q But if a user were to seek out, say, a</p> <p>5 conspiracy theory like the moon landing didn't</p> <p>6 happen, YouTube would recommend that content?</p> <p>7 A No. I think, perhaps, I'm not being</p> <p>8 clear.</p> <p>9 That content would be available. It</p> <p>10 is --</p> <p>11 Q Okay.</p> <p>12 A -- on the platform. But we would</p> <p>13 endeavor not to recommend --</p> <p>14 Q Okay.</p> <p>15 A -- that content to them.</p> <p>16 So, again, that's the balance. The</p> <p>17 content is there --</p> <p>18 Q Right.</p> <p>19 A -- but it is not recommended --</p> <p>20 Q I see.</p> <p>21 A -- to them.</p> <p>22 Q Have there ever been reports that YouTube</p>

<p style="text-align: right;">42</p> <p>1 recommended to users content that violated YouTube's 2 terms of service? 3 A Yes. 4 And I believe in my declaration here I 5 speak to what we call the "violative view rate." 6 That's a statistical sampling that we do to 7 determine what percentage of content that is viewed 8 on our platform is -- is of content that violates 9 our policies. 10 Again, we -- YouTube is operating at 11 massive scale, 500 hours of content uploaded every 12 minute. We try and remove all content that violates 13 our community guidelines. We remove an enormous 14 amount of content about which we are transparent, 15 but there is content on our platform that does 16 violate our community guidelines. 17 And we have found, I think in the most 18 recent quarter, that that is somewhere between .17 19 and .19 percent of views. So 17 to 19 views out of 20 every 10,000 are of content that violates our 21 community guidelines. 22 Q But back to my question. Have there been</p>	<p style="text-align: right;">44</p> <p>1 THE WITNESS: I believe they could be -- 2 I mean, pornography, perhaps, is the exception. But 3 I believe that the second two categories, incitement 4 to violence or content that would harm children, 5 could be either. 6 BY MR. LYLES: 7 Q Either content or viewpoint? 8 A Yeah. 9 Q But pornography would be content? 10 MR. DISHER: Objection. Form. 11 THE WITNESS: I'm not an expert on 12 pornography, but I don't -- I don't see that as 13 viewpoint based, no. 14 BY MR. LYLES: 15 Q Okay. Is all content -- I'm trying to 16 figure out how to phrase this. 17 Is all content treated equally once it's 18 uploaded onto YouTube? 19 MS. YANG: Objection. Form. 20 THE WITNESS: I appreciated the human 21 moment there. You're trying to figure out how to 22 phrase something.</p>
<p style="text-align: right;">43</p> <p>1 reports that YouTube has recommended content to 2 users that violate its community guidelines? 3 A I'm not -- off the top of my head, I'm 4 not familiar with any specific reports. But it 5 would be reasonable for me to assume, given what I 6 just said about violative view rate and the scale at 7 which we operate, that that has happened and 8 probably been reported on. 9 Q But just to be clear, you're not aware of 10 any? 11 A Not off the top of my head, no. 12 Q Okay. Could you turn to paragraph 20, 13 please, Ms. Veitch, of your declaration. 14 So this paragraph reads: "YouTube has 15 always had rules of what speech we permit on the 16 platform, and we have never claimed that YouTube 17 would host all user-generated content. YouTube has 18 never allowed pornography, incitement to violence, 19 or content that would harm children, for example." 20 Are those content-based or 21 viewpoint-based categories, Ms. Veitch? 22 MS. YANG: Objection. Form.</p>	<p style="text-align: right;">45</p> <p>1 No, not all content is -- there are -- 2 there are a variety of tools that we can use on the 3 platform, as we've already discussed. Even assuming 4 the content does not violate our policies, some 5 content will be recommended while other content will 6 not. Some content will monetize while other content 7 will not. Some content, for example, could be 8 age-gated. We could see it as not appropriate for 9 younger viewers. 10 So there are -- so, no, there are a 11 number of different tools that we use for how we 12 treat content. And, no, not -- not all content is 13 treated the same. 14 BY MR. LYLES: 15 Q Do your policies related to content apply 16 equally regardless of the person hosting it? 17 A Yes. This is -- this is a way in which 18 YouTube is, perhaps, unique from other platforms. 19 Our community guidelines are applied equally to all 20 creators. 21 Q Okay. 22 Okay. How is that different from the</p>

46	<p>1 other platforms?</p> <p>2 MS. YANG: Objection. Form.</p> <p>3 MR. DISHER: Objection. Form.</p> <p>4 THE WITNESS: I'm not an expert on how</p> <p>5 other platforms work. But I do believe that some</p> <p>6 other platforms take what is called a speaker-based</p> <p>7 approach where there are different rules for</p> <p>8 different speakers.</p> <p>9 There are no different rules for</p> <p>10 different speakers on YouTube. All speakers are</p> <p>11 treated equally. Whether you are a president of a</p> <p>12 country or a democratically elected representative</p> <p>13 versus John Q. Public, all creators are treated the</p> <p>14 same on YouTube.</p> <p>15 BY MR. LYLES:</p> <p>16 Q Okay. Has Google received subsidies from</p> <p>17 the federal government?</p> <p>18 MR. DISHER: Objection. Form.</p> <p>19 THE WITNESS: I am -- I do not know the</p> <p>20 answer to that question.</p> <p>21 BY MR. LYLES:</p> <p>22 Q Has Google received subsidies from any</p>	48	<p>1 BY MR. LYLES:</p> <p>2 Q So have you heard of the Communications</p> <p>3 Decency Act, section 230?</p> <p>4 A I have, yes.</p> <p>5 Q And section 230 insulates a company like</p> <p>6 Google from liability for content posted by third</p> <p>7 parties?</p> <p>8 A For user-generated content. Correct.</p> <p>9 Q Do you see that as a benefit that Google</p> <p>10 enjoys?</p> <p>11 MS. YANG: Objection. Form and exceeds</p> <p>12 the scope.</p> <p>13 THE WITNESS: I don't see that as a</p> <p>14 benefit. I see that as a law enacted by Congress</p> <p>15 that has been essential to having a free and open</p> <p>16 internet here in the United States that all citizens</p> <p>17 have benefited from. It is not a benefit for any</p> <p>18 particular company.</p> <p>19 BY MR. LYLES:</p> <p>20 Q If that 230 protection went away, would</p> <p>21 that significantly change the way YouTube did</p> <p>22 business?</p>
47	<p>1 state government?</p> <p>2 MR. DISHER: Objection. Form.</p> <p>3 THE WITNESS: I do not know the answer to</p> <p>4 that question. That is not within the scope of my</p> <p>5 work.</p> <p>6 BY MR. LYLES:</p> <p>7 Q Has Google received any benefits from the</p> <p>8 federal government?</p> <p>9 MR. DISHER: Objection. Form.</p> <p>10 MS. YANG: Objection. Form.</p> <p>11 THE WITNESS: Could you define what you</p> <p>12 mean by "benefits"?</p> <p>13 BY MR. LYLES:</p> <p>14 Q So, for example, an absence of</p> <p>15 regulation, would that be a benefit that Google has</p> <p>16 received, in your view?</p> <p>17 MR. DISHER: Objection. Form.</p> <p>18 MS. YANG: Objection. Form.</p> <p>19 THE WITNESS: I -- I don't want to argue</p> <p>20 law with a lawyer. But an absence of regulation</p> <p>21 does not seem to me to be a benefit.</p> <p>22</p>	49	<p>1 MS. YANG: Objection. Form and exceeds</p> <p>2 the scope.</p> <p>3 THE WITNESS: If section 230 went away,</p> <p>4 it would -- it would radically change the internet</p> <p>5 in the United States of America. By extension, that</p> <p>6 would certainly also impact YouTube.</p> <p>7 BY MR. LYLES:</p> <p>8 Q And you're aware that section 230 doesn't</p> <p>9 protect newspapers, for example?</p> <p>10 MS. YANG: Objection. Scope.</p> <p>11 MR. DISHER: Objection. Form.</p> <p>12 THE WITNESS: That is actually not my</p> <p>13 understanding of how section 230 works. I believe</p> <p>14 that there are some potential portions. For</p> <p>15 example, if a newspaper had a comments section</p> <p>16 online, that would be covered by -- by section 230.</p> <p>17 BY MR. LYLES:</p> <p>18 Q But it's your understanding that it would</p> <p>19 only apply to online comment sections?</p> <p>20 MS. YANG: Objection. Form and exceeds</p> <p>21 the scope.</p> <p>22 THE WITNESS: No, that's not what I said.</p>

<p style="text-align: right;">50</p> <p>1 I said that is an example --</p> <p>2 BY MR. LYLES:</p> <p>3 Q Okay.</p> <p>4 A -- of -- of --</p> <p>5 Q Sorry.</p> <p>6 A -- a way in which a newspaper could be</p> <p>7 the -- also the beneficiary -- could also benefit</p> <p>8 from protections of section 230.</p> <p>9 Q Okay. Do your policies related to</p> <p>10 content apply equally regardless of the user posting</p> <p>11 it?</p> <p>12 (Reporter asks for clarification.)</p> <p>13 BY MR. LYLES:</p> <p>14 Q Do your policies related to content apply</p> <p>15 equally regardless of the user posting it?</p> <p>16 Did I just say that?</p> <p>17 I'm sorry.</p> <p>18 A I'm always happy to answer again.</p> <p>19 Q Strike that.</p> <p>20 Do you think YouTube should be subject to</p> <p>21 more regulation?</p> <p>22 MS. YANG: Objection. Form.</p>	<p style="text-align: right;">52</p> <p>1 Local Rule 30(b); so please limit them accordingly.</p> <p>2 MR. DISHER: We have a Court order that</p> <p>3 limits the scope of this deposition; so I will</p> <p>4 object --</p> <p>5 MS. CORBELLO: It doesn't make it a</p> <p>6 proper objection, Todd.</p> <p>7 MR. DISHER: -- as -- as needed based on</p> <p>8 the scope of the -- we're not instructing her not to</p> <p>9 answer, but we are absolutely entitled to object to</p> <p>10 questions that might be outside the scope.</p> <p>11 MR. LYLES: For the record, I'm going to</p> <p>12 say that's an improper objection.</p> <p>13 MS. YANG: And, for the record, we're</p> <p>14 going to disagree, because the local rule allows for</p> <p>15 enforcement of limitations by Court order on the</p> <p>16 scope of the deposition. So does federal rule</p> <p>17 30(c)(2). So we're going to be enforcing those</p> <p>18 limitations from the November 2nd Court order</p> <p>19 today.</p> <p>20 MR. LYLES: Okay. We're going to</p> <p>21 disagree that that's a proper objection.</p> <p>22 MS. YANG: You can proceed, Counsel.</p>
<p style="text-align: right;">51</p> <p>1 THE WITNESS: I think there are many</p> <p>2 commonsense regulations that could be passed by</p> <p>3 policymakers that YouTube would absolutely be</p> <p>4 supportive of. For example, comprehensive national</p> <p>5 privacy legislation would have a big impact on our</p> <p>6 platform but is also something we have said we are</p> <p>7 supportive of.</p> <p>8 BY MR. LYLES:</p> <p>9 Q So you're aware that if I, for example,</p> <p>10 wrote a libelous letter to the editor of a newspaper</p> <p>11 and they posted it, somebody could sue me -- sue the</p> <p>12 newspaper over that?</p> <p>13 MS. YANG: Objection. Form.</p> <p>14 MR. DISHER: Objection. Form.</p> <p>15 Objection. Scope.</p> <p>16 THE WITNESS: I don't work for a</p> <p>17 newspaper. I've never worked for a newspaper. It</p> <p>18 would not be appropriate for me to comment on what a</p> <p>19 newspaper is subject to.</p> <p>20 MR. LYLES: I'd like to revisit what I</p> <p>21 said earlier, and that's any objection beyond</p> <p>22 leading or form is in violation of Western District</p>	<p style="text-align: right;">53</p> <p>1 BY MR. LYLES:</p> <p>2 Q In terms of -- what does comprehensive</p> <p>3 national privacy legislation mean?</p> <p>4 A Well, I would defer to legislators to --</p> <p>5 for the specifics of what comprehensive national</p> <p>6 privacy legislation should look like.</p> <p>7 But currently there is no federal privacy</p> <p>8 legislation. There is -- states have taken up this</p> <p>9 mantle and passed privacy laws -- California, for</p> <p>10 example. But Congress has not yet done the same,</p> <p>11 and we -- we encourage them to do so.</p> <p>12 Q And what -- I mean, what -- like you</p> <p>13 said, you would leave the details up to state -- or</p> <p>14 to legislators.</p> <p>15 But what, generally, would some of that</p> <p>16 privacy legislation look like?</p> <p>17 MS. YANG: Objection. Form. Objection.</p> <p>18 Outside the scope.</p> <p>19 BY MR. LYLES:</p> <p>20 Q What aspects of such hypothetical</p> <p>21 legislation would you be supportive of?</p> <p>22 MS. YANG: Objection. Form. Objection.</p>

<p style="text-align: right;">54</p> <p>1 Scope.</p> <p>2 THE WITNESS: Generally, we would be</p> <p>3 supportive of our users, Americans, having greater</p> <p>4 control over their own private data and for</p> <p>5 companies being held to a single set of standards</p> <p>6 for how we treat the data of our users. In this</p> <p>7 case, Americans.</p> <p>8 BY MR. LYLES:</p> <p>9 Q Is there a California state privacy law?</p> <p>10 A There is.</p> <p>11 Q And how did YouTube have to change to</p> <p>12 comply with that law?</p> <p>13 MS. YANG: Objection. Form and scope.</p> <p>14 THE WITNESS: I actually don't know the</p> <p>15 answer to that question. That law was enacted prior</p> <p>16 to my arrival at YouTube. And I'm also neither a</p> <p>17 lawyer nor a compliance lawyer.</p> <p>18 BY MR. LYLES:</p> <p>19 Q To your knowledge has YouTube done</p> <p>20 anything to comply with the law?</p> <p>21 A Again --</p> <p>22 MS. YANG: Objection. Scope.</p>	<p style="text-align: right;">56</p> <p>1 as a private citizen?</p> <p>2 BY MR. LYLES:</p> <p>3 Q No. Your view representing YouTube in</p> <p>4 this deposition.</p> <p>5 A I believe that -- that erosions to</p> <p>6 section 230 could have enormous and unintended</p> <p>7 consequences. And so I would urge caution as</p> <p>8 Congress considers them.</p> <p>9 It's impossible for me to speak to a</p> <p>10 hypothetical; so I -- I -- I don't know the answer</p> <p>11 to your question, and I would consider it on a</p> <p>12 case-by-case, piece-of-legislation by</p> <p>13 piece-of-legislation basis.</p> <p>14 Q Can you go to 7 and 8, please. Or --</p> <p>15 finish your water, please.</p> <p>16 A No. No. Go ahead.</p> <p>17 Q I didn't mean to interrupt you.</p> <p>18 A Of the -- of the declaration?</p> <p>19 Q Yes, please.</p> <p>20 MR. LYLES: Actually, we're pretty close</p> <p>21 to a break, aren't we?</p> <p>22 MS. CORBELLO: Yeah. I was going to tell</p>
<p style="text-align: right;">55</p> <p>1 THE WITNESS: -- I'm not a lawyer or a</p> <p>2 compliance lawyer. I believe, also, the -- I'm not</p> <p>3 entirely sure that the full -- all the elements of</p> <p>4 that law have come into force yet; so I don't know</p> <p>5 the answer to that question.</p> <p>6 BY MR. LYLES:</p> <p>7 Q Who at YouTube or Google would know about</p> <p>8 that?</p> <p>9 A Our compliance lawyers.</p> <p>10 Q Could you give me a name?</p> <p>11 A I guess we could start with our vice</p> <p>12 president of legal, Lance Kavanaugh. And then I'm</p> <p>13 sure he would have product counsel who could advise</p> <p>14 on that particular question.</p> <p>15 Q Okay.</p> <p>16 A I don't know how product counsel would</p> <p>17 be.</p> <p>18 Q Okay. Do you believe that there should</p> <p>19 be any regulation at all making YouTube libel for</p> <p>20 third-party speech posted on its platform?</p> <p>21 MS. YANG: Objection. Form and scope.</p> <p>22 THE WITNESS: You're asking from my view</p>	<p style="text-align: right;">57</p> <p>1 you to do this after this.</p> <p>2 MR. LYLES: Yeah.</p> <p>3 Do you want to go ahead and take an</p> <p>4 hourly break now?</p> <p>5 MS. YANG: Sure. Happy to.</p> <p>6 Should we take about five minutes?</p> <p>7 MR. LYLES: I think we're about an hour.</p> <p>8 Yeah. Sure.</p> <p>9 MS. YANG: Thank you.</p> <p>10 THE VIDEOGRAPHER: We're going off the</p> <p>11 record. This is the end of media unit number 1.</p> <p>12 The time is 10:31 a.m.</p> <p>13 (Off the record.)</p> <p>14 THE VIDEOGRAPHER: We're back on the</p> <p>15 record. This is the beginning of media unit</p> <p>16 number 2.</p> <p>17 The time is 10:44 a.m.</p> <p>18 MR. DISHER: One thing real quick I just</p> <p>19 want to put on the record, agreement that we have,</p> <p>20 that one objection from either plaintiff's counsel</p> <p>21 or counsel for YouTube is good for preserving</p> <p>22 objections for all parties.</p>

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1 MR. LYLES: Yeah. Sure.  
 2 BY MR. LYLES:  
 3 Q All right.  
 4 A Yep.  
 5 Q Ms. Veitch, could you go to -- please, to  
 6 paragraph 7 and 8 of your declaration.  
 7 A Yes, sir.  
 8 Q So 7 begins: "These beliefs and values  
 9 drive the decisions we've made in building YouTube."  
 10 Could you just recap those values again?  
 11 A With apologies. I'm just going to  
 12 refresh --  
 13 Q Yeah. Sure. Sure.  
 14 A -- my recollection on this portion of the  
 15 declaration.  
 16 So when I refer here to beliefs and  
 17 values, among concepts I'm referring to are that the  
 18 internet -- a free and open internet is a source of  
 19 information and creativity; that freedom of  
 20 expression is a core YouTube value but so is  
 21 responsibility; and that we continually try to  
 22 strike that right balance between freedom of

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1 expression and responsibility.  
 2 Q Are there other values that YouTube tries  
 3 to foster on its platform?  
 4 A Those are very overarching general  
 5 values. And I think most of our community  
 6 guidelines would fall under that rubric, obviously,  
 7 with more specificity.  
 8 Q Are there any other -- I mean, can you  
 9 just provide some examples of other values YouTube  
 10 tries to foster on its platform?  
 11 A I think, generally speaking, you can say  
 12 the balance between freedom of expression and  
 13 responsibility is the overarching value under which  
 14 we determine what content is available on our  
 15 platform.  
 16 Q Can you get any more specific than that?  
 17 A I cannot.  
 18 Q So would those decisions as to more  
 19 specific values -- are they taken on an ad hoc  
 20 basis?  
 21 A Content moderation is not taken on an ad  
 22 hoc basis. It is made according to our community

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1 guidelines which are publicly available.  
 2 Q So to go -- to find more specific values  
 3 that YouTube fosters on its platform, one should  
 4 look at the community guidelines?  
 5 A Community guidelines govern what content  
 6 is allowable on our platform and what is not. Those  
 7 are a more specific form of YouTube's overarching  
 8 values.  
 9 YouTube's mission -- let me add this  
 10 since I don't believe I said this previously.  
 11 YouTube's mission is to give everyone a voice and  
 12 show them the world. Again, that's -- we do that by  
 13 balancing freedom of expression with responsibility.  
 14 Those are the core values.  
 15 Q And are those core values reflected in  
 16 YouTube's editorial judgments about what it puts on  
 17 its platform?  
 18 A I'm sorry. Could you ask that question  
 19 again? I'm not sure I'm following.  
 20 Q Okay. Let me try to figure out another  
 21 way, then.  
 22 So the core values you just described,

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1 are those reflected in the editorial judgments  
 2 YouTube makes in crafting the content moderation on  
 3 its platform?  
 4 A Those core values inform the crafting of  
 5 our community guidelines which determine what  
 6 content is allowable on our platform and what is  
 7 not.  
 8 Q Okay. Is YouTube expressing its core  
 9 values in the way it moderates content?  
 10 A Yes. I believe it is, yes.  
 11 And as we have discussed previously,  
 12 those values exist and those community guidelines  
 13 exist without specificity toward any individual  
 14 creator, toward any particular, for example,  
 15 political viewpoint. But they are overarching  
 16 values about what we want our platform to look like.  
 17 Q Okay.  
 18 MR. LYLES: I'm handing the witness what  
 19 I've marked as Defendant's Exhibit Number 3.  
 20 (Veitch Deposition Exhibit 3 was marked  
 21 for identification and attached to the transcript.)  
 22

62	<p>1 BY MR. LYLES:</p> <p>2 Q Could you take a moment to familiarize</p> <p>3 yourself with that. It's called "YouTube is a</p> <p>4 Pedophile's Paradise," and it's from the Huffington</p> <p>5 Post, last updated March 21st, 2020.</p> <p>6 A So just to be clear, I don't think I've</p> <p>7 seen this before, which is fine. But it is a</p> <p>8 23-page article.</p> <p>9 So if I'm going to properly familiarize</p> <p>10 myself, it will actually take a few moments.</p> <p>11 Q Excellent point.</p> <p>12 Why don't we just go to page 3.</p> <p>13 A Okay.</p> <p>14 Q Do you see where it says --</p> <p>15 MS. YANG: Counsel, the witness is going</p> <p>16 to need at least a few minutes to at least generally</p> <p>17 familiarize herself with the document, even though</p> <p>18 it's long; so let's give her a few moments.</p> <p>19 MR. LYLES: Okay.</p> <p>20 MS. YANG: For clarity, let the record</p> <p>21 reflect that this document was not produced by</p> <p>22 Google.</p>	64
63	<p>1 MR. LYLES: Yeah.</p> <p>2 Counsel, how much more time do you think</p> <p>3 you're going to need?</p> <p>4 MS. YANG: Alexandra?</p> <p>5 THE WITNESS: I mean, just respectfully,</p> <p>6 I'm on page 8 of a 23-page article I've never seen</p> <p>7 before; so -- I'm a fast reader, but it does take</p> <p>8 time to consume this information.</p> <p>9 MR. LYLES: We should probably go off the</p> <p>10 record, then, just to save time.</p> <p>11 MS. YANG: I'm happy to do that.</p> <p>12 THE VIDEOGRAPHER: We're going off the</p> <p>13 record.</p> <p>14 The time is 10:54 a.m.</p> <p>15 (Off the record.)</p> <p>16 THE VIDEOGRAPHER: We're back on the</p> <p>17 record.</p> <p>18 The time is 10:58 a.m.</p> <p>19 BY MR. LYLES:</p> <p>20 Q Ms. Veitch, could you go to page 3 of the</p> <p>21 article I just handed you where it says -- the top</p> <p>22 first full paragraph of page 3 -- "YouTube's</p>	65
	<p>1 automated recommendation engine propels sexually</p> <p>2 implicit videos of children like Allie from</p> <p>3 obscurity into virality and onto the screens of</p> <p>4 pedophiles. Executives at the Google-owned company</p> <p>5 are well aware of this."</p> <p>6 Were you aware of this report,</p> <p>7 Ms. Veitch?</p> <p>8 A I was not.</p> <p>9 MS. YANG: Objection. Exceeds the scope</p> <p>10 of the deposition.</p> <p>11 BY MR. LYLES:</p> <p>12 Q Were you aware of the content presented</p> <p>13 in this report?</p> <p>14 MS. YANG: Objection. Exceeds the scope.</p> <p>15 THE WITNESS: I have never seen this</p> <p>16 article before today. I was not aware of this</p> <p>17 article.</p> <p>18 BY MR. LYLES:</p> <p>19 Q Before today, were you aware of the</p> <p>20 substance of this article?</p> <p>21 MS. YANG: Objection. Scope.</p> <p>22 THE WITNESS: I think I would have to</p>	

<p style="text-align: right;">66</p> <p>1 BY MR. LYLES:</p> <p>2 Q These concerning incidents of YouTube's</p> <p>3 recommendations, are these examples of YouTube</p> <p>4 engaging in editorial discretion?</p> <p>5 MS. YANG: Objection. Form. Objection.</p> <p>6 Scope.</p> <p>7 THE WITNESS: As we've discussed today,</p> <p>8 there is an enormous amount of content on YouTube:</p> <p>9 500 hours uploaded every minute; volume of content</p> <p>10 growing exponentially.</p> <p>11 We consistently endeavor to get it right</p> <p>12 both in terms of what content is available on our</p> <p>13 platform, making sure that it complies with our</p> <p>14 community guidelines, and in terms of the quality of</p> <p>15 the content that we recommend to our users.</p> <p>16 Getting it right, trying -- continuing to</p> <p>17 endeavor to get it right is important to earn the</p> <p>18 trust of our users, our creators, and our</p> <p>19 advertisers.</p> <p>20 But also given the scope, the volume of</p> <p>21 the content, we don't get it perfect. In fact, as</p> <p>22 you and I have discussed today, .17 to .19 percent</p>	<p style="text-align: right;">68</p> <p>1 THE WITNESS: -- being put together in</p> <p>2 the same --</p> <p>3 MS. YANG: Counsel --</p> <p>4 MR. LYLES: Sorry.</p> <p>5 THE WITNESS: -- question.</p> <p>6 MR. LYLES: Yeah. Got it.</p> <p>7 MS. YANG: -- let's not interrupt the</p> <p>8 witness.</p> <p>9 MR. LYLES: Excuse me.</p> <p>10 BY MR. LYLES:</p> <p>11 Q If we go back to paragraph 7 again where</p> <p>12 you talk about the "editorial judgments we have made</p> <p>13 in crafting the content moderation tools and</p> <p>14 policies."</p> <p>15 So these editorial judgments are the same</p> <p>16 things that result in not getting it right some of</p> <p>17 the time. Is that fair to say?</p> <p>18 MS. YANG: Objection. Form.</p> <p>19 MR. DISHER: Objection.</p> <p>20 THE WITNESS: So there is both our error</p> <p>21 rate, our not getting it right, and enforcing our</p> <p>22 policies and recommending our content. There is</p>
<p style="text-align: right;">67</p> <p>1 of views of content on YouTube are on content that</p> <p>2 violates our community guidelines. So that's a --</p> <p>3 so that's a piece of data that we make public</p> <p>4 ourselves suggesting that we don't always get it</p> <p>5 right. But we continue to try.</p> <p>6 We also continue to do better. If you</p> <p>7 look at that data point of the violative view rate,</p> <p>8 if declines over time, over a period of many years.</p> <p>9 And we want to be held accountable to continuing to</p> <p>10 reduce that number.</p> <p>11 But I do not want to suggest to you today</p> <p>12 that we always get it 100 percent right.</p> <p>13 BY MR. LYLES:</p> <p>14 Q When you don't get it right, is that an</p> <p>15 expression of YouTube's editorial discretion?</p> <p>16 MR. DISHER: Objection. Form.</p> <p>17 Go ahead.</p> <p>18 THE WITNESS: With respect, sir, I just</p> <p>19 don't -- I don't understand the -- the -- those --</p> <p>20 what feel to me to be two very distinct concepts --</p> <p>21 BY MR. LYLES:</p> <p>22 Q Okay. So let's --</p>	<p style="text-align: right;">69</p> <p>1 also a continuing effort by us to refine our</p> <p>2 policies, to adapt our policies over time.</p> <p>3 So, for example, with COVID, as global</p> <p>4 understanding -- as the understanding of health</p> <p>5 authorities has evolved over time, our policies have</p> <p>6 changed. So I don't want to suggest to you that</p> <p>7 YouTube's policies, our editorial judgments, exist</p> <p>8 carved in stone. They do not. They evolve over</p> <p>9 time.</p> <p>10 BY MR. LYLES:</p> <p>11 Q Okay. But the not getting it right, when</p> <p>12 that happens in a certain temporal context, at that</p> <p>13 time, that not getting it right was a result of</p> <p>14 YouTube's editorial judgments at that time?</p> <p>15 MR. DISHER: Objection. Form.</p> <p>16 MS. YANG: Objection. Form.</p> <p>17 THE WITNESS: Sure. It is -- well, I</p> <p>18 just -- so allowing a piece of content -- a piece of</p> <p>19 content that appears on our platform that violates</p> <p>20 our policies but is, nonetheless, on our platform</p> <p>21 may never have been reviewed by either human or</p> <p>22 machine. So there may have been no judgment made</p>



<p style="text-align: right;">70</p> <p>1 around that individual piece of content. So I just  2 want to make sure I'm answering you accurately.  3 BY MR. LYLES:  4 Q Okay. Well, we can just -- we can just  5 leave it at that.  6 Thank you for your patience --  7 A Thank you.  8 Q -- with that line of questioning.  9 A And yours as well. Thank you for your  10 patience.  11 Q Let's move on to paragraph 18 of your  12 declaration, please.  13 Here you talk about how many channels or  14 accounts YouTube has removed and provide some  15 reasons for that.  16 How did you get that information?  17 A This -- this data is directly from our  18 community guidelines enforcement report, which is --  19 we make public on a quarterly basis.  20 Q Okay. And how does it -- how does it  21 make it into the report? I mean, who -- who finds  22 it?</p>	<p style="text-align: right;">72</p> <p>1 Q Okay. Is there a set of documents that  2 would answer that question as well?  3 A There may be, but I don't know.  4 Q Okay. And would Matt Halprin be the  5 person that would know?  6 A I am trying to give you the person who is  7 most likely, in my estimation, to under- -- to  8 understand all the pieces, all the inputs --  9 Q Right.  10 A -- that lead to the community guidelines  11 transparency report, and that would be Matt Halprin.  12 Matt Halprin leads that organization.  13 Q Okay. Thank you.  14 How -- are algorithms responsible for the  15 moderation that you talk about in 18 in terms of  16 removal?  17 A Sure.  18 Some- -- some- -- sometimes the source of  19 first detection of violative content are machine  20 learning systems or algorithms.  21 Q What -- what percentage of the times of  22 detection, do you think?</p>
<p style="text-align: right;">71</p> <p>1 A Sure.  2 That -- that is a -- I'm sure a fair  3 question but, really, outside of my area of  4 expertise.  5 So there are things that happen back of  6 house in terms of tracking, the removal of content,  7 the removal of videos, the removal of comments that  8 form these numbers. But I'm not involved in the  9 quantifying of these metrics.  10 Q Who would know? Like, units and names,  11 please.  12 A Gosh. There -- well, so our vice  13 president of trust and safety, which is  14 responsible -- our trust and safety organization is  15 responsible for the enforcement of our community  16 guidelines. That is -- that's a large organization  17 that involves -- that -- there are both content  18 moder- -- content moderators in that organization.  19 I assume there are probably also data scientists  20 that do this sort of data tracking. And our vice  21 president of trust and safety is an individual named  22 Matt Halprin.</p>	<p style="text-align: right;">73</p> <p>1 A You know, I know that piece of data is in  2 our community guidelines transparency report. I  3 don't have it off the top of my head.  4 Q Is it more than 50 percent?  5 A Yes.  6 MS. YANG: Objection. Form.  7 BY MR. LYLES:  8 Q Is it more than 70 percent?  9 MS. YANG: Objection. Form.  10 THE WITNESS: I -- I believe it is both  11 more than 50 and 70 percent. But, again, that exact  12 figure is avail- -- publicly available.  13 BY MR. LYLES:  14 Q So the -- it's the vast majority. Would  15 that be --  16 MS. YANG: Objection.  17 BY MR. LYLES:  18 Q -- fair to say?  19 MS. YANG: Form.  20 THE WITNESS: I --  21 BY MR. LYLES:  22 Q Okay.</p>

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1 A I would ask you to define "vast  
 2 majority."  
 3 Q Sure. Okay.  
 4 A But I believe more than 70 percent --  
 5 Q Okay.  
 6 A -- is correct.  
 7 Q How about 80 percent?  
 8 MS. YANG: Objection. Form.  
 9 THE WITNESS: I believe that that number  
 10 is more than 80 percent. But, again, that number is  
 11 publicly available to you. You don't have to take  
 12 my word for it.  
 13 BY MR. LYLES:  
 14 Q Okay. And that's -- what did you call  
 15 that again? The first --  
 16 A Source of first detection.  
 17 So what -- whether -- whether the  
 18 video -- the violative content was first reviewed by  
 19 machines or by humans.  
 20 Q Okay. And then after that source of  
 21 first detection, where would a removed -- what would  
 22 be the sort of workflow for a piece of content that

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1 got removed?  
 2 A Sure.  
 3 So content that violates our community  
 4 guidelines, whether detected by human or machine, is  
 5 removed from the platform. At that point, a  
 6 single -- a one-click opportunity for appeal is sent  
 7 to the creator.  
 8 And just -- just so I'm very clear, I'm  
 9 talking about here video content, individual pieces  
 10 of video --  
 11 Q Yeah.  
 12 A -- not comments, which are treated  
 13 somewhat differently.  
 14 So the creator is given an opportunity to  
 15 appeal. We don't always get that right. Both  
 16 machines and humans make errors.  
 17 And so creators are given the opportunity  
 18 to appeal. That appeal is then reviewed by a human.  
 19 And then the content would either be restored, if it  
 20 is not violative of our community guidelines, or it  
 21 would remain removed.  
 22 And, perhaps, important to note that both

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1 number of appeals and then the success rate of those  
 2 appeals are publicly available in our community  
 3 guidelines enforcement report.  
 4 Q What -- so if -- if the episode falls  
 5 into one of these -- the algorithm detects it as  
 6 incompatible with the community guidelines, is it  
 7 accurate that the algorithm -- if it was one of the  
 8 algorithm ones, the algorithm then removes it, and  
 9 that's what initiates the appeal process?  
 10 A I don't think that's entirely accurate.  
 11 I believe that there are instances in which the  
 12 machine learning systems do not have a high degree  
 13 of confidence --  
 14 Q Okay.  
 15 A -- at which point that video review would  
 16 be routed to a human for review.  
 17 Q Okay.  
 18 A So there's sort of -- there's multiple  
 19 options here: Machine only, human only, or a  
 20 combination of machine and human.  
 21 Q Okay.  
 22 All right. How long -- where the machine

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1 has a high degree of confidence, how long does it  
 2 take to remove it?  
 3 A So we don't actually measure -- as far as  
 4 I know, we don't measure by time. And for a good  
 5 reason, which is that time is actually not as  
 6 important of a metric as a number of views.  
 7 So if -- we want to remove content that  
 8 violates our policies before it receives -- before  
 9 it receives -- you know, before it receives many  
 10 views. We want to remove it with a minimum number  
 11 of views. That's another data point that we also  
 12 make public.  
 13 Within range, you know, what percent of  
 14 content that was removed was removed with one to ten  
 15 views. I think it's ten to -- ten to 100. And then  
 16 greater than 100 views. Because it's important to  
 17 us -- not -- time is much less important to us than  
 18 number of views. We want to remove that content  
 19 when it receives the minimum number of views.  
 20 Q Okay. In terms of the numbers in  
 21 paragraph 18 of channels removed -- or -- yeah,  
 22 channels removed, what -- how long did it take to

<p style="text-align: right;">78</p> <p>1 compile that information?  2 MS. YANG: Objection. Form.  3 THE WITNESS: So this report is compiled  4 and made public quarterly.  5 BY MR. LYLES:  6 Q Okay. And it --  7 A And I -- it is published on a regular  8 cadence. I think some small number of weeks after  9 the close of each quarter; so --  10 Q Okay.  11 A You know, you get through a quarter, then  12 you need to review and ensure the accuracy of that  13 quarter's data and then that the information is  14 public.  15 Q So it takes a few weeks. Is that --  16 A Sure.  17 Q -- accurate?  18 A It's -- yes. It takes --  19 Q Okay.  20 A I want to make sure I'm being accurate  21 with you.  22 Q Yeah.</p>	<p style="text-align: right;">80</p> <p>1 A There are people who are dedicated, I'm  2 sure, to working on that report, though I don't know  3 who they are. There are also people whose work is  4 compiled as part of that report. So I don't even  5 know how you would calculate the cost of that  6 particular report.  7 It has a cost, but I don't know what it  8 is. And I don't know who would know what it is.  9 Q Okay. Do you know the percentage of the  10 recommendations made to users on YouTube are made by  11 algorithms?  12 MS. YANG: Objection. Scope.  13 THE WITNESS: So my understanding of how  14 our recommendations work is that those are entirely  15 based on machine learning systems.  16 So as I've previously mentioned, we have  17 over 2 billion unique users visiting YouTube every  18 month. There is no person whose job it is to  19 hand-select recommendations for, for example,  20 Alexandra Veitch.  21 So if I understand your question, I  22 believe all of our recommendations are made by</p>
<p style="text-align: right;">79</p> <p>1 A But, you know, somewhere between three  2 and -- I believe our -- I can't remember the date of  3 this filing.  4 But if you look -- I mean, we're  5 referring to quarter two of 2021's data. I believe  6 this filing happened in quarter three of 2021. So  7 we have taken a few weeks to --  8 Q Okay.  9 A -- review the data and then made it  10 public.  11 Q Okay.  12 A We endeavor to make the data public  13 quickly but also accurately.  14 Q And how much did it cost this particular  15 report of that quarter?  16 A I have no idea.  17 Q Who would -- who would know?  18 A I'm not even sure that that exists as  19 a -- that it would be possible to determine the  20 budget line item for our community guidelines  21 enforcement report.  22 Q Okay.</p>	<p style="text-align: right;">81</p> <p>1 machine learning systems.  2 BY MR. LYLES:  3 Q Okay. In paragraph 18 where you talk  4 about the percentage of the videos removed to child  5 safety issues and the percentage of the videos  6 removed due to spam, do you have any -- that -- that  7 seems to strike me as, like -- it doesn't really  8 give an idea of what percentage of everything  9 flagged was actually removed; right? It just breaks  10 down why certain percentages of what was removed  11 were removed.  12 Do you have any idea on -- of the  13 proportion between, during that period, what YouTube  14 flagged versus what was removed?  15 MS. YANG: Objection.  16 Counsel, it says removed comments were  17 due to spam.  18 I just want to make sure that we're  19 accurately --  20 MR. LYLES: Sure.  21 MS. YANG: -- phrasing.  22</p>

<p style="text-align: right;">82</p> <p>1 BY MR. LYLES:</p> <p>2 Q So let's start with comments.</p> <p>3 What percentage of flagged comments were</p> <p>4 removed during this period?</p> <p>5 A So I just want to make sure that we're</p> <p>6 using the term "flag" in the same way.</p> <p>7 Usually when YouTube talks about flags,</p> <p>8 we mean content that was flagged to us by users.</p> <p>9 Q Okay.</p> <p>10 A So there is, you know, definitionally, a</p> <p>11 human involved. So I think that's different from</p> <p>12 how you are using the word flag.</p> <p>13 Q Okay. Does AI ever flag content?</p> <p>14 A So --</p> <p>15 MS. YANG: Objection. Form.</p> <p>16 THE WITNESS: As you and I previously</p> <p>17 discussed, there are situations in which machine</p> <p>18 learning systems both make content moderation</p> <p>19 decisions based on our community guidelines, and</p> <p>20 there are situations in which machine learning</p> <p>21 systems refer pieces of content for human review.</p> <p>22</p>	<p style="text-align: right;">84</p> <p>1 But what I will say is that we actually</p> <p>2 find user flagging to be a relatively inefficient</p> <p>3 source of -- source for detecting violative content.</p> <p>4 What we see often is that users flag content that</p> <p>5 they just don't like, for whatever reason.</p> <p>6 I think the most flagged content in all</p> <p>7 of time on YouTube is a Justin Bieber video which is</p> <p>8 not violative of our policies but, perhaps,</p> <p>9 reflects --</p> <p>10 Q Right.</p> <p>11 A -- individual opinions of Justin Bieber.</p> <p>12 Users are not experts on our community</p> <p>13 guidelines; so it's hard for them to determine what</p> <p>14 content violates our community guidelines with a</p> <p>15 high degree of accuracy.</p> <p>16 Q Okay. But users -- or those with</p> <p>17 accounts anyway -- have committed themselves to the</p> <p>18 community guidelines -- correct? -- when they sign</p> <p>19 up?</p> <p>20 A They have, yes.</p> <p>21 Q Okay. Is Matt Halprin also the person</p> <p>22 that would know about the percentage of user-flagged</p>
<p style="text-align: right;">83</p> <p>1 BY MR. LYLES:</p> <p>2 Q Are you -- are you aware of the</p> <p>3 percentage of those machine learning referrals to</p> <p>4 human review that result in a removal?</p> <p>5 A I am not. And I -- I do not believe that</p> <p>6 that is a piece of data that we make public.</p> <p>7 Q Who would have that data at Google or</p> <p>8 YouTube?</p> <p>9 A Again, the removal of content, according</p> <p>10 to our community guidelines, is a function that is</p> <p>11 the responsibility of our trust and safety</p> <p>12 organizations. So, again, the vice president of</p> <p>13 trust and safety, Matt Halprin --</p> <p>14 Q Okay.</p> <p>15 A -- is responsible for removal of content</p> <p>16 whether by machine or by human.</p> <p>17 Q Okay. What about the material flagged by</p> <p>18 users? What percentage of that actually ends in</p> <p>19 removal?</p> <p>20 A I think that actually may be a data point</p> <p>21 we make public. I don't have that data point top of</p> <p>22 mind.</p>	<p style="text-align: right;">85</p> <p>1 content that is removed?</p> <p>2 A He would, but I think that is -- I hope</p> <p>3 I'm not misleading you, but I think that is a --</p> <p>4 publicly available in our community guidelines</p> <p>5 enforcement report.</p> <p>6 Q Okay. When you say in paragraph 18 that</p> <p>7 something is removed, does that mean entirely from</p> <p>8 publication or just from the view of certain users?</p> <p>9 Or what is -- what does that actually mean?</p> <p>10 A Yeah.</p> <p>11 So when we use the term "remove," we mean</p> <p>12 we remove that -- we endeavor to remove it entirely</p> <p>13 from our platform. We have machine learning systems</p> <p>14 that recognize copies of the same pieces of content.</p> <p>15 And so if one particular video was removed, we</p> <p>16 endeavor to remove all copies of that same content.</p> <p>17 I will point out that there are those who</p> <p>18 seek to evade those systems, and so it is possible</p> <p>19 for similar but not exactly the same pieces of</p> <p>20 content that should be removed to escape detection.</p> <p>21 But we endeavor to remove -- "remove"</p> <p>22 means that content is no longer available on our</p>

<p style="text-align: right;">86</p> <p>1 platform, and we endeavor to remove it entirely.</p> <p>2 Q Okay. I want to return to -- for a</p> <p>3 second, to the -- and I don't want to</p> <p>4 mischaracterize what you said. So I'm not intending</p> <p>5 to do that.</p> <p>6 A Okay.</p> <p>7 Q I just want to try to focus on where in</p> <p>8 the conversation before I want to go.</p> <p>9 When you describe the workflow about when</p> <p>10 a piece of content gets recognized as potentially</p> <p>11 violating the community guidelines by AI and then</p> <p>12 either taken off then or moved to human review, in</p> <p>13 the cases where the AI recognizes it, has a high</p> <p>14 degree of certainty, and kicks it off, is that</p> <p>15 documented by YouTube?</p> <p>16 MS. YANG: Objection. Form.</p> <p>17 THE WITNESS: Is what portion documented</p> <p>18 by YouTube?</p> <p>19 BY MR. LYLES:</p> <p>20 Q So the -- let's say the fact that the AI</p> <p>21 recognized something and removed it.</p> <p>22 A Yes. That -- that fact, assuming we are</p>	<p style="text-align: right;">88</p> <p>1 Matt Halprin.</p> <p>2 Q Okay.</p> <p>3 A H-A-L-P-R-I-N. He's our vice president</p> <p>4 of trust and safety.</p> <p>5 Q Okay.</p> <p>6 A His organization is responsible for the</p> <p>7 enforcement of our community guidelines.</p> <p>8 Q Okay. Thank you.</p> <p>9 In the case where the AI would recognize</p> <p>10 something with a lower degree of certainty and send</p> <p>11 it to a human, would that be documented as well?</p> <p>12 A Will the fact of referral from machine to</p> <p>13 human be --</p> <p>14 Q Yeah.</p> <p>15 A -- documented?</p> <p>16 So, again, I'm not involved in the</p> <p>17 content moderation workflow. I think it's</p> <p>18 reasonable to assume that there is some</p> <p>19 documentation of the movement of that piece of video</p> <p>20 through our back-of-house systems, but I do not know</p> <p>21 what those look like.</p> <p>22 Q Okay. But Matt Halprin would --</p>
<p style="text-align: right;">87</p> <p>1 talking about a piece of video content --</p> <p>2 Q Right.</p> <p>3 A -- that fact is documented, yes.</p> <p>4 Q And is it documented in a detailed</p> <p>5 fashion? Like, why it was taken down? What aspect</p> <p>6 of the community guidelines it violated?</p> <p>7 A So I have to be honest with you. I -- I</p> <p>8 do not personally engage in content moderation, and</p> <p>9 so I do not know what the back-of-housework workflow</p> <p>10 looks like on that.</p> <p>11 Given that we make public these broad</p> <p>12 categories for which content is removed from our</p> <p>13 platform, there is clearly some documentation of the</p> <p>14 reason for removal. But I do not know the level of</p> <p>15 specificity or what that tracker looks like.</p> <p>16 Q Okay. And -- sorry. I'm going to write</p> <p>17 the name down this time so I'm not --</p> <p>18 A Okay.</p> <p>19 Q -- going to ask you.</p> <p>20 What is the name of the person again that</p> <p>21 would know that?</p> <p>22 A Sure.</p>	<p style="text-align: right;">89</p> <p>1 A I -- it will be inappropriate for me to</p> <p>2 speak to somebody else's --</p> <p>3 Q Right.</p> <p>4 A -- knowledge.</p> <p>5 Q Right.</p> <p>6 A But I think that is within his scope of</p> <p>7 responsibility.</p> <p>8 Q Okay. How long does that referral to</p> <p>9 human review and human review process take after AI</p> <p>10 would refer something?</p> <p>11 MS. YANG: Objection. Form.</p> <p>12 THE WITNESS: So as we've already</p> <p>13 discussed, time is not a metric we use here. And</p> <p>14 let me add a little, sort of, meat on the bones on</p> <p>15 why that is, perhaps, not important here.</p> <p>16 So there are categories of content that</p> <p>17 are more egregious and that we need to remove from</p> <p>18 our platform more quickly. So, for example, child</p> <p>19 sexual abuse material, which I think we can all</p> <p>20 agree is among the -- if not the most egregious</p> <p>21 category of content. If that is detected by human</p> <p>22 or machine, we want to get that down immediately.</p>

<p style="text-align: right;">90</p> <p>1 There are less harmful categories of 2 content that we can review with more time. There 3 are some categories of content that require more 4 nuanced decision-making. 5 And so there are no -- that I'm aware 6 of -- specific times associated with, you know, 7 content removals writ large. 8 BY MR. LYLES: 9 Q Okay. Thank you for that. 10 I'm going to -- I'm trying to think of 11 how to phrase something. 12 Could we -- these referrals to review, 13 could we -- could we call these "tickets"? 14 A You can call them -- 15 Q Okay. 16 A -- tickets. 17 Q Okay. So let's -- let's call it a 18 ticket. 19 What percentage of these -- well, 20 referrals -- well, what percentages of these 21 referrals for review that come in are closed without 22 action? Meaning, you know, the review came in and</p>	<p style="text-align: right;">92</p> <p>1 Q That's exactly what I was trying to say, 2 actually. 3 A Again, I -- I don't do content 4 moderation, but I -- and so there may be exceptional 5 circumstances that are beyond my imagination or 6 understanding. But I don't believe so. 7 And if I could just zoom out for just a 8 moment. 9 Q Yeah. 10 A YouTube does not benefit in any way from 11 having content that violates our policies on our 12 platform. Indeed, our business is harmed by it. It 13 erodes the trust of our users, of our creators, and 14 of our advertisers who -- who are the source of -- 15 or what sustain our business. 16 So if there is a machine or a human, 17 regardless of the source -- first source of 18 detection, if there is content that we believe 19 violates our policies, it is in our interest to 20 review that content to determine if it does and, if 21 it does, to remove it from our platform. 22 Q In that vein, are there cases where</p>
<p style="text-align: right;">91</p> <p>1 then nothing was removed. 2 A So I think what you're asking is a 3 machine flags something, suggests it may violate our 4 policies, a human looks at it and determines it does 5 not violate our policies; right? That's the sort of 6 case that you're talking about? 7 Q Or -- yeah. Yeah. Let's start with that 8 one. 9 A So, again -- I mean, I'm not involved in 10 content moderation. I don't know. But -- but the 11 fact that the machine does not have a high degree of 12 certainty means that certainly there are cases in 13 which the machine has flagged something for human 14 review and that content is found to not violate our 15 policies. 16 Q Now, are there instances where it's -- 17 there's a referral to human review by the machine 18 and the human review just never ends up taking 19 place? 20 A So sort of a ticket, in your words -- 21 Q Yeah. 22 A -- that's never closed.</p>	<p style="text-align: right;">93</p> <p>1 violative content might be good for getting user 2 engagement? 3 MS. YANG: Objection. Form. Objection. 4 Scope. 5 THE WITNESS: Human nature is a funny 6 thing, and I am sure that there is content that 7 humans might want to watch but that is inconsistent 8 with our community guidelines, inconsistent with our 9 values, and that we would not allow on our platform. 10 Pornography, which is a subject you and I have 11 already discussed, might be one of those things. 12 Humans may enjoy it, but it does not have 13 a place on our platform. Hateful views. There are 14 humans that enjoy hateful views. They, nonetheless, 15 do not have a place on our platform. 16 BY MR. LYLES: 17 Q And I think I asked you this earlier, if 18 you were aware of any reports of YouTube 19 recommending to its users content that violated its 20 community guidelines. 21 A I think we did speak about that, and I 22 think what I said was I -- top of mind, I do not</p>

<p style="text-align: right;">94</p> <p>1 have any specific reports that I recall. But it  2 makes sense to me, given the scale of YouTube, that  3 there have been incidents of YouTube recommending  4 content that violates our policies.  5 MR. LYLES: I'm going to hand the  6 deponent, Counsel, a -- an article behind tab 30.  7 (Veitch Deposition Exhibit 4 was marked  8 for identification and attached to the transcript.)  9 MS. YANG: Just for clarity, this is a  10 document titled "Mozilla Investigation: YouTube  11 Algorithm Recommends Videos that Violate the  12 Platform's Own" -- "Very Own Policies"?  13 MR. LYLES: Yes. That's it.  14 And I'm sorry. I will -- well, never  15 mind. There was no Bates number because Google did  16 not produce it; so it was not going to be cut off.  17 MS. YANG: Yeah. That's correct. Google  18 did not produce --  19 MR. LYLES: Yeah.  20 MS. YANG: -- this document.  21 MR. LYLES: Yeah, could we go off the  22 record while you familiarize yourself with that.</p>	<p style="text-align: right;">96</p> <p>1 details of it. But I'm generally -- I remember.  2 BY MR. LYLES:  3 Q Do you take issue with the conclusion of  4 this report?  5 MS. YANG: Objection. Form. Objection.  6 Scope.  7 THE WITNESS: Well, I would just ask for  8 clarification there, because I -- I do not take  9 issue with your characterization two questions ago,  10 which was that there have been instances in which  11 YouTube has recommended content that violates our  12 own policies.  13 As I said --  14 BY MR. LYLES:  15 Q Okay.  16 A -- minutes ago, I thought that was  17 probably likely to have happened given YouTube's  18 scale. But if there are other conclusions that you  19 want my opinion on, I would ask you to share them  20 with me, and I can take them one at a time.  21 Q Yeah. No. That was -- that was it.  22 A Okay.</p>
<p style="text-align: right;">95</p> <p>1 Is that okay, Counsel?  2 MS. YANG: Yes.  3 MR. LYLES: Okay.  4 THE VIDEOGRAPHER: We are going off the  5 record.  6 The time is 11:30 a.m.  7 (Off the record.)  8 THE VIDEOGRAPHER: We are back on the  9 record.  10 The time is 11:33 a.m.  11 BY MR. LYLES:  12 Q So my reading of this report is that  13 YouTube -- there have actually been instances where  14 YouTube recommended content that violated its own  15 community guidelines.  16 Were you aware of this report until just  17 now, Ms. Veitch?  18 MS. YANG: Objection. Form and scope.  19 THE WITNESS: I -- I generally recall the  20 release of this report over the summer. I -- if you  21 had asked me about it without the benefit of having  22 reviewed this exhibit, I couldn't have recalled the</p>	<p style="text-align: right;">97</p> <p>1 MR. LYLES: And we can -- we can take our  2 break now.  3 THE WITNESS: Okay.  4 MS. YANG: Thank you, Counsel.  5 THE VIDEOGRAPHER: We are going off the  6 record.  7 This is the end of media unit number 2.  8 The time is 11:34 a.m.  9 (A recess was taken.)  10 THE VIDEOGRAPHER: Back on the record.  11 This is the beginning of media unit  12 number 3.  13 The time is 12:06 p.m.  14 MR. LYLES: This is 31, Counsel, that I'm  15 about to hand the witness.  16 I'm handing the witness Defense's Exhibit  17 Number 5.  18 MS. YANG: So, Counsel, this is the  19 document titled "Our Recommendation to YouTube," and  20 it was also not produced by Google.  21 MR. LYLES: Exactly.  22 And I just handed it to the deponent and</p>

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1 marked it as number 5.  
 2 (Veitch Deposition Exhibit 5 was marked  
 3 for identification and attached to the transcript.)  
 4 BY MR. LYLES:  
 5 Q Could you take a moment, Ms. Veitch, to  
 6 familiarize yourself with that, please.  
 7 A Absolutely.  
 8 MR. DISHER: Which tab is this?  
 9 MR. LYLES: 31.  
 10 (Reporter asks for clarification.)  
 11 THE WITNESS: I said "absolutely."  
 12 Mr. Lyles, I am ready when you are.  
 13 BY MR. LYLES:  
 14 Q Okay. Ms. Veitch, we spoke a little  
 15 while ago about sometimes where YouTube's  
 16 recommendations don't get it right.  
 17 This article advocates for YouTube  
 18 sharing its data -- or some of its data with  
 19 independent experts to address the issue of  
 20 recommendations as the content that are violative of  
 21 the community terms of YouTube.  
 22 Has YouTube shared any data with

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1 independent experts to address this?  
 2 MS. YANG: Objection. Scope.  
 3 THE WITNESS: YouTube works with  
 4 researchers both internal and external to the  
 5 platform. I am certain that, as part of that work,  
 6 we have shared information externally. But given  
 7 that's outside the scope of my role, I couldn't  
 8 speak to any specificity about what information we  
 9 have shared.  
 10 BY MR. LYLES:  
 11 Q And by externally, you mean outside of  
 12 Google?  
 13 A Non-Google employees -- independent  
 14 academics, researchers, the research community --  
 15 yes.  
 16 Q And who would know if you've shared any  
 17 data on the recommendation algorithm outside of  
 18 Google?  
 19 A Well -- sorry. Just to be clear, we  
 20 share -- we do share, as is demonstrated here in  
 21 this document, data about our recommendation  
 22 algorithm. This cites, I think, an interview with

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1 our chief product officer, Neal Mohan, with a data  
 2 point I assume he shared.  
 3 So there is data shared about our  
 4 recommendation systems already outside of YouTube.  
 5 Q Okay. I'm trying to think of a way to  
 6 put this, then.  
 7 The -- the source code for these  
 8 algorithms, who would know if any of that has been  
 9 shared outside Google?  
 10 MS. YANG: Objection. Scope.  
 11 THE WITNESS: So something I have often  
 12 heard when there is a discussion about  
 13 recommendations is what I think is an overly  
 14 simplified view that there is one source code,  
 15 one -- one algorithm that we could simply open up  
 16 the hood and give policymakers or independent  
 17 researchers access to.  
 18 Our recommendation system works on  
 19 multiple algorithms. As you and I discussed  
 20 earlier, there are a number of different sort of  
 21 baskets of factors that come into play. And so I  
 22 don't -- I just -- I don't think there's a single

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1 recommendation algorithm that is shareable in the  
 2 way that you identify it.  
 3 BY MR. LYLES:  
 4 Q Okay. So we spoke earlier about how --  
 5 when an item of content is detected by AI as  
 6 potentially violating the community guidelines, it  
 7 either is removed by the AI or it goes to human  
 8 review. And you spoke about how the speed with  
 9 which they're reviewed or removed is a result of  
 10 the -- you used the example of child pornography as  
 11 being where you try to do it as quickly as possible.  
 12 A Yep.  
 13 Q Could you sort of lay out the criteria  
 14 for how you prioritize what you remove first,  
 15 second, third, et cetera?  
 16 A Sure.  
 17 So as you and I have discussed, I am not  
 18 a content moderation professional; so I'm limited in  
 19 my understanding of this. But what I would point  
 20 you to is YouTube's focus on the prospect of  
 21 real-world harm. So we try and remove most quickly  
 22 the content that poses the greatest risk of



<p style="text-align: right;">102</p> <p>1 real-world harm to our community.  2 Q Okay. With respect to removing content  3 flagged by users, what is the -- what's the priority  4 for addressing that? What feeds into that?  5 MS. YANG: Objection. Form.  6 THE WITNESS: So I believe that when a  7 user flags a piece of content, they are then asked a  8 subsequent question about the general category of  9 their concern. And -- and so I would imagine that  10 that general category of concern correlates to --  11 has some correlation to the speed with which that  12 flag is reviewed.  13 But as somebody who does not do content  14 moderation, I can't speak with any more specificity.  15 BY MR. LYLES:  16 Q And that would be Matt Halprin again.  17 But --  18 A Matt Halprin is our vice president of  19 trust and safety.  20 Q Okay.  21 A Oversees the organization that determines  22 what content is removed from the platform.</p>	<p style="text-align: right;">104</p> <p>1 understand your question.  2 What do you mean by "issues in the  3 backlog"?  4 BY MR. LYLES:  5 Q So what -- in terms of -- okay. So what  6 percentage of YouTube's resources are devoted to  7 content moderation?  8 MS. YANG: Objection. Form.  9 THE WITNESS: I don't have a data point  10 for that specific to YouTube. I know Google-wide we  11 have over 20,000 people working on content  12 moderation issues, and it is a huge cost center for  13 us. There's an enormous amount of resources  14 dedicated to that. I don't have a more specific  15 YouTube number.  16 BY MR. LYLES:  17 Q What percentage of Google's entire  18 workforce is that 20,000?  19 A I -- I would direct to you public  20 disclosures on our employee numbers. I know that  21 our employees are north of 100,000 people, but I  22 couldn't speak with any more specificity. I think</p>
<p style="text-align: right;">103</p> <p>1 Q Do you know if the number of users  2 flagging something is a metric for prioritizing  3 removal?  4 A That is a good question. I do not know  5 the answer.  6 As we talked about earlier, volume of  7 user flagging --  8 Q Right.  9 A -- is not necessarily a sign that piece  10 of content is --  11 Q Right.  12 A -- violative. I do not know if that  13 correlates to the time of review.  14 Q But Matt Halprin, again, would --  15 A I suspect he would know the answer to  16 that question, but I do not know.  17 Q In terms of sort of issues in the backlog  18 that YouTube has to deal with, what percentage do  19 you think of those are related to content  20 moderation?  21 MS. YANG: Objection. Form.  22 THE WITNESS: With apologies, I don't</p>	<p style="text-align: right;">105</p> <p>1 we make that public in investor disclosures on a  2 quarterly basis.  3 Q What is the name of the person at Google  4 that would know?  5 A Again, I think this is publicly available  6 information. I just don't have it top of mind.  7 Q What's the -- what's unit that would --  8 A I assume our human resources department.  9 That human resources at Google knows how many Google  10 employees there are.  11 Q Who's head of human resources?  12 MS. YANG: Objection. Scope.  13 THE WITNESS: I -- I -- there was a  14 recent change of personnel there, and I actually  15 don't know who Google's head of human resources are,  16 but -- is, but I think that's publicly available  17 information. I apologize.  18 BY MR. LYLES:  19 Q How does the -- how does the workflow  20 work for users who want to dispute content they  21 posted that is subsequently removed?  22 MS. YANG: Objection. Form.</p>

<p style="text-align: right;">106</p> <p>1 THE WITNESS: When you say "users" there, 2 do you mean creators? 3 So the creators of the content -- their 4 content -- their video content has been removed -- 5 BY MR. LYLES: 6 Q Yes. 7 A -- but they disagree with that 8 conclusion. 9 Q Yes. 10 A Okay. So when a piece of video content 11 is removed from YouTube, the creator receives an 12 email, in most cases. In -- I think in a few very 13 egregious cases, this is -- this does not hold true. 14 But, generally speaking, when content vid- -- a 15 piece of video is removed from YouTube, the creator 16 receives an email notifying them that their content 17 has been removed and citing the portion -- the 18 relevant portion of our community guidelines. 19 They are given an opportunity to make an 20 appeal via a link that is in that email they have 21 received. They click on that link. They make their 22 appeal. That decision is then reviewed by a human.</p>	<p style="text-align: right;">108</p> <p>1 A Not that I'm aware of. But, again, given 2 that every quarter we make public the number of 3 appeals and the decisions, I think we endeavor to 4 reach an expeditious decision on those appeals. 5 Q So would appeals be -- all open appeals 6 be closed by the end of the quarter at the latest? 7 A No. I -- I'm not suggesting that. And I 8 don't think that's reasonable; right? A -- 9 hypothetically, an appeal could come in at 11:59 on 10 the -- you know, before a quarter closes. 11 I think appeals are handled as they come 12 in, and we want to make a decision expeditiously. 13 Q What specifically in HB20 -- let's -- do 14 you have HB20 -- or -- excuse me. I'll give you a 15 copy. 16 A I'd love a copy. 17 Q I'm giving the witness a copy of HB20 and 18 marking it as -- 19 A Thank you. 20 Q -- Exhibit Number 5 [sic]. 21 (Veitch Deposition Exhibit 6 was marked 22 for identification and attached to the transcript.)</p>
<p style="text-align: right;">107</p> <p>1 And as you and I have previously 2 discussed, the number of appeals and then the number 3 of appeals sustained or overruled is a data point -- 4 data points we make public. 5 Q And how quickly does YouTube make a 6 decision after the appeal is submitted? 7 A I don't think there's a specific time 8 associated. And that's because sometimes these 9 decisions are really nuanced and require a great 10 deal of scrutiny, and we want to get it right. We 11 want to get it right in the first case. We also 12 want to get it right when creators make appeals. 13 So I don't think there's a particular 14 time associated. We want to move expeditiously. 15 Q Is there, like, an aspirational deadline 16 or anything? 17 A Not that I'm aware of. 18 Q Do you know how many outstanding appeals 19 there are now? 20 A I don't, no. 21 Q So there's no deadline for closing 22 appeals?</p>	<p style="text-align: right;">109</p> <p>1 BY MR. LYLES: 2 Q So could you go to section 120.003 [sic], 3 please, Ms. Veitch. 4 MR. LYLES: Okay. Let's -- actually, we 5 need to remark that as number 6, if that's okay. 6 THE WITNESS: Sure. 7 MR. LYLES: Remarking HB20 as Exhibit 6. 8 THE WITNESS: Sorry. Where am I going, 9 Mr. Lyles? 10 BY MR. LYLES: 11 Q To 120.0 -- 120.103, please. 12 A Oh, yep. I'm good. 13 Q So what specifically in that section, 14 120.103, would require you to act differently than 15 it currently does where a user disputes their 16 content being removed? 17 A Sure. Just -- give me just a moment to 18 recap my -- 19 Q Yeah, please. 20 A -- memory of this. 21 MR. DISHER: Exhibit 6 is HB20? 22 THE WITNESS: Yep.</p>

110	<p>1 MR. DISHER: I'll object to the form of</p> <p>2 that question.</p> <p>3 THE WITNESS: Okay. So when you and I</p> <p>4 have been talking about the appeals that are -- the</p> <p>5 appeal system that's available to our creators, I</p> <p>6 have been careful to make clear that I'm referring</p> <p>7 to a piece of video content in the appeal that's</p> <p>8 available via a piece of video content.</p> <p>9 The same notification and appeals are not</p> <p>10 available to our users based on comments. So our</p> <p>11 users are not notified when a comment that they</p> <p>12 would make on a video is removed. And I'm also -- I</p> <p>13 don't believe there is an appeals process for the</p> <p>14 removal of a comment.</p> <p>15 BY MR. LYLES:</p> <p>16 Q Okay. All right. Thank you for that</p> <p>17 clarification.</p> <p>18 So as far as the burden is concerned,</p> <p>19 what's -- what would that section require you to do</p> <p>20 differently?</p> <p>21 A So --</p> <p>22 MS. YANG: Objection. Form.</p>	112	<p>1 explanation of the reason for our removal, we --</p> <p>2 there are specifics that we do not include. And one</p> <p>3 of the reasons that we avoid sometimes being very</p> <p>4 specific is we do not want to give the bad guys a</p> <p>5 road map for how to evade our policies.</p> <p>6 So where our community guidelines</p> <p>7 sometimes speak in generalities, it is a strategic</p> <p>8 decision to not be more specific, to not provide</p> <p>9 that road map to those who want to evade our</p> <p>10 policies.</p> <p>11 So providing a level of specificity is</p> <p>12 also something we may not currently do.</p> <p>13 Q Can you move on to 35, please, of your</p> <p>14 declaration.</p> <p>15 A Okay.</p> <p>16 Q What -- this paragraph talks about</p> <p>17 YouTube blocking and removing hate speech that</p> <p>18 violates its community guidelines.</p> <p>19 What -- what part of HB20 would prevent</p> <p>20 YouTube from blocking or removing hate speech?</p> <p>21 MS. YANG: Objection. Form.</p> <p>22 THE WITNESS: So I'm -- I don't know, off</p>
111	<p>1 THE WITNESS: So just on that particular</p> <p>2 concern I raised there, I think my declaration</p> <p>3 includes the number of comments removed quarterly.</p> <p>4 That's certainly available in our quarterly</p> <p>5 community guidelines enforcement transparency</p> <p>6 report. I believe that number is greater than a</p> <p>7 billion comments quarterly.</p> <p>8 And so my understanding, as a layperson,</p> <p>9 of the -- of what would be required to comply with</p> <p>10 this section is, for example, more than a billion</p> <p>11 more notifications than we currently do in</p> <p>12 establishing an appeals process for comments that we</p> <p>13 do not currently have.</p> <p>14 BY MR. LYLES:</p> <p>15 Q Okay. What about for videos that are --</p> <p>16 whose removal is disputed by users?</p> <p>17 A So I'm going -- and, again, you know,</p> <p>18 apologies being the non-lawyer in the room here, but</p> <p>19 my understanding of this provision is that it would</p> <p>20 require that the user be notified for the reason for</p> <p>21 the content removal.</p> <p>22 And while we do provide general</p>	113	<p>1 the top of my head, what particular provision of</p> <p>2 HB20. But my understanding is that HB20 does not</p> <p>3 define, in law, viewpoint.</p> <p>4 And so there are a huge number of</p> <p>5 viewpoints that we would find loathsome that are</p> <p>6 currently in conflict with our community guidelines</p> <p>7 that HB20 would prevent us from removing from the</p> <p>8 platform.</p> <p>9 BY MR. LYLES:</p> <p>10 Q And is it your position that those could</p> <p>11 not be removed based on their falling within a</p> <p>12 certain content definition?</p> <p>13 MR. DISHER: Objection. Form.</p> <p>14 MS. YANG: Objection. Form.</p> <p>15 THE WITNESS: I'm sorry.</p> <p>16 BY MR. LYLES:</p> <p>17 Q So --</p> <p>18 A I'm not following your question.</p> <p>19 Q -- hate speech, for example, that -- do</p> <p>20 you believe that could be considered just a category</p> <p>21 of content as opposed to viewpoint?</p> <p>22 MR. DISHER: Objection. Form.</p>

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1 THE WITNESS: I don't really know what  
 2 you mean by "category of content."  
 3 But hate -- the view that one race is  
 4 stupider than another race is a viewpoint. It is  
 5 not a viewpoint that we allow on YouTube, but it is  
 6 a viewpoint.  
 7 BY MR. LYLES:  
 8 Q And it's a viewpoint that as -- I mean,  
 9 it's presented as content; correct?  
 10 MR. DISHER: Objection. Form.  
 11 MS. YANG: Objection. Form.  
 12 THE WITNESS: If there was a video in  
 13 which a creator said that X race is stupider than  
 14 Y race, that would be a viewpoint expressed by that  
 15 creator in that video. That video has no place on  
 16 YouTube.  
 17 BY MR. LYLES:  
 18 Q Would it be possible to present such  
 19 videos without engaging in viewpoint discrimination?  
 20 MR. DISHER: Objection. Form.  
 21 MS. YANG: Objection. Form.  
 22 THE WITNESS: I can only go on what my

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1 understanding of HB20 is. But given that  
 2 "viewpoint" is not defined by HB20, I believe  
 3 that -- that that view that I just expressed, that  
 4 loathsome view, is a viewpoint. It is a viewpoint  
 5 that has no place on YouTube. It currently violates  
 6 our community guidelines. My understanding is that  
 7 HB20 would also compel us to leave that viewpoint on  
 8 YouTube.  
 9 BY MR. LYLES:  
 10 Q Okay. Are you aware that the Supreme  
 11 Court has defined the terms "viewpoint" and  
 12 "content"?  
 13 MR. DISHER: Objection. Form.  
 14 MS. YANG: Objection. Form. Objection.  
 15 Scope.  
 16 THE WITNESS: I am not aware of that.  
 17 And as we've discussed previously, I'm not a lawyer;  
 18 so not familiar with all the things the Supreme  
 19 Court has done.  
 20 BY MR. LYLES:  
 21 Q But it is your concern -- correct? --  
 22 that HB20, becomes of its prescribing of viewpoint

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1 discrimination, is going to make YouTube change the  
 2 way it does things dramatically; correct?  
 3 MS. YANG: Objection. Form.  
 4 THE WITNESS: One of my concerns with  
 5 HB20 is that it would prevent us from removing  
 6 content that we currently remove from YouTube  
 7 because it is in violation of our community  
 8 guidelines and because it does not reflect the  
 9 values of the platform that we want to have.  
 10 BY MR. LYLES:  
 11 Q Is it YouTube's position that the Supreme  
 12 Court's defining of "viewpoint" and "content" are  
 13 irrelevant to any determination of whether HB20 is  
 14 too vague to comply with?  
 15 MR. DISHER: Objection. Form.  
 16 MS. YANG: Objection. Form. Scope.  
 17 THE WITNESS: Respectfully, Mr. Lyles,  
 18 since I've already told you I'm not familiar with  
 19 those definitions from the Supreme Court, it  
 20 wouldn't be appropriate for me to comment on what  
 21 YouTube's views on those definitions, that I am  
 22 unaware of --

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1 BY MR. LYLES:  
 2 Q Okay.  
 3 A -- are.  
 4 Q Well, let's assume for the sake of  
 5 argument that the Supreme Court has defined both  
 6 these things, content and viewpoint.  
 7 If true, would that be relevant to  
 8 YouTube deciding whether certain postings fell into  
 9 viewpoint or content?  
 10 MS. YANG: Objection. Form.  
 11 MR. DISHER: Objection. Form.  
 12 MS. YANG: And, objection, scope.  
 13 THE WITNESS: Mr. Lyles, I terribly much  
 14 want to answer your questions as -- to the full  
 15 extent of my capabilities today. But given that I'm  
 16 not an attorney, that I'm not here in the capacity  
 17 of an attorney, I just don't think I can comment on  
 18 what our views are on Supreme Court decisions and  
 19 definitions.  
 20 BY MR. LYLES:  
 21 Q Okay. Could you move on to paragraph 36,  
 22 please.

<p style="text-align: right;">118</p> <p>1 A Yep.</p> <p>2 Q What in HB20 will keep YouTube from</p> <p>3 enforcing critical standards designed to prevent the</p> <p>4 degradation of user experience?</p> <p>5 A Sure.</p> <p>6 So just to return to the example that you</p> <p>7 and I discussed earlier, content that expresses the</p> <p>8 viewpoint that one race is smarter than another race</p> <p>9 we believe would lead to the degradation of users'</p> <p>10 experiences on our platforms.</p> <p>11 Being exposed to that sort of hateful</p> <p>12 content does not reflect the community we want to</p> <p>13 create, the kind of community where, you and I have</p> <p>14 discussed earlier, our users, our creators have a</p> <p>15 sense of comfort in their freedom of expression,</p> <p>16 their ability to be themselves.</p> <p>17 So that's -- those sort of hateful</p> <p>18 sentiments we believe would degrade our users'</p> <p>19 experiences. And I think -- as I state here, I</p> <p>20 think that is especially true for children.</p> <p>21 Q And in terms of users' safety, including</p> <p>22 children, what in HB20 would prevent you from</p>	<p style="text-align: right;">120</p> <p>1 platform but also make not available for our younger</p> <p>2 viewers.</p> <p>3 My understanding of -- of how HB20 works</p> <p>4 is that it also -- it applies equally to our ability</p> <p>5 to remove content as it does to use these other</p> <p>6 tools as well, such a demonetization, such as</p> <p>7 reducing recommendations, such as age-gating</p> <p>8 content.</p> <p>9 So you could imagine that there is</p> <p>10 content that is appropriate for older users but is</p> <p>11 not appropriate for younger users because of</p> <p>12 viewpoint, and this would limit our ability to</p> <p>13 age-gate that content.</p> <p>14 Q What specifically in HB20 prohibits</p> <p>15 YouTube from creating content moderation policies?</p> <p>16 MR. DISHER: Objection. Form.</p> <p>17 THE WITNESS: So my understanding -- and</p> <p>18 I would have to review this document again -- is</p> <p>19 that there is a de minimus amount of policies</p> <p>20 allowed for what content -- for the creation of</p> <p>21 policies around what content is allowed and not.</p> <p>22 But it is far narrower than the universe of policies</p>
<p style="text-align: right;">119</p> <p>1 ensuring that?</p> <p>2 MR. DISHER: Objection. Form.</p> <p>3 THE WITNESS: Again, I think hateful</p> <p>4 speech, speech such as the example I've previously</p> <p>5 given, impacts the safety of the diverse</p> <p>6 populations, the 2 billion people monthly who visit</p> <p>7 YouTube.</p> <p>8 BY MR. LYLES:</p> <p>9 Q Okay.</p> <p>10 A And maybe could I be one -- give one</p> <p>11 more --</p> <p>12 Q Yeah.</p> <p>13 A -- specific point here?</p> <p>14 We spent a lot of time today focused on</p> <p>15 removing content, it being violative or not. And</p> <p>16 that's appropriate. That's where conversations</p> <p>17 about YouTube often go.</p> <p>18 But as we've also discussed, there are a</p> <p>19 lot of other tools that YouTube has for how we treat</p> <p>20 content. One of those tools, as you and I have</p> <p>21 previously discussed, is age-gating content.</p> <p>22 There's some content that we want to leave on our</p>	<p style="text-align: right;">121</p> <p>1 we currently have for what content is available on</p> <p>2 our platform and not.</p> <p>3 So as we've discussed already, viewpoint</p> <p>4 is something that we could no longer make content</p> <p>5 decision -- moderation decisions around. It is --</p> <p>6 we could no longer have community guidelines around</p> <p>7 viewpoint.</p> <p>8 And it is my recollection that that --</p> <p>9 that it is directly expressed in here that we could</p> <p>10 not moderate content around viewpoint.</p> <p>11 BY MR. LYLES:</p> <p>12 Q Is it YouTube's position that there</p> <p>13 should be no state regulation limiting its</p> <p>14 flexibility to moderate content?</p> <p>15 MS. YANG: Objection. Scope. Objection.</p> <p>16 Form.</p> <p>17 THE WITNESS: So that's an interesting</p> <p>18 question. I'm just thinking this through in real</p> <p>19 time, Mr. Lyles.</p> <p>20 So it is not YouTube's position that</p> <p>21 governments should not reach their own conclusions</p> <p>22 about what content should be legal and what content</p>

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1 should not be. And we comply around the world with  
 2 laws about what content is allowable in individual  
 3 jurisdictions. That -- to my immediate  
 4 recollection, that is mostly at the federal level.  
 5 But different democratic governments  
 6 reach different conclusions about speech. So  
 7 Germany, for example, has restrictions on what  
 8 speech is allowed around the Holocaust differently  
 9 than -- different conclusion than the U.S. reaches  
 10 via the First Amendment. And we comply with those  
 11 legal removal requests globally.  
 12 I cannot think of an example where I have  
 13 seen legal removal requests at a subnational level.  
 14 But we do think it is appropriate for governments to  
 15 reach conclusions about what speech is appropriate  
 16 for their own citizens.  
 17 BY MR. LYLES:  
 18 Q Okay.  
 19 A And if I could just add to that.  
 20 Q Yes.  
 21 A We also think it is appropriate for  
 22 YouTube to reach its own conclusions about how we

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1 want our platform to look as a private business, a  
 2 business that relies on advertising dollars, the  
 3 trust of our users, the trust of our creators. We  
 4 all think -- also think it's important and  
 5 appropriate for us to reach our own determinations.  
 6 And other platforms certainly reach other  
 7 determinations, as you and I have discussed today.  
 8 Q So you just said that Germany has  
 9 restrictions on Holocaust speech that YouTube  
 10 complies with.  
 11 How does that work as a practical matter  
 12 where the U.S. does not have those restrictions but  
 13 Germany does and YouTube's accessible to users in  
 14 both countries?  
 15 A Sure. So --  
 16 MS. YANG: Objection. Form.  
 17 THE WITNESS: So for countries in which  
 18 our product is launched, which -- which, just to be  
 19 clear, does not include all countries in the world  
 20 but includes both the United States and Germany,  
 21 users in those countries receive a version of our  
 22 product with a local lens applied.

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1 And so in the case you -- in the example  
 2 you cite, in Germany, if we received a legal removal  
 3 order that was, you know, fully in order, we would  
 4 remove that content for our German users while that  
 5 content would still be available for our American  
 6 users.  
 7 So the local lens, if you are, you know,  
 8 visiting the YouTube -- using the YouTube product in  
 9 Germany, that content would not be available as a  
 10 result of a local legal order.  
 11 BY MR. LYLES:  
 12 Q Now, would that take the form of removing  
 13 each piece as a result of a local legal order  
 14 targeting that piece, or would there be a general  
 15 order saying no Holocaust speech; so YouTube goes  
 16 and changes its algorithm for --  
 17 A Right. I understand your question.  
 18 No. No. That is individual-content  
 19 based. Local legal removal orders are processed  
 20 based on individual video URLs. They are reviewed  
 21 by a legal team again just to make sure that the  
 22 removal order is in compliance with local laws and

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1 that -- that's just an individual URL that is  
 2 removal solely for users in that individual country.  
 3 Q Okay. So German users, for example,  
 4 would not -- not see Holocaust speech as a result of  
 5 a YouTube algorithm preventing it from getting up in  
 6 the first place?  
 7 MR. DISHER: Objection. Form.  
 8 MS. YANG: Objection. Form. Scope.  
 9 THE WITNESS: Again, those are -- those  
 10 legal removal orders are single-video URLs. They  
 11 are treated individually on individual pieces of  
 12 content, and that content is removed individually  
 13 within that single country.  
 14 BY MR. LYLES:  
 15 Q And do those orders come directly to  
 16 YouTube from the government?  
 17 MS. YANG: Objection. Scope.  
 18 THE WITNESS: Yes.  
 19 BY MR. LYLES:  
 20 Q So is it fair to say that YouTube is able  
 21 to modify its practices to accommodate one country's  
 22 set of laws without it impacting the experience of

126	<p>1 users in other countries?</p> <p>2 MS. YANG: Objection. Form and scope.</p> <p>3 THE WITNESS: It is correct that YouTube</p> <p>4 can remove pieces of content based on the country</p> <p>5 views of those individual countries.</p> <p>6 If we were to extend this to HB20 in the</p> <p>7 state of Texas, my understanding is it -- it would</p> <p>8 be very difficult to comply with certain components</p> <p>9 of HB20 because we don't actually have a state view.</p> <p>10 We don't -- we don't look at Texas viewers versus</p> <p>11 Ohio users.</p> <p>12 We also don't know, necessarily, if a</p> <p>13 creator lives in Texas but then visits Ohio and</p> <p>14 posts from Ohio, how we would treat that individual</p> <p>15 piece of content.</p> <p>16 There are just great additional</p> <p>17 complexities that come up now that -- you didn't go</p> <p>18 there, but I thought maybe you would, when we get to</p> <p>19 the subnational level.</p> <p>20 BY MR. LYLES:</p> <p>21 Q But just to be clear, YouTube can do it</p> <p>22 and can take this content out in Germany without it</p>	128	<p>1 MS. YANG: Objection. Scope. And,</p> <p>2 objection, form.</p> <p>3 THE WITNESS: I think you're asking if --</p> <p>4 if creators have other avenues for earning revenue</p> <p>5 on their content, and the answer to that question is</p> <p>6 definitely yes.</p> <p>7 BY MR. LYLES:</p> <p>8 Q What are some examples of the companies</p> <p>9 they could go to?</p> <p>10 MS. YANG: Objection. Scope.</p> <p>11 THE WITNESS: So I am -- I am only</p> <p>12 familiar with the practices of YouTube. But I</p> <p>13 believe that Instagram has commercial relationships</p> <p>14 with creators. TikTok has commercial relationships</p> <p>15 with creators. And there are many other platforms</p> <p>16 like that that compensate creators in some form.</p> <p>17 Q If a -- if a monetizing creator on</p> <p>18 YouTube is -- has their privilege revoked, can they</p> <p>19 appeal that?</p> <p>20 A I believe they can. I am less familiar</p> <p>21 with the appeals process for that than the other</p> <p>22 appeals process we have discussed. But I believe</p>
127	<p>1 affecting the experience of users here?</p> <p>2 MS. YANG: Objection. Form and scope.</p> <p>3 BY MR. LYLES:</p> <p>4 Q In the U.S., I mean.</p> <p>5 A It is possible to remove content</p> <p>6 exclusively under the German lens user experience</p> <p>7 and not under the U.S. lens user experience, yes.</p> <p>8 Q Okay. Thank you.</p> <p>9 Would you turn to page 17, please -- I</p> <p>10 mean paragraph 17.</p> <p>11 A Of the declaration?</p> <p>12 Q Of the declaration, yes, ma'am.</p> <p>13 A Okay.</p> <p>14 Q You talk here about how users must meet</p> <p>15 additional eligibility requirements for the</p> <p>16 privilege of earning advertising revenue.</p> <p>17 Is there any site comparable to YouTube</p> <p>18 that a user who is not eligible to earn money on</p> <p>19 YouTube could go to --</p> <p>20 MS. YANG: Objection.</p> <p>21 BY MR. LYLES:</p> <p>22 Q -- to monetize content?</p>	129	<p>1 they can appeal that, yes.</p> <p>2 Q And if that appeal is successful and</p> <p>3 they're let back on to monetize, are they</p> <p>4 compensated in any way for the money they lost for</p> <p>5 the time that they were de-platformed?</p> <p>6 MS. YANG: Objection. Scope.</p> <p>7 THE WITNESS: I don't understand the use</p> <p>8 of the word de-platforming.</p> <p>9 BY MR. LYLES:</p> <p>10 Q So if a monetizing creator is on YouTube</p> <p>11 and then their privilege to monetize is revoked by</p> <p>12 YouTube and they're not allowed to make money in</p> <p>13 that way they were making it but then they</p> <p>14 successfully appeal their removal from the YouTube</p> <p>15 platform, are they compensated in any way for that</p> <p>16 time that they were not allowed to be monetizing</p> <p>17 their creativity on YouTube?</p> <p>18 MS. YANG: Objection. Scope.</p> <p>19 THE WITNESS: So just to be clear, you</p> <p>20 used the term "de-platform." But they -- by your</p> <p>21 example, they are not de-platformed in the way that</p> <p>22 I would understand that -- that term. The platform,</p>

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1 YouTube, was available to them. The privilege of  
 2 monetization had just been revoked from them.  
 3 BY MR. LYLES:  
 4 Q Right. Right.  
 5 A So I -- I believe that during that period  
 6 in which their monetization privileges have been  
 7 revoked, they were not advertising, would not be  
 8 appearing on their content, they would not be  
 9 receiving a revenue share of that advertising, and  
 10 so I do not believe they would be compensated for  
 11 that interregnum. But I'm not -- I don't work on  
 12 the commercial arrangements with our creators.  
 13 Q Okay. Who would know that at YouTube?  
 14 A We have an entire partnerships team that  
 15 works directly with creators all around the world.  
 16 Q Who is in charge of that?  
 17 A So Robert Kyncl is our chief business  
 18 officer. He's responsible for the partnerships team  
 19 that works directly with our creators.  
 20 Q Okay. Thanks.  
 21 A Also with our advertisers.  
 22 Q Okay. What percentage of user views on

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1 YouTube are driven by recommendations?  
 2 A So I think the most current data point  
 3 that we have on that is dated at this point. I  
 4 think it's from 2018. So I'm happy to share that  
 5 data point --  
 6 Q Yeah.  
 7 A -- while stipulating that it's dated.  
 8 I believe in 2018 that data was about  
 9 70 percent of views are driven by recommendations.  
 10 I do not know a more update data point  
 11 there.  
 12 Q Do you know when there's going to be a  
 13 new data point?  
 14 A I do not.  
 15 Q Do you know who would know that?  
 16 A So the -- the responsibility for  
 17 recommendations on the YouTube platform falls under  
 18 Neal Mohan, who I think we previously discussed --  
 19 Q Oh, right.  
 20 A -- is our chief product officer.  
 21 Q Okay. Is it possible for YouTube users  
 22 to opt out of recommendations?

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1 MS. YANG: Objection. Form.  
 2 THE WITNESS: So it is possible for users  
 3 to have control over the factors that go into their  
 4 recommendations. So, for example, as you and I  
 5 previously discussed, the channels you subscribe to  
 6 or the videos you've previously watched or things  
 7 you've previously searched for on YouTube are a  
 8 factor in our recommendations.  
 9 Each of those factors that I just  
 10 mentioned you can delete from your personalized  
 11 recommendations. So you -- you know, let's say you  
 12 go search for, to an earlier example, skateboarding.  
 13 Now we're recommending to you a lot of skateboarding  
 14 videos. Your interest in skateboarding was waning.  
 15 You can simply go back and delete skateboarding as a  
 16 search term that we would use to inform your  
 17 recommendations.  
 18 An individual video that you watched you  
 19 can delete from your search history so it no longer  
 20 informs your recommendations. Recommendations  
 21 appear on our "watch now" and "up next" pages. They  
 22 appear for logged-out users -- so for users about

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1 whom we have no information or de minimus  
 2 information.  
 3 So recommendations will continue to  
 4 appear in those places, but you control how  
 5 personalized they are to you, you can have this  
 6 logged-out experience in which they are not  
 7 personalized to you at all. And the signals that we  
 8 use to inform your recommendations, you can also  
 9 control as well.  
 10 BY MR. LYLES:  
 11 Q So if you're logged out, you don't get  
 12 personal recommendations?  
 13 A Correct.  
 14 Q Not based on search history?  
 15 MS. YANG: Objection. Scope.  
 16 THE WITNESS: Correct. We don't -- we --  
 17 we wouldn't know your search history. There -- even  
 18 if you're logged out, there are some contextual  
 19 clues that we have about you: Your IP address so  
 20 that you're -- you're in the United States, what  
 21 time of day it is.  
 22 So there are some contextual clues that



<p style="text-align: right;">134</p> <p>1 we have that we would use, but they are not  2 personalized to you, Mr. Lyles, based on your past  3 watch history, past interest, past searches,  4 channels you subscribe to. We don't have that  5 information if you are logged out.  6 BY MR. LYLES:  7 Q But they're personalized due to some of  8 these contextual things?  9 A Correct.  10 MS. YANG: Objection. Scope.  11 BY MR. LYLES:  12 Q Okay. So is there -- is there any way to  13 view content on YouTube without it being a  14 recommendation personalized to you in some sense?  15 MS. YANG: Objection. Form and scope.  16 THE WITNESS: Absolutely. I could send  17 you a video and say, "Mr. Lyles, you will love this  18 skateboarding video." And you would go to YouTube,  19 and you would watch that video without any  20 interference between our direct relationship of me  21 sharing that video with you by YouTube. That  22 would --</p>	<p style="text-align: right;">136</p> <p>1 just said does not ring any particular bells for me.  2 Maybe you'll provide me more information.  3 BY MR. LYLES:  4 Q So you have not been privy to a  5 communication from, say, the Senate that YouTube  6 perpetuates racist stereotypes?  7 MS. YANG: Objection. Scope.  8 MR. DISHER: Objection. Form.  9 THE WITNESS: So I hate to ask you to  10 have to be more specific. We receive a lot of  11 inquiries from, for example, the Senate. Certainly  12 any inquiry -- any formal communication that we  13 receive from the Senate during my time in my role I  14 would have reviewed. But that -- that's quite a  15 volume. So I will just need to be a little  16 refreshed.  17 BY MR. LYLES:  18 Q Okay. But it doesn't ring any bells, as  19 you said?  20 MS. YANG: Objection. Scope.  21 THE WITNESS: Could you just repeat the  22 phraseology, that specific --</p>
<p style="text-align: right;">135</p> <p>1 BY MR. LYLES:  2 Q All right. So it would be like a  3 recommendation in the classic sense.  4 Just kidding. Okay.  5 A Alexandra Veitch, private citizen,  6 recommending to you --  7 Q Right.  8 A -- private citizen, yes. Correct.  9 Q Okay.  10 A It may be worth noting that we want users  11 to find new content that they will love. We want  12 creators to have the benefit of finding new  13 audiences. We recommend a huge diversity of  14 content. And we find, generally speaking, that our  15 users like our recommendations.  16 Q Has YouTube received any communications  17 from the federal government about how it perpetuates  18 racist stereotypes?  19 MS. YANG: Objection. Scope.  20 THE WITNESS: I don't think I know the  21 full range of communications that YouTube has  22 received from the federal government. But what you</p>	<p style="text-align: right;">137</p> <p>1 BY MR. LYLES:  2 Q Right.  3 Okay. Has -- has YouTube received any  4 communications from the Senate stating that it  5 perpetuates racist stereotypes?  6 MS. YANG: Objection. Scope.  7 MR. DISHER: Objection. Form.  8 THE WITNESS: I think it's certainly  9 possible, but that is not ringing any specific bells  10 for me.  11 BY MR. LYLES:  12 Q Okay. Could you explain how YouTube's  13 algorithms work with regard to the way in which you  14 provide search results to the user?  15 A Sure.  16 So -- and, generally speaking,  17 recognizing that I have a liberal arts degree, I'm  18 not a computer scientist, but just like is the case  19 with Google search, we want to provide our users  20 with search results that accurately speak to what  21 they are searching for. In certain cases, we also  22 want to index those results in the direction of</p>

<p style="text-align: right;">138</p> <p>1 authoritative.</p> <p>2       So, for example, if you come to YouTube</p> <p>3 and search for COVID-19 vaccine, we want to provide</p> <p>4 you with content that's authoritative based on local</p> <p>5 and global health authorities about the COVID</p> <p>6 vaccine. But -- and similarly to what we discussed</p> <p>7 earlier, we want to provide content that other users</p> <p>8 enjoy. They've shown us that they enjoy it through</p> <p>9 a variety of signals, and so relevance to the query,</p> <p>10 in some cases, authoritativeness, and content that</p> <p>11 users will enjoy.</p> <p>12 BY MR. LYLES:</p> <p>13     Q What about ranking of advertisements?</p> <p>14       MS. YANG: Objection. Scope.</p> <p>15 BY MR. LYLES:</p> <p>16     Q How does -- how do you --</p> <p>17     A I don't know what you mean by that.</p> <p>18     Q How does YouTube's algorithms determine</p> <p>19 how you rank advertisements that users are presented</p> <p>20 with?</p> <p>21       MS. YANG: Objection. Scope.</p> <p>22       THE WITNESS: So advertisements come in a</p>	<p style="text-align: right;">140</p> <p>1       And so I assume there's some correlation</p> <p>2 between what the advertiser wants in terms of</p> <p>3 exposure and -- and how that -- how many times that</p> <p>4 ad appears.</p> <p>5 BY MR. LYLES:</p> <p>6     Q Okay. So the advertiser -- or YouTube</p> <p>7 would get paid more by the advertiser the more the</p> <p>8 ad is viewed; is that correct?</p> <p>9       MS. YANG: Objection. Scope.</p> <p>10      THE WITNESS: Generally speaking, yes.</p> <p>11      I am sure --</p> <p>12 BY MR. LYLES:</p> <p>13     Q Okay.</p> <p>14     A -- there is some nuance to the</p> <p>15 advertising business with which I am not familiar.</p> <p>16       But, generally speaking, as is the case</p> <p>17 on linear TV as well, the more an ad is viewed, the</p> <p>18 more the advertiser pays for that privilege.</p> <p>19     Q Okay. Do users have the ability to</p> <p>20 modify the way their search results in YouTube</p> <p>21 appear to them?</p> <p>22       MS. YANG: Objection. Scope.</p>
<p style="text-align: right;">139</p> <p>1 couple forms on YouTube. There are static ads.</p> <p>2 There are also video ads that appear appended to</p> <p>3 individual pieces of content either before, during,</p> <p>4 or after you watch that individual video.</p> <p>5       But I don't know in great detail how we,</p> <p>6 you know, determine that this particular</p> <p>7 Procter &amp; Gamble ad appears on this particular piece</p> <p>8 of content.</p> <p>9       But the advertisers do have some</p> <p>10 controls, but they don't hand-select individual</p> <p>11 pieces of content to have their advertisements</p> <p>12 appear on.</p> <p>13 BY MR. LYLES:</p> <p>14     Q How do you determine how often an ad</p> <p>15 appears in, say, a video?</p> <p>16     A Oh, we --</p> <p>17       MS. YANG: Objection. Scope.</p> <p>18       THE WITNESS: Yeah, we're rapidly getting</p> <p>19 out of my area of expertise here.</p> <p>20       But ads are charged on what we call a</p> <p>21 CPM, or cost-per-thousand basis. So advertisers pay</p> <p>22 us per -- per thousand views.</p>	<p style="text-align: right;">141</p> <p>1       THE WITNESS: I mean, largely, no,</p> <p>2 though, there are some user controls around</p> <p>3 language, for example. You know, if you want your</p> <p>4 search results in French, you can control the</p> <p>5 language of your search results.</p> <p>6       But, generally speaking, no. Search</p> <p>7 results are based on our conclusions.</p> <p>8 BY MR. LYLES:</p> <p>9     Q Okay.</p> <p>10     A Not a user's conclusion.</p> <p>11     Q Okay.</p> <p>12       MS. YANG: Counsel, we are nearing the</p> <p>13 hour mark.</p> <p>14       Is this a good time to take a quick</p> <p>15 break?</p> <p>16       MR. LYLES: Yeah. Yeah.</p> <p>17       THE VIDEOGRAPHER: We are going off the</p> <p>18 record.</p> <p>19       This is the end of media unit number 3.</p> <p>20       The time is 1 p.m.</p> <p>21       (A recess was taken.)</p> <p>22       THE VIDEOGRAPHER: We are back on the</p>

142	<p>1 record.</p> <p>2 This is the beginning of media unit</p> <p>3 number 4.</p> <p>4 The time is 1:13 p.m.</p> <p>5 BY MR. LYLES:</p> <p>6 Q Ms. Veitch, we talked about the</p> <p>7 California privacy law a little while ago.</p> <p>8 Apart from that law, what federal</p> <p>9 regulations affect YouTube's ability to moderate</p> <p>10 content --</p> <p>11 MS. YANG: Objection. Scope.</p> <p>12 BY MR. LYLES:</p> <p>13 Q -- if any?</p> <p>14 A I'm just thinking. I heard you. I'm</p> <p>15 thinking carefully.</p> <p>16 Q Yeah.</p> <p>17 A So there is -- obviously, there is a wide</p> <p>18 range of federal laws that affect YouTube, generally</p> <p>19 speaking.</p> <p>20 To your question about moderating</p> <p>21 content, there was a law that passed several years</p> <p>22 ago known as SESTA-FOSTA, Senate-House version -- I</p>	144	<p>1 is that burdensome on YouTube?</p> <p>2 MS. YANG: Objection. Form.</p> <p>3 THE WITNESS: So that law was passed</p> <p>4 before -- in my time before I joined YouTube. It</p> <p>5 deals specifically with -- so -- and this is a</p> <p>6 layperson's understanding of that law --</p> <p>7 caveating -- but deals specifically with 230</p> <p>8 protections around sex trafficking.</p> <p>9 Sex trafficking is not something that's</p> <p>10 allowed on YouTube -- not allowable under YouTube's</p> <p>11 community guidelines, and so it certainly impacts</p> <p>12 our platform. It is an erosion to the 230 standard,</p> <p>13 but that is -- that -- given our community</p> <p>14 guidelines, I do not believe that we find it</p> <p>15 particularly burdensome to comply with that law.</p> <p>16 BY MR. LYLES:</p> <p>17 Q Okay. Now, are there any state</p> <p>18 regulations -- the California one aside -- that</p> <p>19 affects YouTube's ability to moderate content?</p> <p>20 MS. YANG: Objection. Scope.</p> <p>21 THE WITNESS: Yes. So HB20, which, as</p> <p>22 you would know better than me but I believe comes</p>
143	<p>1 forget which name ultimately triumphed -- that</p> <p>2 affects section 230. That's another -- that's an</p> <p>3 example of a law that affects our ability to</p> <p>4 moderate content.</p> <p>5 Q Are there any federal laws that affect</p> <p>6 YouTube's -- or provide any kind of requirement that</p> <p>7 YouTube report on its content moderation?</p> <p>8 MS. YANG: Objection. Scope.</p> <p>9 THE WITNESS: Just to be clear -- so</p> <p>10 transparency requirements around content moderation.</p> <p>11 BY MR. LYLES:</p> <p>12 Q Yes. Yeah.</p> <p>13 A There has been a great deal of discussion</p> <p>14 in Congress about that issue. I do not believe</p> <p>15 there is -- there are any -- currently any laws</p> <p>16 requiring transparency.</p> <p>17 Nonetheless, as we've discussed, YouTube</p> <p>18 does -- does endeavor to be transparent and makes a</p> <p>19 great deal of data public, but I don't believe</p> <p>20 there's laws in place.</p> <p>21 Q And the federal law you described as</p> <p>22 affecting YouTube's content moderation, is that --</p>	145	<p>1 into force on December 2nd, would seriously impact</p> <p>2 our ability to moderate content.</p> <p>3 There is a similar but different law in</p> <p>4 Florida that is currently enjoined but that would</p> <p>5 also impact our ability to moderate content. And</p> <p>6 there was a spate of similar laws across the</p> <p>7 country.</p> <p>8 I think those are the only two that were</p> <p>9 passed into law, but there are other similar</p> <p>10 state-level legi- -- pieces of legislation like HB20</p> <p>11 and Florida's law.</p> <p>12 BY MR. LYLES:</p> <p>13 Q And apart from HB20 and Florida's law,</p> <p>14 are there any state laws that require transparency</p> <p>15 around content moderation for YouTube?</p> <p>16 MS. YANG: Objection. Scope.</p> <p>17 THE WITNESS: The U.S. is a big place,</p> <p>18 50 states.</p> <p>19 I want to be sure I'm being accurate, but</p> <p>20 I'm not familiar with any -- on content</p> <p>21 moderation --</p> <p>22</p>

<p style="text-align: right;">146</p> <p>1 BY MR. LYLES:</p> <p>2 Q Uh-huh.</p> <p>3 A -- separately from privacy, CCPA, which</p> <p>4 we've already talked about, I'm not familiar with</p> <p>5 any state-level transparency requirements currently</p> <p>6 in law.</p> <p>7 Q Okay. We're entering the final stuff.</p> <p>8 Could you --</p> <p>9 A Okay.</p> <p>10 Q Could you take a moment to just read --</p> <p>11 read over paragraph 60 to 62 of your declaration,</p> <p>12 please.</p> <p>13 A Of course.</p> <p>14 Sorry. Did you say 60 to 62 "62" or just</p> <p>15 62?</p> <p>16 Q Oh, 60 through 62.</p> <p>17 A Got it.</p> <p>18 I'm ready when you are.</p> <p>19 Q Okay. Are there any burdens that YouTube</p> <p>20 contends HB20 would place on it that are not</p> <p>21 identified in your declaration?</p> <p>22 MR. DISHER: Objection. Form.</p>	<p style="text-align: right;">148</p> <p>1 practices that YouTube contends will be affected by</p> <p>2 HB20 that are not in your declaration?</p> <p>3 MR. DISHER: Objection. Form.</p> <p>4 THE WITNESS: So my declaration speaks to</p> <p>5 our content moderation practices at a relatively</p> <p>6 high level. It references, for example, our</p> <p>7 public-facing community guidelines.</p> <p>8 Again, content moderation is a nuanced</p> <p>9 business, and there's a great deal of nuance</p> <p>10 under- -- under- -- you know, underneath those</p> <p>11 high-level statements.</p> <p>12 But I believe that this document is</p> <p>13 complete in the high-level statements it makes.</p> <p>14 Does that makes sense, Mr. Lyles?</p> <p>15 BY MR. LYLES:</p> <p>16 Q As to content moderation policies that</p> <p>17 will be affected by HB20; is that --</p> <p>18 A Yes, because it -- I mean, it speaks</p> <p>19 about those content moderation policies with -- in</p> <p>20 some generality, but, yes.</p> <p>21 Q Okay. And is there -- is there someone</p> <p>22 else at YouTube who's better able to tell me the</p>
<p style="text-align: right;">147</p> <p>1 THE WITNESS: The burdens that HB20 would</p> <p>2 place on YouTube that I am aware of are in my</p> <p>3 declaration. There may be burdens that I am not</p> <p>4 aware of. But the ones I'm not aware of are not</p> <p>5 contained in my declaration.</p> <p>6 BY MR. LYLES:</p> <p>7 Q Okay. With respect to the burdens you've</p> <p>8 presented in your declaration, are there any</p> <p>9 documents that you relied on to cite and elucidate</p> <p>10 those burdens that have not been produced to us?</p> <p>11 A No. The documents I relied on to -- to</p> <p>12 draft this declaration in conjunction with the</p> <p>13 lawyers we've already discussed have been produced.</p> <p>14 They were a set of Public-Facing Documents. We only</p> <p>15 relied on those, and I believe they have produced to</p> <p>16 you.</p> <p>17 Q Okay. And that's -- that's true of your</p> <p>18 description of the burdens here?</p> <p>19 A That's correct.</p> <p>20 MS. YANG: Objection. Form.</p> <p>21 BY MR. LYLES:</p> <p>22 Q Okay. Are there any content moderation</p>	<p style="text-align: right;">149</p> <p>1 specifics of which content moderation policies HB20</p> <p>2 affects or will affect?</p> <p>3 MR. DISHER: Objection. Form.</p> <p>4 THE WITNESS: Mr. Lyles, the reason I am</p> <p>5 here today is because we believe I am the best</p> <p>6 person to explain that to you. I'm sorry if I've</p> <p>7 disappointed in any way, but I -- I do believe I'm</p> <p>8 the best person to explain the impact of HB20 upon</p> <p>9 YouTube.</p> <p>10 BY MR. LYLES:</p> <p>11 Q YouTube's content moderation policies?</p> <p>12 A Correct.</p> <p>13 Q Okay. And in terms of your spelling out</p> <p>14 those content moderation policies that YouTube</p> <p>15 contends will be affected by HB20 in your</p> <p>16 declaration, did you rely on any other documents</p> <p>17 other than those that you produced to us?</p> <p>18 A No, I did not.</p> <p>19 Q Okay.</p> <p>20 MR. LYLES: Okay. Pass the witness.</p> <p>21 MS. YANG: There will be no redirect</p> <p>22 examination.</p>

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1 MR. DISHER: Plaintiffs have nothing at  
 2 this time.  
 3 MR. LYLES: Thank you, Ms. Veitch.  
 4 THE VIDEOGRAPHER: Please stand by.  
 5 THE WITNESS: Thank you.  
 6 THE VIDEOGRAPHER: We are off the record  
 7 at 1:23 p.m.  
 8 And this concludes today's testimony  
 9 given by Alexandra Veitch.  
 10 (Off the record at 1:23 p.m.)

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 2 Certificate of shorthand reporter - notary public  
 3 I, Susan E. Alldridge, Registered Professional  
 4 Reporter, Certified Shorthand Reporter, the officer  
 5 before whom the foregoing deposition was taken, do  
 6 hereby certify that the foregoing transcript is a  
 7 true and correct record of the testimony given; that  
 8 said testimony was taken by me stenographically and  
 9 thereafter reduced to typewriting under my  
 10 supervision; that reading and signing was requested;  
 11 and that I am neither counsel for or related to, nor  
 12 employed by any of the parties to this case and have  
 13 no interest, financial or otherwise, in its outcome.  
 14 IN WITNESS WHEREOF, I have hereunto set my hand  
 15 and affixed my notarial seal this 19th day of  
 16 November 2021.  
 17  
 18  
 19 \_\_\_\_\_  
 19 NOTARY PUBLIC IN AND FOR THE DISTRICT OF COLUMBIA

# Appendix 8.d

IN THE UNITED STATES DISTRICT COURT  
For the Western District of Texas  
Austin Division

NETCHOICE, LLC d/b/a NetChoice, a :  
501(c)(6) District of Columbia :  
Organization, COMPUTER & :Civil Action  
COMMUNICATIONS INDUSTRY ASSOCIATION :No. 1:21-cv-00840-RP  
d/b/a CCIA, a 501(c)(6) non-stock :  
Virginia Corporation, :  
Plaintiffs, :  
v. :  
KEN PAXTON, in his official capacity:  
as Attorney General of Texas, :  
Defendant. :

Tuesday, November 16, 2021  
Washington, D.C.

NEIL CHRISTOPHER POTTS, pursuant to notice, the witness being sworn by BARBARA MOORE, a Notary Public in and for the District of Columbia, taken at the offices of KIRKLAND & ELLIS, LLP, 1301 Pennsylvania Avenue, N.W., Washington, D.C., on Tuesday, November, 2021, and the proceedings being taken down by Stenotype by BARBARA MOORE, CRR, RMR and transcribed under her direction.

2

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25 Videographer: Gene Aronov

4

1 PROCEEDINGS

2 THE VIDEOGRAPHER: Good morning.

3 This begins the video deposition of Neil

4 Potts taken by the defendant in the

5 matter of NetChoice, LLC, et al, versus

6 Ken Paxton, et al., filed in the United

7 States District Court for the Western

8 District of Texas, Austin Division, Case

9 No. 1:21-cv-00840-RP.

10 This deposition is being held at

11 Kirkland & Ellis, located at 1301

12 Pennsylvania Avenue, NW, Washington,

13 D.C., on November 16, 2021, at

14 approximately 9:09 p.m. -- a.m.

15 My name is Gene Aronov from the

16 firm Integrity Legal Support Solutions,

17 and I'm the video specialist. The court

18 reporter is Barbara Moore with Integrity

19 Legal Support Solutions.

20 Would counsel please introduce

21 themselves.

22 (Attorneys stated their

23 appearances for the record.)

24 THE COURT: Will the court

25 reporter please swear in the witness.

3

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11 EXHIBITS

12 EXHIBIT	DESCRIPTION	PAGE
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2 NEIL CHRISTOPHER POTTS,

3 having been called as a witness on behalf of

4 Facebook and having been first duly sworn, was

5 examined and testified as follows:

6 EXAMINATION BY

7 MS. CORBELLO:

8 MR. McCARRICK: Before we get

9 going, we do have an agreement that one

10 objection from either counsel for the

11 witness or the plaintiffs, serves as an

12 objection for both.

13 MS. CORBELLO: Yes.

14 BY MS. CORBELLO:

15 Q. Good morning, Mr. Potts. My name is

16 Courtney Corbello. I represent the defendant Ken

17 Paxton in this lawsuit. Let's just talk a little

18 bit about your background before we get started.

19 How long have you been with Facebook?

20 A. About five and-a-half, maybe five

21 and three-quarters of a year. I joined in April of

22 2016.

23 Q. What is your title currently?

24 A. I'm the vice president of Trust and

25 Safety Policy.



<p style="text-align: right;">6</p> <p>1 Q. Have you been that the entire time                  2 you've been with Facebook?                  3 A. No, not the entire time. I started                  4 off on our Content Policy team and then created a                  5 team and then eventually took over this position.                  6 Q. So the Content Policy team, what is                  7 that?                  8 A. That is a team that rates the rules                  9 what we allow and do not allow on the platform.                  10 Just to clarify, Trust and Safety Policy falls                  11 under the Content Policy team.                  12 Q. So somewhat of a subsidiary to the                  13 Content Policy team?                  14 A. It's one of the pillars to the                  15 Content Policy Team.                  16 Q. And is that the team you created,                  17 the Trust and Safety?                  18 A. Yes, but that's not the team I was                  19 referring to. I created a team called the                  20 Strategic Response Policy in 2017 and then this                  21 team in 2019.                  22 Q. Where were you previously?                  23 A. I was at a law firm in Washington,                  24 D.C.                  25 Q. What law firm was that?</p>	<p style="text-align: right;">8</p> <p>1 civil society, academics, et cetera, and so I do                  2 that fairly often.                  3 Q. Are you involved in the membership                  4 between Facebook and NetChoice?                  5 A. Define membership in that sense.                  6 Q. Well, Facebook is a member of                  7 NetChoice; correct?                  8 A. That's correct.                  9 Q. Were you involved in becoming --                  10 A. Like advising whether we would be,                  11 no, I wasn't advising.                  12 Q. Do you understand how the membership                  13 for Facebook works in regard to NetChoice?                  14 A. Loosely, but not well versed.                  15 Q. What's your loose understanding?                  16 A. With many trade associations we are                  17 members of seeking to just have better, better                  18 knowledge of issues confronting the internet.                  19 Q. Do you do any work with NetChoice                  20 directly in your capacity as Trust and Safety                  21 Policy vice president?                  22 A. Not directly. I think there are a                  23 lot of tangential issues, but not directly.                  24 Q. What sort of tangential issues?                  25 A. For any of the issues including what</p>
<p style="text-align: right;">7</p> <p>1 A. WilmerHale.                  2 Q. And what are your job duties                  3 currently as vice president of Trust and Safety                  4 Policy?                  5 A. Sure. I oversee a number of subject                  6 matter experts, about 75 subject matter experts                  7 that focus on some of the highest priority issues                  8 that the company faces. That includes safety, so                  9 safety for women, safety for children, health and                  10 well-being, security. That's our term for cyber                  11 security, dealing with foreign interference. Cyber                  12 espionage. Other cyber security issues.                  13 Our team that looks on counterterrorism and                  14 extremism. Our team that looks on civil rights, a                  15 team that looks into every policy as well as                  16 external stakeholder engagement.                  17 Q. And you also represent Facebook in                  18 its external capacities, right, for example?                  19 A. Yes.                  20 Q. In front of Congress?                  21 A. Right.                  22 Q. What are the other capacities you                  23 might represent Facebook in?                  24 A. According to the way that we develop                  25 policies is to engage externally with governance,</p>	<p style="text-align: right;">9</p> <p>1 we're talking about today, they do abut against my                  2 subject matter areas.                  3 Q. And same for CCIA, do you understand                  4 how that membership works for Facebook?                  5 A. Similarly I'm aware of it but don't                  6 know who decided we would be a member of CCIA.                  7 Q. Is it fair to say everything you                  8 just told me about NetChoice applies to CCIA as                  9 well?                  10 A. Yes.                  11 Q. Your understanding?                  12 A. That's true.                  13 Q. Do you know if Facebook funds                  14 NetChoice or CCIA in any way?                  15 A. I don't have direct knowledge.                  16 Q. Do you have indirect knowledge?                  17 A. I know that we participate in a                  18 number of industry groups, and I don't know who our                  19 membership is. I cannot speak to NetChoice                  20 specifically.                  21 Q. Let's turn to your declaration. If                  22 you want to look at the first binder in front of                  23 you.                  24 A. Top binder?                  25 Q. Yes, it should tell you what number</p>

<p style="text-align: right;">10</p> <p>1 it is. I can't remember off the top of my head.                  2 A. This is the big --                  3 Q. 10 it looks like.                  4 A. Tab 10?                  5 Q. Yes.                  6 A. Okay. You know what, I think I have                  7 two of the same or at least the numbering is off.                  8 MS. CORBELLO: Counsel, do you                  9 want your own set of binders, or I assume                  10 you have your own declaration.                  11 (Discussion held off the                  12 record.)                  13 THE WITNESS: Tab 10?                  14 BY MS. CORBELLO:                  15 Q. Yes. Did you draft this                  16 declaration?                  17 MR. DISHER: So 10 is not his                  18 declaration. 10 is the notice of                  19 declaration.                  20 MS. CORBELLO: I'm sorry, I read                  21 it wrong. Here it is, six.                  22 THE WITNESS: Six.                  23 BY MS. CORBELLO:                  24 Q. Sorry, I saw your name and just                  25 assumed it was 10.</p>	<p style="text-align: right;">12</p> <p>1 plaintiffs in this lawsuit at all about drafting                  2 your declaration?                  3 A. I spoke with in-house counsel.                  4 Q. So no?                  5 A. So no.                  6 Q. You said you edited the draft that                  7 was given to you?                  8 A. I edited the draft, input it, gave                  9 feedback and additions to this draft as well as a                  10 similar draft that was submitted.                  11 Q. So how many drafts did you edit,                  12 would you say?                  13 A. When you say that, do you mean the                  14 back-and-forth?                  15 Q. Yes.                  16 A. I haven't -- multiple, but I                  17 couldn't recall the number.                  18 Q. When did you first start drafting --                  19 when did you first see a draft of your declaration?                  20 A. I don't have the exact date.                  21 Q. Several months ago?                  22 A. Several months ago. As I mentioned,                  23 we worked -- we had a similar declaration of                  24 Florida that was -- not many months ago, prior to                  25 this declaration, but unfortunately I don't recall</p>
<p style="text-align: right;">11</p> <p>1 Are you there?                  2 A. I'm still here. Are you still here?                  3 Q. We made it.                  4 A. Okay.                  5 Q. Did you draft this declaration,                  6 Mr. Potts?                  7 A. I had a chance to edit it, to review                  8 it and to ensure that all the statements that I                  9 signed were correct.                  10 Q. Okay. Who drafted the initial draft                  11 of this document?                  12 A. Working with the team of in-house                  13 counsel.                  14 Q. Other than in-house counsel, did                  15 anyone else contribute to the draft in any way?                  16 A. I'm not certain who did contribute                  17 to it. I worked with my in-house counsel on the                  18 declaration.                  19 Q. Who else contributed to it?                  20 A. The team of in-house counsel.                  21 Q. Did you speak to anyone about                  22 drafting your declaration other than in-house                  23 counsel?                  24 A. No, just in-house counsel.                  25 Q. Did you speak to counsel for</p>	<p style="text-align: right;">13</p> <p>1 the exact dates.                  2 Q. Did you consult with anyone other                  3 than in-house counsel in giving any edits to your                  4 draft?                  5 A. No.                  6 Q. Did you consult any documents while                  7 editing your draft?                  8 A. I consulted the documents that are                  9 included, and a lot of it is just kind of inherent                  10 knowledge from day-to-day work.                  11 Q. Let's start with Paragraph 4 on the                  12 second page of your declaration.                  13 A. Sure.                  14 MR. McCARRICK: And Exhibit 1?                  15 MS. CORBELLO: Sorry. I'm going                  16 to mark your declaration as defense                  17 Exhibit 1.                  18 (Exhibit 1, Declaration, was                  19 marked for identification.)                  20 BY MS. CORBELLO:                  21 Q. So turning to paragraph 4 on page 2.                  22 A. Sure.                  23 Q. This paragraph talks about ranking                  24 content; correct?                  25 A. Can I have a second just to review?</p>

<p style="text-align: right;">14</p> <p>1 Q. Sure, go ahead.</p> <p>2 A. Thank you. Okay.</p> <p>3 Q. So this paragraph talks about a</p> <p>4 system of ranking content; correct?</p> <p>5 A. That's correct.</p> <p>6 Q. Why does Facebook prioritize</p> <p>7 training and experience for users that expose them</p> <p>8 to what they find relevant and meaningful?</p> <p>9 A. It's a great question. It's</p> <p>10 something that we hear from users with that they</p> <p>11 want a meaningful experience on a platform:</p> <p>12 whether those are social interactions; things</p> <p>13 that they're interested in from the people that</p> <p>14 they follow; the pages or the people that they</p> <p>15 friend; the pages that they follow; the groups that</p> <p>16 they join; what content is more valuable to the</p> <p>17 individual.</p> <p>18 As you can imagine, the people that I am</p> <p>19 friends with in the groups that I follow may not be</p> <p>20 of interest to you and likewise, so we want to give</p> <p>21 people an experience that they've come to know and</p> <p>22 the power to build a community.</p> <p>23 Q. When you say "valuable," does that</p> <p>24 mean more likely to use the site and engage on the</p> <p>25 things that Facebook is showing them?</p>	<p style="text-align: right;">16</p> <p>1 direct feedback in a number of ways, including</p> <p>2 criticisms, including -- but also applause through</p> <p>3 articles or other, you know, think pieces. So</p> <p>4 that's one that we recognize as a way to, but</p> <p>5 primarily we look at the signals that we have a bit</p> <p>6 more fidelity in, try to deconflict anecdotal</p> <p>7 versus significant.</p> <p>8 Q. When users interact more on their</p> <p>9 Facebook page based on the rankings, does that</p> <p>10 increase ad revenue?</p> <p>11 MR. McCARRICK: Objection to form.</p> <p>12 THE WITNESS: You need to repeat</p> <p>13 it. Sorry.</p> <p>14 BY MS. CORBELLO:</p> <p>15 Q. When users engage in the content</p> <p>16 that Facebook displays for them, does that increase</p> <p>17 ad revenue?</p> <p>18 MR. McCARRICK: Same objection.</p> <p>19 THE WITNESS: I don't have a</p> <p>20 direct kind of causation or direct line,</p> <p>21 so I wouldn't know.</p> <p>22 BY MS. CORBELLO:</p> <p>23 Q. So user engagement does not increase</p> <p>24 ad revenue for Facebook?</p> <p>25 MR. DISHER: Objection, form.</p>
<p style="text-align: right;">15</p> <p>1 A. To find some value and experience,</p> <p>2 it could be anything. Not necessarily just with</p> <p>3 engagement but find value in the actual content</p> <p>4 that is presented to them.</p> <p>5 Q. Well, how do users demonstrate that</p> <p>6 they find value in the content that's being given</p> <p>7 to them?</p> <p>8 A. Engagement is one, so that could be</p> <p>9 either through comments, likes, sometimes sharings,</p> <p>10 so those are all things as well, but just reviewing</p> <p>11 the content and just -- we do run surveys as well</p> <p>12 to get direct feedback from users about the type of</p> <p>13 content so regardless of that level of engagement,</p> <p>14 we hear what users say they want.</p> <p>15 Q. What percentage of the users utilize</p> <p>16 the survey feature on Facebook?</p> <p>17 A. I don't have the number,</p> <p>18 unfortunately.</p> <p>19 Q. Is it possible to get that number?</p> <p>20 A. I can find out. I don't know.</p> <p>21 Q. Other than engagement and use of</p> <p>22 surveys, is there any other way that Facebook is</p> <p>23 able to tell whether users find content valuable or</p> <p>24 not?</p> <p>25 A. Sometimes we get direct feedback,</p>	<p style="text-align: right;">17</p> <p>1 THE WITNESS: I'm struggling a bit</p> <p>2 with the question, so I don't have -- I</p> <p>3 don't have metrics that indicate how</p> <p>4 that, how those things play out.</p> <p>5 BY MS. CORBELLO:</p> <p>6 Q. What's your struggle with the</p> <p>7 question?</p> <p>8 MR. DISHER: Objection, form.</p> <p>9 THE WITNESS: It's just the way</p> <p>10 that it's framed. If you could maybe</p> <p>11 reframe. It's just a little confusing to</p> <p>12 me.</p> <p>13 BY MS. CORBELLO:</p> <p>14 Q. Is there a concept that you're</p> <p>15 missing that I can explain a little bit better?</p> <p>16 A. Well, it's partially your definition</p> <p>17 of engagement, and then are you asking if there is</p> <p>18 a direct correlation of one user engaging a content</p> <p>19 to ad revenue?</p> <p>20 Q. No. So the more users engage in the</p> <p>21 content on Facebook, does that increase Facebook's</p> <p>22 ad revenue?</p> <p>23 A. I don't have metrics on it. That's</p> <p>24 not my -- I'm not on the business side of the</p> <p>25 house.</p>

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1 Q. Do you know the answer to that  
 2 question or not?  
 3 A. I do not.  
 4 Q. Paragraph 4 says that the rankings  
 5 are unique to each user. Do you see where it says  
 6 that?  
 7 A. I do.  
 8 Q. So how are rankings made by  
 9 Facebook? Is it algorithms or human based?  
 10 A. The rankings are a combination of  
 11 humans and algorithms. Humans can create the  
 12 algorithms; humans also do a lot of the feedings of  
 13 the algorithms, the machine learning, the AI, so  
 14 not just the creation but the labeling of content  
 15 that feeds into that. So with that combined with  
 16 the automation, it's just a combination of how the  
 17 rankings appear.  
 18 Q. So when it says, "Rankings are  
 19 unique to each user," it's the combination of  
 20 algorithms and humans that are making that  
 21 determination for each user?  
 22 A. For the algorithm; correct.  
 23 Q. Is the algorithm -- are the  
 24 algorithms that are designed to create these  
 25 rankings, are these based on what it determines

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1 based on training or any human involvement that  
 2 each user is most interested in?  
 3 MR. DISHER: Objection, form.  
 4 THE WITNESS: Algorithm, repeat  
 5 the question.  
 6 BY MS. CORBELLO:  
 7 Q. So the algorithms that are used to  
 8 create these unique rankings, are these essentially  
 9 looking for what each user is most interested in  
 10 based on data that Facebook has for them, past  
 11 likes, past shares?  
 12 MR. DISHER: Objection, form.  
 13 THE WITNESS: So -- in part. So  
 14 it's a bit -- it's a bit more complex.  
 15 We have many algorithms that are news  
 16 feeds including algorithms that moderate  
 17 content, algorithms that demote content  
 18 as well.  
 19 So we have -- we have a number of  
 20 policies that we apply to content  
 21 moderation. If there is something that  
 22 would violate one of these policies, we  
 23 would remove it. If there's something  
 24 that we call borderline that runs up  
 25 against the policy but we haven't made a

20

1 decision on, we would demote that.  
 2 So the ranking does take into  
 3 account what you have liked, what you  
 4 have engaged with, but it's also subject  
 5 to those other measures.  
 6 BY MS. CORBELLO:  
 7 Q. So let's say a piece of  
 8 user-generated content comes in, putting aside any  
 9 algorithms, let's say it doesn't violate any  
 10 policies by Facebook and it's just a nice piece of  
 11 user-generated content, is the way it works that  
 12 that content is essentially ranked for a user who  
 13 would be interested in seeing it based on past  
 14 behavior by that user on Facebook?  
 15 MR. DISHER: Object. Form.  
 16 THE WITNESS: In part. Similar  
 17 content that also we have signals on  
 18 other users are engaged.  
 19 BY MS. CORBELLO:  
 20 Q. So it's based on both what the user  
 21 likely engages in and other users like that user  
 22 might engage in. Is that fair?  
 23 MR. McCARRICK: Objection to form.  
 24 THE WITNESS: In a nutshell. To  
 25 maybe clarify that point, your user, your

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1 individual user, the friends, the pages,  
 2 the groups that is going to be the  
 3 majority, I think is around 87 percent of  
 4 the signal comes from that subject to  
 5 those other things that we talked about:  
 6 content moderation, algorithms,  
 7 demotion of algorithms. But we also take  
 8 signal on other issues, for example,  
 9 sharing of the link, just kind of broad  
 10 sharing of the link or sharing, you may  
 11 have seen this in your Facebook or  
 12 Instagram feed, the sharing of Oh, I got  
 13 Jordans or I've got Ray Bans, that type  
 14 of stuff making sure that if it's a  
 15 repeated sharing that looks like spam,  
 16 that we're also taking appropriate  
 17 actions and things like that.  
 18 BY MS. CORBELLO:  
 19 Q. Let's go to paragraph 8, which is on  
 20 the same page. Do you want to take a second to  
 21 read it. I think it goes down to the next page.  
 22 A. I appreciate it, thank you.  
 23 Q. Do you see the second sentence  
 24 there, "People will not use Facebook if they not  
 25 physically safe"?

<p style="text-align: right;">22</p> <p>1 A. Yes.</p> <p>2 Q. What's your basis for this</p> <p>3 knowledge?</p> <p>4 A. I don't have direct feedback, I</p> <p>5 don't have hard data but I've been in a number of</p> <p>6 conversations with civil society members, the</p> <p>7 public at writ large where they've communicated</p> <p>8 that. In fact, we've been the targets of a boycott</p> <p>9 on a number of occasions for people not feeling</p> <p>10 safe on the platform.</p> <p>11 Q. Do you -- in your position as vice</p> <p>12 president of Trust and Safety Policy, do you</p> <p>13 receive direct user feedback?</p> <p>14 A. Sometimes.</p> <p>15 Q. From Facebook?</p> <p>16 MR. McCARRICK: Objection to form.</p> <p>17 Q. So users can fill out -- there's</p> <p>18 some sort of complaint system for Facebook, right,</p> <p>19 for users?</p> <p>20 A. There are complaint systems.</p> <p>21 Q. Do you receive those complaints that</p> <p>22 come in through the Facebook website?</p> <p>23 A. No, I do not.</p> <p>24 Q. Do you review any of the user</p> <p>25 complaints that come in through Facebook?</p>	<p style="text-align: right;">24</p> <p>1 you including both of those sentiments from users?</p> <p>2 A. The sentiment that they would not</p> <p>3 use Facebook if they don't --</p> <p>4 Q. Or they don't feel safe currently.</p> <p>5 A. That's what they say. I have no way</p> <p>6 to prove their intent. I can't speculate on it if</p> <p>7 it's actually true, but that's what they felt.</p> <p>8 Q. Do you have any other basis for your</p> <p>9 claim that people will not use Facebook if they do</p> <p>10 not feel safe?</p> <p>11 A. That's my view.</p> <p>12 Q. The next sentence, "Advertisers</p> <p>13 similarly will not advertise on Facebook if they</p> <p>14 believe it's not effective at removing harmful</p> <p>15 content, a content that violates our community</p> <p>16 standards."</p> <p>17 Do you see that?</p> <p>18 A. I do.</p> <p>19 Q. What's your basis for that</p> <p>20 statement?</p> <p>21 A. I've been in contact with a number</p> <p>22 of advertisers. As I mentioned briefly, we've been</p> <p>23 a target of a boycott, I believe a boycott last</p> <p>24 year by advertisers where that that was one of</p> <p>25 their number one concerns.</p>
<p style="text-align: right;">23</p> <p>1 A. No, no, I do not.</p> <p>2 Q. And so your knowledge for the</p> <p>3 sentence people will not use Facebook if they do</p> <p>4 not feel safe is based on anecdotal?</p> <p>5 MR. DISHER: Objection. Form.</p> <p>6 THE WITNESS: Yes. Clarify</p> <p>7 anecdotal. I've heard from people</p> <p>8 directly say to me it's anecdotal. I</p> <p>9 don't know if they would go through with</p> <p>10 it, but the difference between the</p> <p>11 complaint system, people either approach</p> <p>12 me directly, in person, they have email</p> <p>13 addresses, they have phone numbers, and</p> <p>14 they will call and they will lodge</p> <p>15 complaints that are outside of the</p> <p>16 Facebook complaint system.</p> <p>17 BY MS. CORBELLO:</p> <p>18 Q. And are there complaints that they</p> <p>19 won't use Facebook if they don't feel safe?</p> <p>20 A. Yes.</p> <p>21 Q. Are any of their complaints that</p> <p>22 they don't currently feel safe on Facebook?</p> <p>23 A. I have heard those.</p> <p>24 Q. So when you talk about the anecdotal</p> <p>25 evidence you've heard of this, this sentence, are</p>	<p style="text-align: right;">25</p> <p>1 Q. Do you deal directly with</p> <p>2 advertisers as part of your position as vice</p> <p>3 president?</p> <p>4 A. Not on a daily basis but on occasion</p> <p>5 I would.</p> <p>6 Q. What are the occasions on which you</p> <p>7 deal with advertisers?</p> <p>8 A. When one of our policies or one of</p> <p>9 our public policies -- not all of our policies are</p> <p>10 public -- but when that becomes an issue of</p> <p>11 scrutiny, I will hopefully explain how our</p> <p>12 policies, our intentions on enforcement of those</p> <p>13 policies to work with advertisers. But many</p> <p>14 advertisers also are just concerned with the</p> <p>15 platform broadly outside of an inflection point</p> <p>16 because they're worried about their brands.</p> <p>17 Q. You said there was an advertiser</p> <p>18 boycott last year?</p> <p>19 A. 2020.</p> <p>20 Q. Have there been any other advertiser</p> <p>21 boycotts that you know of?</p> <p>22 A. That is the one that I know of. You</p> <p>23 have to survey the advertisers. I don't know if</p> <p>24 they -- what started what they consider a boycott,</p> <p>25 but there was a known boycott in 2020.</p>

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1 Q. You said you talked to some of these  
 2 advertisers on an ad hoc basis?  
 3 A. Correct.  
 4 Q. What are some of the concerns that  
 5 they expressed to you?  
 6 A. Advertisers, especially their  
 7 marketing offices, are highly concerned about their  
 8 brand and the brand appearing next to content that  
 9 they find to be objectionable.  
 10 Now, objectionable content for Facebook may  
 11 not actually violate, but they are also very, very  
 12 I guess focused on content that does violate or  
 13 perceived to violate our policies that we haven't  
 14 been able to enforce against.  
 15 So for any type of brand safety, if you  
 16 will, the advertisers who invest obviously a lot of  
 17 their resources into Facebook want to ensure that  
 18 the platform is one that is safe.  
 19 Q. And so these are past concerns that  
 20 the advertisers have expressed?  
 21 A. I guess it's hard to speculate for  
 22 me on is it past or future. They generally are  
 23 talking about past events to inform future spend.  
 24 Q. So is it fair to say that there has  
 25 been content presented on Facebook that advertisers

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1 did not agree with in the past?  
 2 A. Yes.  
 3 Q. Content on Facebook that advertisers  
 4 believe harm their brand has been present in the  
 5 past?  
 6 A. If I can rephrase that to content  
 7 that they would not -- they would not want their  
 8 brand to appear next to.  
 9 Q. That has existed in the past on  
 10 Facebook?  
 11 A. They have made the argument.  
 12 Q. Are you involved with anything to do  
 13 with advertiser retention?  
 14 A. I'm not -- I don't know what that  
 15 is. So I mean, I know what the words mean, but I  
 16 don't know that that's a team that we have. So no,  
 17 I'm not directly involved.  
 18 Q. So when an advertiser -- some of the  
 19 examples you gave when an advertiser starts saying  
 20 that they don't like their brand being next to a  
 21 certain piece of content, they might walk, who  
 22 deals with that at Facebook?  
 23 A. We have a full, what we call the  
 24 business operations team. So it's a team of what  
 25 we call global management services, who holds

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1 partnerships whose main focus is on advertiser  
 2 support.  
 3 Q. That's who would handle any sort of  
 4 advertiser threat to leave the platform?  
 5 A. That team, they are the main  
 6 interface with advertisers.  
 7 Q. Who is the head of that team?  
 8 A. Our current chief business officer  
 9 is Marne Levine.  
 10 Q. Can you spell that first name for  
 11 me.  
 12 A. Sure. M-a-r-n-e.  
 13 Q. Have you ever -- other than the  
 14 boycott you told me about, have you ever come  
 15 across another advertiser who stopped using  
 16 Facebook due to the concerns we've talked about?  
 17 A. Personally, no.  
 18 Q. Are you aware of where those  
 19 advertisers would go if not using Facebook?  
 20 MR. DISHER: Objection to form.  
 21 MR. McCARRICK: Objection to form.  
 22 THE WITNESS: I can't speculate.  
 23 I'm not their CMOs or investment ops.  
 24 BY MS. CORBELLO:  
 25 Q. No advertiser or rep of an

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1 advertiser has ever told you where they might go  
 2 alternatively to using the Facebook platform?  
 3 A. They never told me directly. I  
 4 haven't asked.  
 5 Q. The last sentence of paragraph 8,  
 6 people and advertisers have stopped using Facebook  
 7 due to these concerns?  
 8 A. Yes.  
 9 Q. I know we talked about the boycott.  
 10 What are the other -- what other personal knowledge  
 11 do you have that forms the basis of this statement?  
 12 A. There's a lot of -- there's a lot of  
 13 public reporting, and I'm taking those public  
 14 reports as being accurate of people, you know,  
 15 hashtag Delete Facebook, which is a kind of a known  
 16 trend that appears routinely. The advertiser  
 17 boycott.  
 18 There's also a civil rights boycott led by  
 19 an organization called Color of Change where I  
 20 don't understand how they would prove who is  
 21 deleting Facebook or not. But that is one of the  
 22 tenets that you delete Facebook to join that  
 23 boycott.  
 24 Q. Why does that group ask its members  
 25 to delete Facebook? What was the basis, if you

<p style="text-align: right;">30</p> <p>1 know?</p> <p>2 MR. McCARRICK: Object to form.</p> <p>3 THE WITNESS: I can't speculate on</p> <p>4 all the reasons why. Publicly they claim</p> <p>5 that Facebook has hate on the platform.</p> <p>6 BY MS. CORBELLO:</p> <p>7 Q. You don't have any personal</p> <p>8 knowledge as to the fact that the members of this</p> <p>9 group don't feel safe and so they delete Facebook</p> <p>10 because of that?</p> <p>11 A. I can't speculate to someone's</p> <p>12 emotion. I can tell you what they've told me. I</p> <p>13 can't speculate to if it's actually true.</p> <p>14 Q. What is the name of this group?</p> <p>15 A. Color of Change.</p> <p>16 Q. Color of Change?</p> <p>17 A. You yes.</p> <p>18 Q. Have you spoken to anyone with this</p> <p>19 group?</p> <p>20 A. Yes.</p> <p>21 Q. And what have they told you is their</p> <p>22 basis for leaving Facebook?</p> <p>23 A. We have too much hate on the</p> <p>24 platform. That's in a nutshell.</p> <p>25 Q. Anything else?</p>	<p style="text-align: right;">32</p> <p>1 BY MS. CORBELLO:</p> <p>2 Q. Let's go to paragraph 9 if you want</p> <p>3 to take a second to read that one.</p> <p>4 A. Sure, thank you.</p> <p>5 Q. On page 4.</p> <p>6 A. Yes.</p> <p>7 Q. The first sentence, to me that reads</p> <p>8 that essentially Facebook's goal is to foster an</p> <p>9 open debate sort of forum. Is that correct?</p> <p>10 MR. DISHER: Objection. Form.</p> <p>11 THE WITNESS: Facebook's mission</p> <p>12 is to give people the power to build</p> <p>13 community. So to the extent that giving</p> <p>14 people voice which is important, freedom</p> <p>15 of expression is a human right, yes. We</p> <p>16 want to foster a platform for expression.</p> <p>17 BY MS. CORBELLO:</p> <p>18 Q. How many people use Facebook</p> <p>19 currently?</p> <p>20 A. The family of action services has</p> <p>21 approximately 3 billion, I think Facebook is around</p> <p>22 2.8 billion, but I don't know the exact numbers for</p> <p>23 November. Those are global numbers, obviously.</p> <p>24 Q. That was going to be my next</p> <p>25 question. Explain to me a little bit more what</p>
<p style="text-align: right;">31</p> <p>1 A. They have a myriad of like smaller</p> <p>2 lists of specific content, but I can't recall those</p> <p>3 now.</p> <p>4 Q. The hashtag Delete Facebook that you</p> <p>5 mentioned a moment ago, do you know the basis for</p> <p>6 those users' reasons for wanting to delete</p> <p>7 Facebook?</p> <p>8 MR. McCARRICK: Objection to form.</p> <p>9 THE WITNESS: I can't speculate on</p> <p>10 all of it, but similar to the Color of</p> <p>11 Change, what they publicly say on Twitter</p> <p>12 is Facebook has hate on the platform.</p> <p>13 BY MS. CORBELLO:</p> <p>14 Q. All of these that use the hashtag</p> <p>15 Delete Facebook say that?</p> <p>16 A. I can't -- I have not done a survey</p> <p>17 of all the users who have said that. So I don't</p> <p>18 want to attest to something I wouldn't be certain</p> <p>19 on.</p> <p>20 Q. So you aren't able to say sitting</p> <p>21 here today why people are using the hashtag Delete</p> <p>22 Facebook?</p> <p>23 MR. DISHER: Objection to form.</p> <p>24 THE WITNESS: I can't say why all</p> <p>25 those people are doing that.</p>	<p style="text-align: right;">33</p> <p>1 that means, give people the power to build</p> <p>2 community.</p> <p>3 A. Sure. It's core to the mission of</p> <p>4 how markets set division for Facebook, give people</p> <p>5 a power of voice to connect. So whether that's</p> <p>6 connecting through individuals, friends that you</p> <p>7 may friend, really, I think one of the things I'm</p> <p>8 most proud of on Facebook is the work that we do in</p> <p>9 groups to allow groups to thrive for people who</p> <p>10 would otherwise not have -- not be able to connect</p> <p>11 with people that have like interests or like lived</p> <p>12 experience.</p> <p>13 For example, there was a group that works</p> <p>14 on disability, providing channels for those who are</p> <p>15 disabled. For COVID you can imagine how difficult</p> <p>16 it is for people that cannot otherwise be mobile</p> <p>17 enough to do errands, but in a world where it's</p> <p>18 very, you know, essential workers are very strapped</p> <p>19 and having people actually come into contact</p> <p>20 directly with individuals.</p> <p>21 I've seen reports where in feedback,</p> <p>22 anecdotal, these are individuals with experience</p> <p>23 but saying that those groups were lifesavers,</p> <p>24 allowed them to connect to third parties, essential</p> <p>25 workers that were able to step in and provide</p>

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1 services that sometimes the governments cannot  
 2 provide.  
 3 Q. So it sounds like Facebook operates  
 4 in an essential way for a large majority of the  
 5 public. Is that fair to say?  
 6 MR. McCARRICK: Objection to form.  
 7 THE WITNESS: You'd have to define  
 8 "essential." For that one person, for  
 9 that person where -- whose story that I  
 10 happen to be familiar with and by  
 11 reading, it was very important.  
 12 Essential maybe has other connotations.  
 13 BY MS. CORBELLO:  
 14 Q. Well, you said Facebook does things  
 15 that certain governments can't do; correct?  
 16 A. I didn't say certain governments  
 17 can't do. I said they were stepping into places  
 18 where governments were not acting. I'm not sure  
 19 what the government can or can't do.  
 20 Q. Okay. So give some examples where  
 21 you've seen that happen.  
 22 A. Seen what happen?  
 23 Q. Facebook stepping in where  
 24 governments weren't acting.  
 25 A. That's one example that I have.

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1 Q. Do you have any others?  
 2 A. I would have to really kind of sit  
 3 down and do long thinking about it. Nothing comes  
 4 to me.  
 5 Q. How does one become a user on  
 6 Facebook?  
 7 A. You can sign up on Facebook if  
 8 you're over 13. If you're over 13 and you're not a  
 9 certain class of person -- and I can go into those,  
 10 those are people with specific criminal histories,  
 11 child sexual abuse material, providers or those  
 12 that traffic in terrorist, those things.  
 13 You can go to your Facebook.com, sign up,  
 14 agree to the Terms of Service. Attesting that  
 15 you're over 13 as well and then create your  
 16 account.  
 17 Q. Is it fair to say you need a birth  
 18 date, a name and a valid email address to sign up  
 19 for Facebook?  
 20 MR. DISHER: Objection to form.  
 21 Q. Can you say that again?  
 22 A. You would need a real name, a name,  
 23 our policies dictate a name that you are known by  
 24 so an authentic name in the sense of an email  
 25 address or a phone number and a -- some I guess

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1 access to it. Like you have a computer, phone or  
 2 something of that nature.  
 3 Q. Any other obstacles to becoming a  
 4 user on Facebook other than the ones we just  
 5 discussed?  
 6 MR. DISHER: Objection to form.  
 7 THE WITNESS: Obstacles, obstacles  
 8 from whom, I guess.  
 9 BY MS. CORBELLO:  
 10 Q. I guess just information that  
 11 Facebook needs before it allows you to be a user on  
 12 its platform.  
 13 A. I'm not positive. I'm not positive.  
 14 It's not my sign-up, that kind of portfolio is not  
 15 in my portfolio, so I'm not exactly sure if there  
 16 are other additional things that people have to  
 17 attest to, agree to on those sign-ups.  
 18 Q. You mentioned a second ago that  
 19 there is some kind of -- is there an alternative  
 20 screening for people with criminal backgrounds,  
 21 terrorist links?  
 22 A. Not an alternative screen per se.  
 23 We do keep -- for known people or people who have  
 24 been known to be convicted of child sexual assault  
 25 or sexual assault broadly, sexual assault broadly,

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1 where we can find and have fidelity and information  
 2 provided. So convictions, if the state of Texas  
 3 convicts someone, convicts John Smith and John  
 4 Smith's name is on the registry, that person would  
 5 not be allowed.  
 6 Similarly for people who are affiliated  
 7 with terrorist organizations, if you are bin Laden,  
 8 for example, if he were alive, Osama bin Laden,  
 9 signing up for that, we would not allow that.  
 10 Q. Is that a media blockade, you're  
 11 denied entry at the door, or is that something  
 12 where Facebook removes the profile after the fact?  
 13 A. It differs. I would say it differs.  
 14 In many cases it's after the fact, that once we are  
 15 alerted to it, we don't necessarily have a list of  
 16 individuals, like we're not scanning a list of  
 17 registry and kind of doing that comparison at the  
 18 time of. But we were alerted to, so it's once we  
 19 have knowledge of.  
 20 Q. And so what information does  
 21 Facebook use when it's checking those databases?  
 22 A. We generally use the open source  
 23 database that we have. One point of clarification,  
 24 a brief statement. For those known terrorists, we  
 25 do prevent specific names from being created. So



<p style="text-align: right;">38</p> <p>1 you couldn't come on and like say I am Osama 2 bin Laden, if unfortunately your name was actually 3 that, you are not the terrorist, then there are 4 like a number of steps you would have to go through 5 to prove that, okay, you're not just trying to 6 create a profile to create or represent the 7 individual.</p> <p>8 Q. Can that person who is unfortunately 9 named Osama bin Laden just enter in a different 10 name and create a user profile?</p> <p>11 A. They could.</p> <p>12 Q. And for the example of the child 13 sexual predator, is that something you just search 14 for by name, or do you utilize both their name and 15 birth date, whatever they've signed up for?</p> <p>16 A. That's correct. We use a number of 17 signals, including their name, including other 18 signals that we were able to derive, including a 19 report upon them, that it's likely that this person 20 has been convicted of child or not -- I don't want 21 to say child, but a sexual offense.</p> <p>22 Q. Does Facebook have any ability to 23 screen between legitimate and illegitimate users 24 that are signing up for Facebook?</p> <p>25 MR. McCARRICK: Objection to form.</p>	<p style="text-align: right;">40</p> <p>1 manage to distinguish between legitimate and 2 illegitimate accounts that are being made?</p> <p>3 A. So real accounts versus fake 4 accounts?</p> <p>5 Q. Yes.</p> <p>6 A. I'll use that. We use automation, a 7 lot of automation that is informed by kind of human 8 development to identify what signals of the fake 9 account are. So that's creation dates, patterns of 10 friends that you have, patterns of sharing that you 11 create.</p> <p>12 So everything from this seems that this, 13 this one device created 10 accounts with very 14 similar birth dates, you know, ranging from X, Y, 15 Z, to their friending the same people or the same 16 groups of people or doing a lot of friends that are 17 unconnected.</p> <p>18 So it's a little bit -- it would be very 19 unique for a person, perhaps. In Washington, D.C. 20 too, my first 40 friends are in, you know, 21 globally, globally that while not dispositive gives 22 a signal that there may be further investigation.</p> <p>23 Compiling all the signals and we make decisions.</p> <p>24 Q. So it sounds like when Facebook is 25 screening for fake accounts it's doing so after the</p>
<p style="text-align: right;">39</p> <p>1 THE WITNESS: Can you define the 2 legitimate, what does that mean?</p> <p>3 BY MS. CORBELLO:</p> <p>4 Q. Sure. So Facebook has many bots on 5 its site at any given time; right?</p> <p>6 MR. DISHER: Objection to form.</p> <p>7 THE WITNESS: I don't think that's 8 fully accurate, but -- that we have many 9 bots, but "many" is kind of an ambiguous 10 word.</p> <p>11 BY MS. CORBELLO:</p> <p>12 Q. Is it fair to say that Facebook can 13 have millions of bots on its platform at any given 14 time?</p> <p>15 MR. McCARRICK: Object to form.</p> <p>16 THE WITNESS: I'm also struggling 17 a bit on the bots. I think what you're 18 referring to maybe is fake accounts.</p> <p>19 BY MS. CORBELLO:</p> <p>20 Q. Yes.</p> <p>21 A. Yes, we do have fake accounts on the 22 site, and we stopped many of those at creation.</p> <p>23 Q. So how does Facebook manage to 24 stop -- I'm going to use the terms again now that 25 we understand what they are -- how does Facebook</p>	<p style="text-align: right;">41</p> <p>1 fake account has already made it on to the platform 2 and started utilizing it in some way; right?</p> <p>3 MR. DISHER: Objection to form.</p> <p>4 THE WITNESS: Actually, that's 5 incorrect. We do a lot of screening up 6 front as well. I'm sorry to give you 7 some signals, but we do a lot of 8 screening up front. Our latest 9 transparency report actually mentions the 10 number of fake accounts we remove at 11 creation.</p> <p>12 BY MS. CORBELLO:</p> <p>13 Q. And so how does -- specifically as 14 to the upfront creation of a user account, how does 15 that screening work?</p> <p>16 A. I don't have all the particulars. I 17 gave you some of the ideas on name, dates, devices 18 that they are created from, but I don't have all 19 the particulars. I'm not an engineer.</p> <p>20 Q. Who would know that information?</p> <p>21 A. Our integrity teams broadly.</p> <p>22 Q. And who is the head of that team?</p> <p>23 A. The head of Integrity is a gentleman 24 by the name of Guy Rosen.</p> <p>25 Q. Does Facebook -- once someone has</p>

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1 created a user account and gained access to the  
 2 platform, does Facebook treat all of those users  
 3 equally in terms of applying its policies and terms  
 4 and conditions?  
 5 A. Yes. Yes, they do. There are some  
 6 specific rules, some certain rules that have  
 7 different applications, but broadly yes.  
 8 Q. The user-generated content is  
 9 treated the same by your algorithms regardless of  
 10 which user is generating that content?  
 11 MR. DISHER: Objection to form.  
 12 THE WITNESS: Maybe repeat the  
 13 question.  
 14 BY MS. CORBELLO:  
 15 Q. Sure. The algorithms that are  
 16 coming in contact with user-generated content as it  
 17 comes on to the platform, are those algorithms  
 18 treating that content the same regardless of the  
 19 user that generates the content?  
 20 MR. DISHER: Objection to form.  
 21 THE WITNESS: I think it would be  
 22 two similarly situated users, yes.  
 23 That's accurate.  
 24 BY MS. CORBELLO:  
 25 Q. What do you mean by "similarly

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1 situated"?

2 A. I guess where I'm struggling is so  
 3 pages get different treatment, individuals get  
 4 different treatment, individuals vis-a-vis pages  
 5 have different treatment. And -- but if you're  
 6 posting -- I'm trying to make sure that we're  
 7 talking apples to apples, people posting the same  
 8 content, yes, that should be the same.  
 9 Q. That's what I was asking.  
 10 A. The factors there are also if you  
 11 are, you know, perhaps if you're followed by a lot  
 12 of people, a lot more people may see -- you know,  
 13 you may be followed by many, I'm not followed by  
 14 any, and so your post may be seen by more people  
 15 than mine. But it would be treated the same as far  
 16 as our policies.  
 17 Q. Let's go to paragraph 10. If you  
 18 want to take a second.  
 19 A. Thank you. Yes.  
 20 Q. Do you see where it says, the first  
 21 sentence that Facebook has developed robust  
 22 policies and practices relating to content  
 23 permitted on its service.  
 24 A. I do.  
 25 Q. Going back to what we were just

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1 talking about, what are the specific policies and  
 2 practices that are related to users getting on to  
 3 Facebook?  
 4 A. This sentence is very much meant to  
 5 describe our community standards. So those are the  
 6 policies and abuse areas that we use to govern  
 7 content. But within those, within those community  
 8 standards as well we did discuss the -- those that  
 9 are objectionable offenses, convictions,  
 10 terrorists.  
 11 But also within that, I should be fair,  
 12 there are others, spammers and scammers also fall  
 13 under that as well. And as you can imagine, we  
 14 have kind of robust signals on people. We use  
 15 troll farms or spam farms to kind of create that  
 16 type of content.  
 17 Q. Does Facebook currently have any  
 18 algorithms or source codes that are used  
 19 specifically to screen users and deny them entry  
 20 before getting on to the platform?  
 21 MR. McCARRICK: Objection to form.  
 22 THE WITNESS: I'm not familiar on  
 23 how each algorithm works in that sense.  
 24 BY MS. CORBELLO:  
 25 Q. Let's go down to paragraph -- well,

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1 I'm going to kind of talk about 11 to 13 all  
 2 together if you want to just --  
 3 A. Sure.  
 4 Q. -- review them all.  
 5 A. Thank you.  
 6 Q. So let's start with 11. Talk about  
 7 the Terms of Service and community standards.  
 8 A. Yes.  
 9 Q. Are these basically what Facebook  
 10 lives by when it comes to content moderation on its  
 11 platform?  
 12 A. Primarily, yes.  
 13 Q. What else does Facebook rely on?  
 14 A. I'd have to define the moderation.  
 15 I think moderation means different things to  
 16 different people. Moderation in these terms are,  
 17 especially around community standards, are  
 18 subsequently binary choices on moderation. Meaning  
 19 that we allow or remove. We also used algorithms  
 20 to rank and prioritize.  
 21 We have rules that fall outside of those  
 22 community standards on who can monetize certain  
 23 type of content as well. Who can advertise. That  
 24 does fall under community standards. But it's a  
 25 very, very, I guess, broad term of moderation.

<p style="text-align: right;">46</p> <p>1 Those are more so focused on the binary allow and 2 removal decisions.</p> <p>3 Q. Well, this sentence says that Terms 4 of Service and community standards describes what 5 content is acceptable.</p> <p>6 A. Yes. From a removal -- again, from 7 a removal versus binary removal one zero -- I don't 8 know why I'm using those terms -- removal and allow 9 position. There is a lot of content that is 10 acceptable on Facebook, but where that ranks, your 11 ability to promote that content may have different 12 treatment.</p> <p>13 Q. So the way that you've used it in 14 your declaration, what else besides the Terms of 15 Service and community standards define what content 16 is acceptable on Facebook?</p> <p>17 A. What is allowed? If we can -- if we 18 say, as we say allowed, yes.</p> <p>19 Q. Did you mean allowed in that first 20 sentence?</p> <p>21 A. As I'm talking to you now, I think I 22 use those interchangeably and I maybe should have 23 been more specific.</p> <p>24 Q. Okay. And you said yes, there are 25 other policies besides the Terms of Service and</p>	<p style="text-align: right;">48</p> <p>1 MR. DISHER: Objection to form. 2 THE WITNESS: Repeat one more 3 time. 4 BY MS. CORBELLO: 5 Q. Does anyone outside of Facebook give 6 any input as to how the Terms of Service or 7 community standards should look at any given time? 8 MR. DISHER: Objection to form. 9 THE WITNESS: We do broad 10 engagement on our policies and policy 11 development to have a feedback, to have a 12 better understanding of how to support a 13 community of 3 billion people. If any 14 one person or any outside group's 15 thoughts on anything dispositive, no, we 16 make those decisions ourselves. 17 BY MS. CORBELLO: 18 Q. Facebook controls what's in its 19 Terms of Service and what's in its community 20 standards? 21 A. Yes. 22 Q. Facebook controls currently what 23 content it wants to moderate and what content it 24 wants to let through; correct? 25 MR. McCARRICK: Objection to form.</p>
<p style="text-align: right;">47</p> <p>1 community standards for what content is allowed? 2 A. No. No. That's the point I'm 3 trying to clarify. For what may get different 4 treatments on the platform. 5 Q. It says the specific requirements 6 have evolved. Who is responsible for giving input 7 on when those requirements need to evolve? 8 A. A broad cross-functional team of 9 individuals. I think what I maybe explained 10 earlier, we do a lot of stakeholder engagement. 11 Getting signal from civil society, getting signal 12 from academics, looking at signal on our platform 13 through our own data to inform policy that needs to 14 be updated, giving the community the best 15 experience. 16 Q. Does anyone outside of Facebook 17 control what the Terms of Service or community 18 standards look like? 19 A. Control? 20 MR. DISHER: Objection to form. 21 THE WITNESS: No. 22 BY MS. CORBELLO: 23 Q. Does anyone outside of Facebook have 24 any input on how the Terms of Service and community 25 standards look at any given time for Facebook?</p>	<p style="text-align: right;">49</p> <p>1 THE WITNESS: Yes. 2 BY MS. CORBELLO: 3 Q. Fair to say Facebook would not be in 4 favor of a law that takes away their ability to do 5 that? 6 A. That's correct. 7 Q. So then on the flip side, would 8 Facebook be in favor of a law what allows them to 9 maintain that ability? 10 MR. McCARRICK: Objection to form. 11 THE WITNESS: To maintain the 12 ability to moderate, just for 13 clarification? 14 BY MS. CORBELLO: 15 Q. Yes. So on the flip side, would 16 Facebook be in favor of a law that allows them to 17 maintain the ability to dictate what content they 18 are moderating? 19 MR. McCARRICK: Object to form. 20 THE WITNESS: Yes, we want to be 21 able to apply our moderation policies. 22 BY MS. CORBELLO: 23 Q. For paragraph 13 -- 12 is about 24 Terms of Service and 13 is about community 25 standards; correct?</p>

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1 A. One second.  
 2 That is correct.  
 3 Q. The way you described both the Terms  
 4 of Service and the community standards in  
 5 paragraphs 12 and 13, those are all dictated by  
 6 Facebook only; correct?  
 7 MR. DISHER: Objection to form.  
 8 THE WITNESS: Broadly, yes. There  
 9 may be some attestations to, you know, to  
 10 existing under current legal structure,  
 11 but I don't know them offhand.  
 12 BY MS. CORBELLO:  
 13 Q. The second-to-last sentence in  
 14 paragraph 13, it says Facebook's policies are  
 15 designed to allow room for these types of  
 16 expression. Obviously you're referring to the  
 17 sentence right above.  
 18 A. Okay, yes.  
 19 Q. What policies specifically are you  
 20 talking about in this sentence?  
 21 A. Our community standards. So those  
 22 are the 22 abuse areas that I referred to earlier,  
 23 and that covers a variety of issues ranging from  
 24 the criminal, violence incitement, designated  
 25 individuals and organizations according harm to the

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1 objectionable things like hate speech to those that  
 2 are more safety oriented, things like harassment  
 3 and bullying, sexual exploitation, to intellectual  
 4 property, to authenticity, the spam, scam, scammish  
 5 behavior.  
 6 Q. Those policies that you talked about  
 7 are more so about restricting certain expression;  
 8 right?  
 9 MR. McCARRICK: Objection to form.  
 10 THE WITNESS: They are to moderate  
 11 the platform to ensure we have safety for  
 12 our users.  
 13 BY MS. CORBELLO:  
 14 Q. So this sentence here where it talks  
 15 about allowing room for types of expression, what  
 16 are the specific policies that allow for that room?  
 17 MR. McCARRICK: Objection to form.  
 18 Q. As opposed to prohibit or restrict  
 19 expression.  
 20 MR. McCARRICK: Objection to form.  
 21 THE WITNESS: The way that we view  
 22 allowing people to talk to discuss these  
 23 things in meaningful ways is to make sure  
 24 that we're removing the harmful content.  
 25 So by removing harmful content we

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1 promote -- we're able to promote more  
 2 conversations on positive -- strike  
 3 "positive," but on content that people  
 4 find to be valuable.  
 5 BY MS. CORBELLO:  
 6 Q. Okay. So this sentence was meant to  
 7 essentially express that the policies restricting  
 8 speech allow for more open speech?  
 9 MR. McCARRICK: Objection to form.  
 10 THE WITNESS: If I can take one  
 11 second to explain the way that we think  
 12 through our voice and expression.  
 13 BY MS. CORBELLO:  
 14 Q. Sure.  
 15 A. Voice is one of our paramount tenets  
 16 for these policies and the creation of these  
 17 policies. The voice is embedded, so we look at  
 18 things like safety, we look at things like dignity  
 19 of the speaker, authenticity. We look at all these  
 20 issues to ensure that by removing those things that  
 21 would make people feel unsafe, removing the  
 22 inauthentic actors from the platform, removing  
 23 things that would attack someone's dignity,  
 24 removing things that would maybe jeopardize  
 25 someone's privacy, it allows the voice that is --

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1 that we favor or excuse me, not necessarily favor,  
 2 but that we would want to see on our platform, the  
 3 community wants to see on the platform.  
 4 Q. Is the answer to my question yes?  
 5 MR. McCARRICK: Objection to form.  
 6 MR. DISHER: Objection to form.  
 7 THE WITNESS: Repeat the question.  
 8 BY MS. CORBELLO:  
 9 Q. Is this sentence essentially saying  
 10 that removal or restriction of certain types of  
 11 expression allows for more room for other types of  
 12 expression?  
 13 MR. McCARRICK: Objection to form.  
 14 THE WITNESS: Broadly, yes.  
 15 BY MS. CORBELLO:  
 16 Q. Let's take a minute to read  
 17 paragraph 14 for me.  
 18 A. Sure.  
 19 Yes.  
 20 Q. I want to start with the second  
 21 sentence, and then we'll go back to the first.  
 22 A. Sure.  
 23 Q. It says, "Facebook's artificial  
 24 intelligence systems find more than 90 percent of  
 25 the content they remove before anyone reports it."

<p style="text-align: right;">54</p> <p>1 A. That's correct.</p> <p>2 Q. What percentage of content is</p> <p>3 flagged versus what's removed?</p> <p>4 MR. McCARRICK: Objection to form.</p> <p>5 THE WITNESS: I don't have those,</p> <p>6 those numbers directly. Just one</p> <p>7 highlight. Something that can be flagged</p> <p>8 may also be removed or found by</p> <p>9 automation. So you will get sometimes</p> <p>10 overlap there, but your question</p> <p>11 specifically is what was flagged, but not</p> <p>12 removed?</p> <p>13 BY MS. CORBELLO:</p> <p>14 Q. What's the percentage of content</p> <p>15 that's flagged versus what's removed.</p> <p>16 MR. McCARRICK: Objection to form.</p> <p>17 THE WITNESS: I don't have those</p> <p>18 numbers.</p> <p>19 BY MS. CORBELLO:</p> <p>20 Q. Well, let me -- so the sentence if</p> <p>21 you look at it a little bit more carefully, it says</p> <p>22 AI specifically finds more than 90 percent of the</p> <p>23 content that is removed.</p> <p>24 So just speaking in very small numbers, if</p> <p>25 only 10 pieces of content are removed, that means</p>	<p style="text-align: right;">56</p> <p>1 content has been -- 90 percent of the content that</p> <p>2 has been removed has been removed by AI, that</p> <p>3 doesn't tell me anything about what is overall</p> <p>4 flagged before it's removed. Does that make sense?</p> <p>5 A. So yes. If I can take a couple</p> <p>6 seconds maybe to define and maybe better explain</p> <p>7 it. Bad on me for poor draftmanship.</p> <p>8 If there are 100 pieces of content removed</p> <p>9 what we're seeing is that 90 percent, 90 were</p> <p>10 identified by AI of the hundred pieces of content</p> <p>11 removed. So all hundred pieces of content were</p> <p>12 removed. That sentence has nothing to do with -- I</p> <p>13 think what you're asking is is there other content</p> <p>14 on the platform.</p> <p>15 Q. Is there content that is flagged but</p> <p>16 not removed on Facebook?</p> <p>17 A. Undoubtedly there's contents flagged</p> <p>18 by AI that was not removed.</p> <p>19 Q. This 90 percent number is ultimately</p> <p>20 just the content that gets removed; correct?</p> <p>21 A. That's the content that we believe</p> <p>22 violates our policy. So maybe it's a great point</p> <p>23 of clarification. You can flag anything on</p> <p>24 Facebook. If you say that I'm a big Knicks fan and</p> <p>25 someone says, Well, the Bulls are the best team of</p>
<p style="text-align: right;">55</p> <p>1 AI has removed nine of those pieces of content.</p> <p>2 But that doesn't say how much content has been</p> <p>3 flagged.</p> <p>4 MR. McCARRICK: Objection to form.</p> <p>5 THE WITNESS: It doesn't say that,</p> <p>6 though. That's not what that sentence</p> <p>7 means.</p> <p>8 BY MS. CORBELLO:</p> <p>9 Q. What does that sentence mean?</p> <p>10 A. So the contents that we remove, we</p> <p>11 have a corpus of body of content, let's say 100</p> <p>12 pieces that we may be able to identify proactively</p> <p>13 through our system, 95 percent of the pieces of</p> <p>14 content that we would remove, so say there's 100</p> <p>15 violating pieces of content, we would be able to</p> <p>16 identify proactively 95 percent of those pieces of</p> <p>17 content before a user reports those to us.</p> <p>18 It doesn't say -- I think what you're</p> <p>19 arguing is that the AI is now removing that content</p> <p>20 alone. There's another set of content that is</p> <p>21 violating. Do I understand that correctly?</p> <p>22 Q. I guess my confusion with the</p> <p>23 sentence is that it's talking about total content</p> <p>24 removed, not content that has been flagged and then</p> <p>25 removed. So it's only if only 95 percent of</p>	<p style="text-align: right;">57</p> <p>1 the '90s no, I wouldn't flag that. It doesn't mean</p> <p>2 that it's actually violating our policies, but</p> <p>3 people can flag anything. We see that often.</p> <p>4 Q. Sure. But does Facebook keep track</p> <p>5 of the number of flagged content versus the number</p> <p>6 of content actually removed?</p> <p>7 A. I don't have the latest kind of</p> <p>8 figures on whether we can keep each piece of</p> <p>9 content flagged and how long we would do so.</p> <p>10 Q. Who would have those numbers?</p> <p>11 A. I'm not sure.</p> <p>12 Q. So is it fair for me to read this</p> <p>13 sentence as not telling me how much content is</p> <p>14 flagged by either a user or Facebook?</p> <p>15 A. Well, there's no aggregate number.</p> <p>16 It's just telling you percentage. Our community</p> <p>17 standards enforcement report will tell you that the</p> <p>18 numbers of content, the aggregate number of content</p> <p>19 that we have removed in that area, in using this</p> <p>20 number here you would be able to apply and say, Oh,</p> <p>21 you've moved a thousand pieces of hate speech. Oh,</p> <p>22 you did 90 percent identify it yourself through</p> <p>23 proactivity and through your automated system, so</p> <p>24 that means 900 were removed or identified by</p> <p>25 Facebook and another 100 came in from different</p>

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1 sources.

2 Q. So this 90 percent is not being

3 applied to amount of content flagged?

4 A. We're going back and forth. The way

5 that we also talk about it is the AI essentially

6 flags content too. So the AI is flagging content.

7 It is talking about the amount, but it's always

8 about the amount of content that we removed. Just

9 because something is flagged doesn't necessarily

10 make it violating. Even AI does not always flag

11 violating content.

12 Q. So this 90 percent is content, but

13 it's both been flagged and removed. That fair to

14 say?

15 A. That is correct, yes.

16 Q. Okay. Let's talk about this

17 paragraph, just kind of broadly.

18 A. Uh-huh.

19 Q. It says, Facebook relies on

20 automated and human review to enforce its terms and

21 policies at scale across its global service.

22 Can you explain to me how that works?

23 A. That's great, because we were a bit

24 discussing this now. Our automation is tremendous

25 for helping us work at scale. We have, as I

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1 mentioned earlier, two point X billion people on

2 Facebook. They post billions of pieces of content

3 daily. To do that we can only scale and enforce

4 those policies with the use of automation, but

5 automation is informed by human reviewers in many

6 cases. So human reviewers may label content to

7 train automation, but for certain areas, especially

8 I'll give one example, something that's very

9 heavily context-dependent like hate speech. The

10 automation may not have a significant level of

11 confidence to make certain calls.

12 So, for example, you may attack me with a

13 slur and that would be found to be hate speech

14 under our policies. I may use that same slur

15 against myself or recount that you attacked me with

16 a slur. When I do that, that doesn't violate a

17 policy. That's a way that people express if they

18 have a point for expression. I may try to reclaim

19 the slur, reclaim the slur, and you see that

20 through a number of communities.

21 So it's with that context where the machine

22 learning, the automation can say, Hey, this looks

23 like it may be violating, but I'm not actually

24 certain that it's violating. I'm going to send it

25 to a human reviewer and that we have processes to

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1 do that. And then a human reviewer can take on

2 additional contents and hopefully we're able to

3 apply not just kind of broad context of our

4 policies, but context of how things evolve in

5 lexicons globally and then apply those rules and

6 make sure that we're achieving the right outcome.

7 So let's do that number or do that area

8 where we use automation and human review. There

9 are certain policies that are very just, not just

10 hate speech but require a very, very high amount of

11 understanding of what's happening. For example, a

12 statement about -- that statement that purports to

13 be about, Oh, I want to kill all the Cowboys fans.

14 Like is that actually real or are there some

15 signals that oh, no, this person has signals that

16 they have now, you know, gone out, purchased

17 weapons, they are tracking towards AT&T Stadium,

18 they are doing all these things. So you can get

19 two very distinct outcomes.

20 So having human reviewers that are able to

21 provide context and escalate where appropriate, we

22 work with law enforcement on certain occasions,

23 that is something that is important to us. So it's

24 that combination that makes these things run.

25 Q. So how does Facebook become aware of

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1 certain criteria that needs to be implemented?

2 MR. McCARRICK: Object to the

3 form.

4 THE WITNESS: Criteria for the

5 policies themselves?

6 BY MS. CORBELLO:

7 Q. No. For the algorithm.

8 A. Define "criteria."

9 Q. So well, let me put it this way.

10 A. Uh-huh.

11 Q. What are the different ways in which

12 Facebook would become aware that there's a piece of

13 content that needs to be screened by either AI or

14 human?

15 A. For those, those issues, the AI is

16 working constantly across all of whatever is posted

17 to Facebook. Everything that's posted will

18 eventually have a screen by our artificial

19 intelligence. So that's kind of the first step

20 again.

21 There is a way that the automation which we

22 call a classifier looks at certain signals that we

23 try to understand the potential severity of a

24 violation, the potential virality of a post and then

25 the likelihood of something actually violating our

<p style="text-align: right;">62</p> <p>1 policies and that would -- we would essentially  2 make a decision on whether to continue routing it  3 on to a human to further review. <b>Some cases we're</b>  4 <b>making an automatic decision or not making a</b>  5 <b>decision at all. I shouldn't say not making a</b>  6 <b>decision at all, but not routing a review for</b>  7 <b>potential violations.</b></p> <p>8 Q. Well, is one way in which Facebook  9 becomes aware of content that needs screening via a  10 user creating a ticket or a user reporting it and  11 that creating a ticket?</p> <p>12 A. That's accurate. I think we  13 mentioned that earlier. Through our own practice,  14 but users are able to report content.</p> <p>15 Q. I want to talk about that sort of  16 workflow first.</p> <p>17 A. Sure.</p> <p>18 Q. When a ticket gets created as a  19 result of a user reporting some sort of content  20 issue, what happens to that ticket?</p> <p>21 A. Broadly that ticket is routed to a  22 human reviewer. It goes into what they say a  23 queue. I shouldn't say directly, that ticket is  24 routed into a system where automation will then  25 also try to route that ticket to a -- the correct</p>	<p style="text-align: right;">64</p> <p>1 form.</p> <p>2 THE WITNESS: I'm not really  3 familiar with the term "user story," so  4 I'm struggling here. Automation is the  5 step. There's not like a human  6 intervention at that point.</p> <p>7 BY MS. CORBELLO:  8 Q. Okay. So after the ticket is  9 created, it's automation first?</p> <p>10 MR. McCARRICK: Object to form.  11 THE WITNESS: When you say  12 "created," do you mean someone  13 essentially filing a violation within --</p> <p>14 Q. Right. So we're talking about user  15 report right now.</p> <p>16 A. Yes.</p> <p>17 Q. So when a user report creates a  18 ticketing in the Facebook system, it gets an  19 automated treatment first?</p> <p>20 A. Automation is one of the ways that  21 we route through. So yes, that automation occurs.  22 You file the ticketing, the automation occurs. So  23 there's not a human that's on the other side  24 directly receiving Neil Potts' complaint. So if I  25 hit the button, it's not like a person, you know,</p>
<p style="text-align: right;">63</p> <p>1 human reviewer.</p> <p>2 So, for example, I may be very experienced  3 on UV. I can tell you everything about UV, with  4 violence or policies that don't violate our  5 policies. I may be less experienced on something  6 like privacy. And so instead of giving me the  7 ticket that focuses specifically on privacy, it  8 maybe either is a better, you know, subset of  9 individuals that can apply the policies on privacy  10 with more accuracy than I can.</p> <p>11 The idea would be our systems would then do  12 a first-line review of that and also give it to  13 what we call queues but route it to the human  14 reviewers who can then review that content.</p> <p>15 Q. So is the user story automatically  16 increased as a result of a ticket, or is it created  17 by a human?</p> <p>18 A. Define "user story."</p> <p>19 Q. So when a ticket is created,  20 typically what happens is either a user story is  21 created that has the data for that ticket or a  22 human -- like manual intervention happens and it's  23 created by a human, and that's how it gets routed  24 to somewhere else to deal with content issues.</p> <p>25 MR. McCARRICK: Object to the</p>	<p style="text-align: right;">65</p> <p>1 hit the button if that makes sense.</p> <p>2 Q. Yes, it does. So that automation  3 happens for every piece of user report that comes  4 through, every ticket that is created based on the  5 user report?</p> <p>6 A. I believe so. I don't want to  7 speculate in case there's something that I don't  8 know of, but I believe so.</p> <p>9 Q. If Facebook becomes aware of an  10 algorithm lacking some sort of ability to determine  11 content that needs to be removed, let's say the  12 hate speech example, for example, maybe there's a  13 new slur that has to be added to the algorithm  14 because it hasn't been previously, how does that  15 work?</p> <p>16 A. The way that we update our policies  17 very routinely, almost every two weeks we do kind  18 of constant revision of our policies which then  19 would inform the algorithm.</p> <p>20 There are also a number of protocols and we  21 have teams now ranging -- I think in the  22 declaration the number has increased from 35,000 to  23 40,000 people working on safety and security. So  24 there are teams within that, within those 40,000  25 people that focus on our operations or processes or</p>

<p style="text-align: right;">66</p> <p>1 protocols.</p> <p>2 So when there's something like a new slur,</p> <p>3 a new terrorist organization, a new type of abuse</p> <p>4 that we've become aware of, we will then update</p> <p>5 those policies in many cases. And sometimes if the</p> <p>6 policy does not get updated, at least updating the</p> <p>7 protocols on how we enforce those policies and then</p> <p>8 those feed into how the algorithms are going to be</p> <p>9 trained on that.</p> <p>10 So, for example, this bottle of water, a</p> <p>11 bottle of water may not be violating today for</p> <p>12 whatever reason it violates. We would rate that,</p> <p>13 people would begin to label that, feed it into the</p> <p>14 machine learning so the machine would recognize the</p> <p>15 bottle of water that actually violates whatever</p> <p>16 policy a bottle of water would violate.</p> <p>17 Q. So you have programmers that</p> <p>18 essentially write the source code to add a criteria</p> <p>19 to the algorithm. Did I get that right?</p> <p>20 A. We have engineers who build out the</p> <p>21 machine learning. I don't want to get over my</p> <p>22 skis. A lot of this is done through labeling of --</p> <p>23 labeling by humans of what violates and what does</p> <p>24 not violate.</p> <p>25 Q. Is there anything that's not done by</p>	<p style="text-align: right;">68</p> <p>1 the Integrity team?</p> <p>2 A. Guy Rosen.</p> <p>3 Q. And so we just talked about the way</p> <p>4 a user would report a ticket. So let's talk about</p> <p>5 the internal way a ticket might be created. The</p> <p>6 integrity team you just talked about, is that who</p> <p>7 is supplementing new criteria that comes out</p> <p>8 through revision of your policies?</p> <p>9 A. Broadly, yes. In conjunction, it's</p> <p>10 cross-functional, so with the teams that write the</p> <p>11 policies, with the operations teams who are human</p> <p>12 moderators, with the integrity team themselves, but</p> <p>13 they are also different.</p> <p>14 So the way we think of Facebook is that</p> <p>15 every surface on Facebook, your news feed, your</p> <p>16 groups, your advertising, there's different</p> <p>17 products, but those product teams are also I guess</p> <p>18 consumers or recipients of those changes so that</p> <p>19 they sometimes will not make decisions on, but</p> <p>20 because they are receiving the value of it, they</p> <p>21 have to know how it impacts their products.</p> <p>22 Q. What happens to -- what happens</p> <p>23 after a piece of user-generated content gets</p> <p>24 flagged as unsafe?</p> <p>25 A. I don't think we flag anything</p>
<p style="text-align: right;">67</p> <p>1 humans as to what violates or does not violate?</p> <p>2 A. Anything not done by humans?</p> <p>3 Q. Well, you said a lot of it is done</p> <p>4 by humans to determine what violates and what does</p> <p>5 not violate. I'm hearing those words a lot. I was</p> <p>6 just wondering if there was an alternative on that.</p> <p>7 A. It's probably a weak crutch that I</p> <p>8 use. I don't know. I'm baffling myself. I can't</p> <p>9 figure out how humans would not be involved in the</p> <p>10 process.</p> <p>11 Q. Do you know if any of Facebook's</p> <p>12 algorithms are trained to add their own criteria?</p> <p>13 MR. DISHER: Objection to form.</p> <p>14 THE WITNESS: I do not.</p> <p>15 BY MS. CORBELLO:</p> <p>16 Q. Is it -- I don't know how to ask</p> <p>17 this. Is it a division of programmers that work on</p> <p>18 algorithms and updating the algorithms to be able</p> <p>19 to catch content?</p> <p>20 A. By "division" do you mean team?</p> <p>21 Q. Yes.</p> <p>22 A. Yes.</p> <p>23 Q. What's the team's name?</p> <p>24 A. Broadly it's the Integrity team.</p> <p>25 Q. Integrity team. Who is the head of</p>	<p style="text-align: right;">69</p> <p>1 unsafe. It's the wrong term.</p> <p>2 Q. What's the right term?</p> <p>3 A. Our classifiers give it a -- well, I</p> <p>4 guess maybe the question for you is do you mean</p> <p>5 something that violates or --</p> <p>6 Q. Yes.</p> <p>7 A. Okay. For a certain, certain small</p> <p>8 number of the violations, including certain types</p> <p>9 of nudity, terrorist -- known terrorist propaganda,</p> <p>10 child exploitative images that are known things in</p> <p>11 our database, the automation may make a decision</p> <p>12 and actually move the content and essentially I</p> <p>13 think as you were referring to kind of close that</p> <p>14 ticket.</p> <p>15 Certain cases we have reporting obligations</p> <p>16 out to legal entities around for child exploitative</p> <p>17 images. For example, we would work with the</p> <p>18 federal government on reporting of those instances</p> <p>19 as well.</p> <p>20 For the vast majority, though, of other</p> <p>21 violations what happens is that the automation</p> <p>22 gives it essentially a score. It has a score of</p> <p>23 confidence that would say okay, based off of what</p> <p>24 you have inputted, you have inputted this as to be</p> <p>25 violating. Here is the policy, here are the known</p>



<p style="text-align: right;">70</p> <p>1 examples. This seems maybe 90 percent of the time  2 that this would be violating. On certain levels of  3 scores we have almost, you know, supreme levels of  4 confidence, 99 percent, the algorithm or the  5 automation may make the decision itself. Lower, we  6 will route that to a user. If it's below a certain  7 number, like 10 percent, you post, Hello, there  8 seems to be no violations at 1 percent, we don't  9 think this violates. We wouldn't route it to the  10 user. We would say that this wouldn't violate.  11 Q. When you say "route it to a user" --  12 A. Excuse me. Route it to a -- I said  13 user, that's incorrect. I meant to a moderator.  14 Q. I'm very confused.  15 A. I did not mean to do it. I confuse  16 myself sometimes.  17 Q. We didn't go over the initial rules  18 of a depo mostly because I know you're a lawyer.  19 But if you do need a break for any reason, just let  20 me know.  21 A. I'm good.  22 Q. Do you know the number of tickets  23 that come in either user based or internal that are  24 closed without action?  25 A. I don't have those numbers.</p>	<p style="text-align: right;">72</p> <p>1 would likely be someone with oversight of, but not  2 my team.  3 Q. Let's go to paragraph 15. Let me  4 know when you're ready.  5 A. One second, please.  6 Q. Yes.  7 A. Yes.  8 Q. So the sentence or the paragraph  9 starts out where "Facebook regularly publishes  10 updates about its efforts to remove harmful content  11 and protect its community."  12 Who in Facebook does this?  13 A. Excuse me. Generally subject matter  14 experts. So it may include the head of content  15 policy. It may include members of my team if they  16 have special expertise on counterterrorism, on  17 safety. In certain cases it may be teams that work  18 cross-functionally from Integrity or others.  19 Not to use the term "single thread owners,"  20 but people who are tasked with resolving these  21 issues on our platform are generally people who  22 also publish.  23 Q. So who is doing the actual  24 publishing of updates?  25 A. Posting of the updates, do you mean</p>
<p style="text-align: right;">71</p> <p>1 Community standards enforcement report may. I just  2 don't have them offhand.  3 Q. Who would have those numbers?  4 A. Again, that enforcement, that  5 transparency report, they may have those numbers,  6 and then we would be able to compare them.  7 Q. And if they don't?  8 A. It would broadly fall on a team of  9 data scientists. I am not sure. I would have to  10 find out, but I don't know.  11 Q. Same thing for -- do you know the  12 percentage of tickets, user internal, that come in  13 that are closed without action?  14 A. I don't have those numbers.  15 Q. Do you know the percentage of issues  16 in the backlog related to content moderation  17 currently?  18 MR. DISHER: Objection. Form.  19 THE WITNESS: Currently I do not.  20 BY MS. CORBELLO:  21 Q. Who would know that?  22 A. A number of teams. Again, within  23 the group that I explained earlier, operational,  24 global operations team, our integrity teams, our  25 policy teams, that cross-functional team, there</p>	<p style="text-align: right;">73</p> <p>1 updating of the community standards?  2 Q. Right.  3 A. The teams that I work with on the  4 content policy teams?  5 Q. Well, I'm sorry. Updating the  6 efforts to remove harmful content and protect its  7 communities. Who is publishing these updates for  8 Facebook?  9 A. The broad -- the broad news room  10 posts, those are the people. The authors who may  11 be subject matter experts that own either the  12 community standards, who own the particular  13 subjects within community standards, again,  14 counterterrorism, human rights, those types of  15 things.  16 If they are specifically about automation,  17 if they are specifically about a product, it may be  18 the product owners. So when I say "product  19 owners," the person in charge of that organization  20 that is tasked with owning that product. So you  21 mentioned integrity, Guy Rosen as an example.  22 Q. So is the group that actually  23 publishes updates different than the group that  24 gathers the data that would be considered an  25 update?</p>

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1 MR. DISHER: Object to the form.  
 2 THE WITNESS: It's hard to kind of  
 3 like bifurcate or separate out this,  
 4 because we worked so cross-functionally.  
 5 It's not as if one person would publish  
 6 something. There wouldn't be  
 7 cross-functional collaboration and  
 8 communication with the teams. Through  
 9 policy, through integrity, through  
 10 operations, through the products  
 11 themselves, so it's a little hard for me  
 12 to make that.  
 13 There's just, you know, it happens  
 14 to be one person who is -- this falls  
 15 most likely in the portfolio. So, for  
 16 example, if it's an issue about safety  
 17 and perhaps suicide and self-injury,  
 18 safety for a young woman on the platform,  
 19 one of my team members would post about  
 20 that, would generally post about that.  
 21 If it is about how the automated  
 22 services worked, Guy Rosen likely would,  
 23 but not always, but likely would post  
 24 about that. So it's kind of hard to  
 25 separate out, this person would only post

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1 about that and you wouldn't be aware of  
 2 it.  
 3 BY MS. CORBELLO:  
 4 Q. Okay. So there's not one person  
 5 that everyone is just reporting their efforts to  
 6 remove harmful content to, and that person is  
 7 taking care of updating the community as you  
 8 describe in this sentence?  
 9 A. No. No.  
 10 Q. You said your team provides some of  
 11 these updates.  
 12 A. We do.  
 13 Q. How does it do that?  
 14 A. When we see specific threats on our  
 15 platform, we have either changed policies or we  
 16 have responses, responses to specific issues. And  
 17 we feel that the community would value or would  
 18 be -- it would be valuable for our community to  
 19 understand how we are treating issues.  
 20 So whether those are -- the coup in  
 21 Myanmar, for example, whether it is suicide and  
 22 self-injury, whether it was a foreign interference  
 23 operation being run on Facebook to influence an  
 24 election, we may take those times to report what we  
 25 know and how we are going about either to resolve

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1 it or we didn't.  
 2 Q. Did the team ever provide specific  
 3 numbers as to number of pieces of content that have  
 4 been removed under a certain category?  
 5 A. In certain cases, yes, we do.  
 6 Q. How do you value those numbers?  
 7 A. We work again in that  
 8 cross-functional nature with our operations team,  
 9 our data scientists, our integrity teams and others  
 10 about whether those are removals or any action to  
 11 be taken on this content.  
 12 Q. So which of those teams is giving  
 13 you the numbers?  
 14 A. Broadly it's data science, but  
 15 that's not always -- it's not always. Broadly yes,  
 16 but not always.  
 17 Q. Do you know how data science  
 18 compiles those numbers?  
 19 A. I'm not a data scientist.  
 20 Q. Do you know if they count them out  
 21 one by one?  
 22 A. I'm not a data scientist. I don't  
 23 think it's that easy, but I'm not a data scientist.  
 24 Q. Do you know if they utilize any  
 25 algorithms to determine the amount of content

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1 removed under a certain category?  
 2 A. I do not know.  
 3 Q. Do you know what it costs the data  
 4 scientists to provide you information such as  
 5 number of pieces of content removed?  
 6 MR. DISHER: Objection to form.  
 7 THE WITNESS: I don't have line  
 8 items on kind of cost or investment in  
 9 that nature. I do know that we spent  
 10 \$13 billion since 2016 on safety and  
 11 security, and that's one part of that  
 12 13 billion, but I don't have like a line  
 13 item breakdown.  
 14 BY MS. CORBELLO:  
 15 Q. Hypothetically let's say you were to  
 16 call the data scientist -- is there a division name  
 17 for it, or is it just data scientists?  
 18 A. For these purposes data scientists.  
 19 Q. Hypothetically if you were to call  
 20 the data scientists today and ask them for a  
 21 specific number that they would generally be able  
 22 to give you, you know, amount of content X removed  
 23 in the past month, how quickly do you think they  
 24 would get you that information?  
 25 MR. McCARRICK: Object to the

<p style="text-align: right;">78</p> <p>1 form.</p> <p>2 THE WITNESS: It is extremely</p> <p>3 difficult to get any numbers with</p> <p>4 fidelity from our data scientists. We</p> <p>5 want data to be accurate in the numbers</p> <p>6 we present outward. We do release</p> <p>7 transparency reports now where I can say</p> <p>8 anecdotally I can't prove it, but they</p> <p>9 tell me and I take their word to be true,</p> <p>10 that they begin the next quarter's report</p> <p>11 the day after a quarter posts.</p> <p>12 So if they were to post something</p> <p>13 today, they would begin crunching the</p> <p>14 numbers for the next quarter report</p> <p>15 tomorrow.</p> <p>16 BY MS. CORBELLO:</p> <p>17 Q. So the next transparency report,</p> <p>18 they are created by data scientists?</p> <p>19 A. Again, it's a combination of the</p> <p>20 teams, policy teams, integrity teams, your</p> <p>21 operations team. They do feed information in in</p> <p>22 that process.</p> <p>23 Q. And those transparency received are</p> <p>24 done quarterly?</p> <p>25 A. They are.</p>	<p style="text-align: right;">80</p> <p>1 specific numbers. We try to be robust in</p> <p>2 our updates and swift, but I don't have</p> <p>3 specific numbers on how fast we can</p> <p>4 actually turn around a specific kind of</p> <p>5 subset of content or things like that.</p> <p>6 BY MS. CORBELLO:</p> <p>7 Q. Who would better be able to answer</p> <p>8 that question?</p> <p>9 A. It would be a combination of our</p> <p>10 integrity and our operations. I think that the way</p> <p>11 that -- the frame of the question is that the data</p> <p>12 scientists we're referring to, they write the</p> <p>13 transparency report, they write on broad categories</p> <p>14 of reports, not necessarily on specifics.</p> <p>15 To get, as you can imagine, get specific</p> <p>16 fidelity on very granular topics requires perhaps</p> <p>17 even more attention to deconflict. For example, we</p> <p>18 may have removed for, that's a violation of our</p> <p>19 hate speech policies. When in fact while that is</p> <p>20 true, it may not tell you information about which</p> <p>21 hate speech policy is violated.</p> <p>22 And so I think what you asked for what</p> <p>23 exactly changed, what slur was used here, and that</p> <p>24 creates a level of just detail that we don't report</p> <p>25 on today because the burden would be extremely,</p>
<p style="text-align: right;">79</p> <p>1 Q. Are they done at any given time</p> <p>2 other than quarterly?</p> <p>3 A. Not to my knowledge. I have never</p> <p>4 seen one.</p> <p>5 Q. Are they done for any external</p> <p>6 partners or members of the public?</p> <p>7 MR. DISHER: Objection to form.</p> <p>8 THE WITNESS: We are very</p> <p>9 transparent. You can find those that are</p> <p>10 transparent.</p> <p>11 BY MS. CORBELLO:</p> <p>12 Q. Can they be requested by someone</p> <p>13 from the public other than on a quarterly basis?</p> <p>14 A. I'm sure you can request them, but</p> <p>15 would we provide them? I don't think we would.</p> <p>16 Yes, we publish those quarterly.</p> <p>17 Q. Going back to what we were talking</p> <p>18 about a second ago, new content criteria that comes</p> <p>19 up, maybe a new racial slur, a new terrorist group,</p> <p>20 do you have any knowledge as to how quickly the</p> <p>21 data scientists would be able to gather numbers on</p> <p>22 new criteria that has been flagged and removed?</p> <p>23 MR. McCARRICK: Object to the</p> <p>24 form.</p> <p>25 THE WITNESS: I do not have</p>	<p style="text-align: right;">81</p> <p>1 extremely high.</p> <p>2 Q. Is there someone who is the head of</p> <p>3 the data scientists?</p> <p>4 A. There's someone, there are people</p> <p>5 that I know. I don't know who actually owns the,</p> <p>6 as you mentioned division, I don't know who owns</p> <p>7 the organization. It's slipping my mind. I just</p> <p>8 don't have the org chart in front of me.</p> <p>9 Q. Go down to paragraph 16 for me.</p> <p>10 A. Sure.</p> <p>11 Q. Are you ready?</p> <p>12 A. 16, yes.</p> <p>13 Q. Yes. So this paragraph is talking</p> <p>14 about changes to policies in response to</p> <p>15 extraordinary situations. Right?</p> <p>16 A. That is correct.</p> <p>17 Q. How quickly did those changes</p> <p>18 happen?</p> <p>19 MR. McCARRICK: Object to the</p> <p>20 form.</p> <p>21 THE WITNESS: Are you referring to</p> <p>22 the specific situation that's flagged in</p> <p>23 Paragraph 16?</p> <p>24 BY MS. CORBELLO:</p> <p>25 Q. Yes. So let's start with the</p>

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1 Myanmar. How quickly did the changes to policies  
 2 and practices happen in response to that situation?  
 3 A. I think on the Myanmar military coup  
 4 that happened in February 2020, they were not  
 5 instantaneous, but they were very soon after the  
 6 coup was executed. I don't have the exact  
 7 day-to-day, but it's something that we were aware  
 8 of and began to plan for.  
 9 Q. Go to tab 16 for me.  
 10 A. Sure.  
 11 Q. The Bates stamp will start at  
 12 Facebook 46.  
 13 A. Facebook 6?  
 14 Q. 46.  
 15 A. 46. May I have a second just to  
 16 review.  
 17 Q. Take a second to look it over. Let  
 18 me know. It looks like it ends around Facebook 52.  
 19 A. Uh-huh. Is there anything specific  
 20 you would like me to focus on?  
 21 Q. Just skim it so you're familiar with  
 22 it.  
 23 A. (Witness complies with request.)  
 24 Yes.  
 25 Q. Okay. So this is an article that

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1 you relied on in making your declaration; correct?  
 2 A. That is correct.  
 3 Q. And did you rely on this article in  
 4 making the statements made in paragraph 16?  
 5 A. Yes, I did, but can I go back to the  
 6 declaration to confirm?  
 7 Q. Yes.  
 8 MR. McCARRICK: Why don't you  
 9 leave that open and you can use this.  
 10 Q. Feel free --  
 11 MR. McCARRICK: Paragraph 16.  
 12 THE WITNESS: Thank you. Yes.  
 13 Both this declaration and kind of  
 14 knowledge or -- excuse me, both this  
 15 public-facing blog post as well as  
 16 knowledge of the event.  
 17 MS. CORBELLO: I'm going to label  
 18 Facebook Bates stamp 46 to -52 as Defense  
 19 Exhibit B.  
 20 (Exhibit B, Blog post, was  
 21 marked for identification.)  
 22 BY MS. CORBELLO:  
 23 Q. Your declaration at paragraph 16  
 24 says that the military coup happened in 2021; is  
 25 that right?

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1 A. That's correct.  
 2 Q. This update by Facebook on Exhibit B  
 3 was published February 11, 2021; right?  
 4 A. Thereabouts; correct.  
 5 MR. McCARRICK: Object to the  
 6 form.  
 7 Q. Fair to say Facebook acted pretty  
 8 quickly after the Myanmar situation?  
 9 A. I don't know your definition of  
 10 "quickly," but we acted -- we tried to act  
 11 immediately.  
 12 Q. It looks like in response to the  
 13 Myanmar incident Facebook implemented specific  
 14 policies and updated their content moderation  
 15 policies as well; correct?  
 16 A. Specific treatment and policies for  
 17 the Tatmadaw, the military wing of the Burmese  
 18 government we did, yes.  
 19 Q. How did these updates take place?  
 20 Describe to me kind of the workflow between the  
 21 incident in Myanmar happened and now Facebook has  
 22 algorithms that address that issue.  
 23 A. Sure. We began to see -- well,  
 24 taking a step back, as you mentioned we have  
 25 algorithms in place that moderate content, and some

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1 of those algorithms are focused on dangerous  
 2 organizations and individuals and also an area of  
 3 our abuse standards called coordinating harm.  
 4 So they have through all the different  
 5 types of abuse standards -- coordinating harm  
 6 becomes apparent here in a second. We received a  
 7 lot of signal, as I mentioned, through external  
 8 engagement about events that are happening on the  
 9 ground and including from people, whether those are  
 10 journalists, civil society academics within Myanmar  
 11 and external Myanmar watching the events of  
 12 Myanmar. So we had some indications that there was  
 13 the potential for some type of military action to  
 14 occur in Myanmar.  
 15 The events of the coups happened on the  
 16 1st. At that point we convened a cross-functional  
 17 group, accept them as what we call that, to examine  
 18 what we know, the way that the content is appearing  
 19 on our platform, what we are hearing from bodies  
 20 outside of the government about how the platform  
 21 may be used to exploit -- excuse me, outside of  
 22 Facebook on ways that the platform may be used to  
 23 exploit the situation in favor of the now  
 24 military-led government. We take all of that and  
 25 working with our subject matter experts.

<p style="text-align: right;">86</p> <p>1 We then derive the policies that we think 2 are appropriate for that time to ensure safety in 3 the broader base of users. At that point we 4 designated them under our coordinating harm 5 policies, preventing those that were in contact -- 6 coordinating harm is our broad way of coordinating 7 a criminal activity and the potential for future 8 harm. Knowing the Tatmadaw's previous actions in 9 Myanmar dating back to 2017 and through 2018 and 10 the genocide of the Rohingya, knowing that we have 11 basis for the reporting on those things.</p> <p>12 Fast forward to now '21, February. We make 13 the policies that say okay, for the Tatmadaws 14 themselves we are going to prevent them from using 15 our platform. We are also going to prevent the 16 craze of violent activity carried out on behalf of 17 the Tatmadaw. Just sort of continual updates to 18 those.</p> <p>19 Taking the policies now, so we have -- now 20 we have the policies, we then feed that into our 21 group of human content moderators who are, in many 22 ways act, sometimes in these situations act as the 23 first line of defense. They are connected, they 24 have people who we call market teams that focus on 25 Myanmar specifically looking for that content,</p>	<p style="text-align: right;">88</p> <p>1 took -- we do a very iterative process. As I 2 mentioned earlier, we update our policies every two 3 weeks. One of our kind of core traits or core 4 principles to our policies is in many ways they are 5 living and breathing as we try to meet the needs of 6 the community as those needs develop.</p> <p>7 In a situation like Myanmar, you can see 8 where our first attempts to kind of address that 9 may have fallen short in some ways, and so we 10 continually update, address, receive additional 11 feedback; explore the signals that we see on our 12 platform; explore what we are removing, what we are 13 not removing and those are in some ways double 14 edged because there's content to be made, capture 15 and remove that you don't want to remove. Content 16 that you really do want to remove that you're not 17 finding.</p> <p>18 The team makes those updates to ensure that 19 the products of that, as I think you see here, it's 20 over a month-long kind of continual updates on 21 okay, this type of enforcement we want to allow, we 22 see people utilizing the platform.</p> <p>23 Example here, perhaps, the Tatmadaw, we are 24 in a pandemic, the world is in a pandemic. There 25 may be entities within the Burmese government that</p>
<p style="text-align: right;">87</p> <p>1 receiving those reports -- getting routed but 2 receiving those reports and having the first review 3 for those things.</p> <p>4 Simultaneously, that is fed into labeling, 5 is also fed into the algorithms to ensure that we 6 are doing as comprehensive as holistic of approach 7 that we can meet the potential, potential scale of 8 these activities.</p> <p>9 I think I got everything there. Hopefully 10 I answered.</p> <p>11 Q. That was helpful. 12 Were you involved in these updates that had 13 to take place on Myanmar? 14 A. When you say "updates," just for 15 clarity, writing these posts for the actual 16 decisions made to actually do the work? 17 Q. Any part of it? 18 A. I was on the latter. So maybe 19 helping make the decisions for the policies that we 20 would go through in enforcing. I did not pen any 21 of these updates. 22 Q. How long did it take to come up with 23 the new policies to respond to the Myanmar 24 situation? 25 A. I think as you can see here, it</p>	<p style="text-align: right;">89</p> <p>1 are carrying out COVID response that are exclusive 2 to the coup but they're not -- now they fall under 3 the reign of the government, so technically they 4 are the government.</p> <p>5 We would allow in certain situations praise 6 of someone carrying out, Oh, you know, I received 7 my COVID shot, thank you for the health 8 administrator that gave it to me. Whereas if we 9 had a very blunt rule and say well, that's actually 10 praising the government that's taking care of this 11 coup, we wouldn't allow that. So we want to make 12 sure that we have those nuances right.</p> <p>13 So those things we get signal impact to 14 ensure that we are enforcing the things that we 15 don't want but also allowing things that we think 16 the community would want to share for its emergent 17 purposes.</p> <p>18 Q. You can turn back to the declaration 19 if you want to. 20 A. Sure. 21 Q. Go back to 15 that we just talked 22 about briefly, paragraph 15. 23 A. One second. 24 Q. Sure. 25 A. Thank you. (Witness complies with</p>

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1 request.)  
 2 Yes.  
 3 Q. I just want to talk about each one  
 4 of these examples that you provide in this  
 5 paragraph, starting with September 2018 article  
 6 about artificial intelligence helping suicide  
 7 prevention efforts.  
 8 A. Sure.  
 9 Q. So based on that it sounds like, it  
 10 was primarily algorithms that were sorting out any  
 11 sort of potential threats of suicide?  
 12 MR. DISHER: Object to the form.  
 13 THE WITNESS: I may object to the  
 14 word "primarily." I don't have the  
 15 document in front of me. We use a  
 16 combination of both human and algorithm,  
 17 but algorithms definitely play a part in  
 18 identifying the content and the signals  
 19 that people are using to indicate that  
 20 they may be engaging in self-harm.  
 21 BY MS. CORBELLO:  
 22 Q. So what or who was the first line of  
 23 defense when it came to the suicide prevention  
 24 efforts? Was it AI or was it human?  
 25 MR. DISHER: Object to the form.

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1 THE WITNESS: It can be both. Our  
 2 defense -- and so we do rely on human  
 3 reports of third-party, you know, person,  
 4 user, reporting content to us that may  
 5 give a signal.  
 6 As you can imagine, understanding  
 7 of someone who is potentially going to  
 8 commit suicide is very difficult. But we  
 9 also use automation in AI where there are  
 10 known signals, and that may be the way  
 11 that they, you know, they post,  
 12 essentially, you know, they are very  
 13 explicitly saying that they want to kill  
 14 themselves.  
 15 But even in context around the use  
 16 of live video, for example, there are  
 17 also signals that we can find.  
 18 Unfortunately graphic, but sounds of  
 19 gunshots, the visuals of like uses and  
 20 things of these natures are sometimes  
 21 used to inform automated sometimes.  
 22 Whether it's the text or whether there  
 23 are images, those images could be still  
 24 or moving. Those are some ways the AI  
 25 fills in. We also use the user reporting

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1 in combination with AI and human review  
 2 to better monitor. So it is a  
 3 combination.  
 4 BY MS. CORBELLO:  
 5 Q. Does Facebook retain data on the  
 6 users that it flags as potentially suicidal?  
 7 A. I don't have specific information on  
 8 that outside of just our normal data retention,  
 9 which I don't know.  
 10 Q. Are you aware of criticism from  
 11 experts regarding Facebook's retention of people's  
 12 mental health as a result of these suicide  
 13 prevention efforts?  
 14 MR. McCARRICK: Object to the  
 15 form.  
 16 THE WITNESS: Repeat the question.  
 17 I think I --  
 18 BY MS. CORBELLO:  
 19 Q. Sure. Are you aware of experts'  
 20 criticisms of the suicide prevention effort program  
 21 given that it retains data of people's mental  
 22 health diagnoses?  
 23 MR. McCARRICK: Same objection.  
 24 Same objection.  
 25 THE WITNESS: I'm not aware.

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1 BY MS. CORBELLO:  
 2 Q. Are you aware of criticisms against  
 3 Facebook that it actually increases suicidal  
 4 tendencies in teenagers?  
 5 MR. McCARRICK: Object to the  
 6 form.  
 7 THE WITNESS: I'm not aware.  
 8 BY MS. CORBELLO:  
 9 Q. The October 2019 article regarding  
 10 the substantial efforts --  
 11 MR. McCARRICK: Before you move  
 12 on, can we take a break at some point?  
 13 MS. CORBELLO: Can I finish? I'll  
 14 finish the list of articles and we'll do  
 15 it.  
 16 MR. McCARRICK: Okay.  
 17 BY MS. CORBELLO:  
 18 Q. 2019 October, substantial efforts it  
 19 had undertaken to protect against interfering with  
 20 the 2020 election.  
 21 Do you see that?  
 22 A. I do see that.  
 23 Q. Are you aware of any articles that,  
 24 from the media or any criticisms from users that  
 25 Facebook actually contributed to misinformation

<p style="text-align: right;">94</p> <p>1 being spread during the 2020 U.S. election?  2 MR. DISHER: Objection to form.  3 THE WITNESS: I have heard  4 allegations via media reporting through  5 various groups that did not like our  6 policies that we contributed to  7 misinformation.  8 BY MS. CORBELLO:  9 Q. And do you disagree with those  10 reports?  11 A. Yes.  12 Q. June 2020, Facebook published an  13 article related to labels that would add to content  14 and ads from entities believed to be  15 state-controlled media. Are those labels that  16 Facebook ads added uniformly across all  17 state-controlled media?  18 MR. DISHER: Objection to form.  19 THE WITNESS: For media that  20 reaches our state-controlled media  21 definition, the intent is, as you can  22 imagine where media changes and then we  23 have tests and framework that we  24 evaluate, there may be a media  25 organization now from a specific state</p>	<p style="text-align: right;">96</p> <p>1 operations aimed at manipulating or corrupting  2 public debate, what do you mean by that?  3 A. Sure. As we reflect back on events  4 in the past including the 2016 election, but much  5 broader than the 2016 election, we've seen specific  6 government actors, specific private actors take to  7 social media broadly to try to influence the debate  8 on sovereigns in their elections.  9 That could be used through a number of fake  10 accounts with content that is meant to be salacious  11 or to incite violence or incite dissent and to  12 really have people oppose each other, usually in an  13 inauthentic way. And that is what, as we think of  14 those influence operations is something that we are  15 very proud in place now is our, what we call our  16 coordinated inauthentic behavior policies where we  17 remove these networks of actors.  18 So whether you are -- were agnostic with --  19 I don't know what your politics are, but if you  20 were a foreign operative using inauthentic accounts  21 to influence another sovereign's election, we take  22 action.  23 Further, in addition to that we put in  24 other measures in place to ensure that we have  25 better transparency about who is doing what in the</p>
<p style="text-align: right;">95</p> <p>1 that doesn't have a label today. But the  2 intention is it's a very generic label,  3 but I think it can speak to this moment  4 in time.  5 BY MS. CORBELLO:  6 Q. Who decides who is getting the  7 state-controlled media label and who is not?  8 A. It's a cross-functional team. One  9 of the teams that works on it is the security team  10 that rules on it.  11 Q. February 2021, the next sentence.  12 Facebook has informational labels to some posts  13 related to climate change.  14 A. That's correct.  15 Q. Are you aware of any media articles  16 indicating that Facebook actually profits from  17 misinformation about climate crisis on its  18 platform?  19 A. On climate crisis specifically, no,  20 I'm not.  21 Q. May 2021. Facebook published a  22 threat report on efforts taken to protect against  23 influence operations aimed at manipulating -- I'm  24 not going to read that whole sentence.  25 Could you describe to me what influence</p>	<p style="text-align: right;">97</p> <p>1 elections context. For example, we have an ad  2 transparency center that if you are running what we  3 call a social issue or political ad that you must  4 affirm that you are a -- I guess I don't want to  5 say "resident," it has that connotation, but  6 domicile living in the state that you are or living  7 in the country that you are running the ad, affirm  8 to a number of other things, and then have that ad  9 disclosed for up to seven years to the public  10 because we recognize transparency in the elections  11 is very important.  12 Q. Are you aware of any allegations  13 against Facebook that its algorithms are actually  14 designed to incite more anger or violence in its  15 users in the way that it ranks content?  16 A. I have heard allegations through  17 kind of news articles that make those allegations  18 about Facebook using to promote anger, being used  19 to promote anger.  20 Q. Do you agree with those allegations?  21 A. I do not.  22 Q. Do you have any opinion on whether  23 users are more likely to engage on Facebook with  24 content that upsets them versus content that they  25 agree with?</p>

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1 MR. DISHER: Objection to form.  
 2 THE WITNESS: I don't have -- I  
 3 don't have any knowledge of whether they  
 4 would be or would not be.  
 5 MS. CORBELLO: We can take a  
 6 break.  
 7 THE VIDEOGRAPHER: We are going  
 8 off the record. This is the end of media  
 9 No. 1. The time is 10:50 a.m.  
 10 (Recess)  
 11 THE VIDEOGRAPHER: We're back on  
 12 the record. This is the beginning of  
 13 media Unit No. 2. The time is 11:01 a.m.  
 14 BY MS. CORBELLO:  
 15 Q. Let's go to paragraph 17 of your  
 16 declaration.  
 17 A. Sure.  
 18 Q. Let me know when you're ready.  
 19 A. I'm ready.  
 20 Q. So the first two sentences there  
 21 talk about users whose content gets removed or  
 22 flagged. What's the recourse? How does that look  
 23 when a user has been notified that their content is  
 24 removed or flagged?  
 25 A. Sure. When you have a content

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1 removed from Facebook, you are provided a notice  
 2 within your app that you have that content removed.  
 3 We aspire to give you the violation category that  
 4 it was removed for as well, the date and time that  
 5 we removed it.  
 6 For example, if I post something that  
 7 violates a hate speech policy, I would receive a  
 8 notice that says On November 16 you posted at this  
 9 time in violation of our hate speech policies. And  
 10 that on certain occasions we will include the  
 11 actual post itself, the entire post. Other  
 12 occasions we may not.  
 13 Q. How quickly does that notification  
 14 happen generally?  
 15 A. Is that generally from the time of  
 16 the posting or generally from the time of the  
 17 decision to remove the content?  
 18 Q. From the time of the decision to  
 19 remove the content.  
 20 A. It is not instantaneous, but we seek  
 21 to do that very quickly within, within a very short  
 22 period of time.  
 23 Q. Would it be less than 24 hours  
 24 typically?  
 25 A. Yes.

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1 Q. The appeals process you just  
 2 described to me, is that for any sort of  
 3 user-generated content, so something posted,  
 4 shared, liked, a comment, does that apply across  
 5 the board?  
 6 A. It does. One point of clarification  
 7 on the appeals process. I think we're talking  
 8 about removal appeals. You also have the ability  
 9 to appeal content that you may have flagged for  
 10 removal and we decided that it did not violate our  
 11 policies. You have a chance to appeal that type of  
 12 content on certain abuse areas as well.  
 13 Q. So if a user flags some other user's  
 14 content, there's a way for that user, the first  
 15 user to appeal a decision to keep that content on  
 16 the platform?  
 17 A. Right. If Joe flags a piece of  
 18 content, we say that Joe, no that content does not  
 19 violate our policy. Joe may, in certain cases, may  
 20 be presented with an option to appeal that. In  
 21 other cases around certain specific types of  
 22 content, that option is not available.  
 23 Q. So back to the first scenario where  
 24 a user's content has been removed. Facebook  
 25 provides content notice of the removal, and is the

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1 appeal option presented in that same notice, or  
 2 does that come separately?  
 3 A. I believe it's at the bottom of that  
 4 notice, it gives you the option to seek further  
 5 decision.  
 6 Q. And how does that process work?  
 7 A. If you opt into that, you  
 8 essentially click a radio button, a button on that,  
 9 I believe it clicks, that appeal, the new -- it  
 10 essentially creates a new review or as you  
 11 mentioned a new ticket. But a new case. That case  
 12 will then be removed again.  
 13 Subsequent to an appeal that upholds the  
 14 first decision, in certain cases you may have the  
 15 option also to appeal to our oversight board.  
 16 Q. What's -- how is it determined  
 17 whether a user gets the option to use the oversight  
 18 board or not?  
 19 A. I think it's presented -- fairly  
 20 presented I believe to everyone. The certain cases  
 21 that I'm really flagging on are around child sexual  
 22 exploitative images. We won't give you a chance to  
 23 appeal. We won't give you a chance to appeal if  
 24 you are a terrorist, are representing to be a  
 25 terrorist. In most cases we won't give you a



<p style="text-align: right;">102</p> <p>1 chance to appeal for those, but in the vast 2 majority of other cases. I don't want to speak in 3 pure definitives in case there is something that 4 I'm uncertain about.</p> <p>5 Q. Going back a second to the notice 6 that a user gets if their content is removed. You 7 said sometimes those notices will tell them why the 8 content is removed, but sometimes it won't. When 9 is it treated differently?</p> <p>10 A. Again, we aspire to tell them what 11 it was removed for in cases where you may be an 12 inauthentic actor, for example, or a network of 13 adversarial actors, terrorists and these groups, we 14 may not be as clear to say that you're violating 15 our policies. We will just remove your content and 16 remove your account.</p> <p>17 So for those that are purely adversarial 18 spaces where you have what we call network 19 disruptions for these types of behaviors, and again 20 going to those that trade child exploitative images 21 as well, we may not tell you that we are removing, 22 you know, specifically removing your content. We 23 are not definitely not showing you the same child 24 exploitative image that you posted.</p> <p>25 Q. Is there a process for users who</p>	<p style="text-align: right;">104</p> <p>1 A. That's correct.</p> <p>2 Q. And the oversight board, it was 3 established in May 2020 it says under your 4 paragraph?</p> <p>5 A. That is correct.</p> <p>6 Q. Do you know how many enforcement 7 decisions the oversight board has weighed in on 8 since it was created in May 2020 to this day?</p> <p>9 A. I don't have the exact number, 10 unfortunately.</p> <p>11 Q. Are you aware that the Facebook 12 website says it's been 18 pieces of content?</p> <p>13 MR. DISHER: Object to the form.</p> <p>14 THE WITNESS: I'm not aware of 15 what it is today. In fact, I think they 16 just, they just ruled on a few more cases 17 recently. So I don't have the updated 18 number today.</p> <p>19 BY MS. CORBELLO:</p> <p>20 Q. Go to -- actually, just staying on 21 17 for a second.</p> <p>22 A. Sure.</p> <p>23 Q. You read HB 20; correct?</p> <p>24 A. I have, I've skimmed through it, 25 yes.</p>
<p style="text-align: right;">103</p> <p>1 have the entire account removed from Facebook?</p> <p>2 A. I have to find out the specifics on 3 at that point there are appeals processes, but they 4 vary.</p> <p>5 Q. What types of content are eligible 6 for oversight board review?</p> <p>7 A. Any content that is removed or 8 upheld that it falls within our community standards 9 is eligible. So that includes all the abuse areas 10 we talked earlier, the violence incitement, 11 dangerous organizations, nudity to bullying to I 12 think you even have a case recently on privately 13 identifiable information, PII.</p> <p>14 Q. And other than a user requesting 15 that the decision go up to the oversight board, are 16 there any other ways in which content gets removed 17 by that board?</p> <p>18 A. We also -- we being Facebook -- may 19 also refer issues to the oversight board, issues 20 that we think will be precedential, issues that may 21 be consequential, that we would refer to the 22 oversight board for review.</p> <p>23 Q. Facebook handles billions of 24 user-generated content in any given year; is that 25 right?</p>	<p style="text-align: right;">105</p> <p>1 Q. It's also at tab 1 if you need to 2 look at it now.</p> <p>3 Are there any specific sections of HB 20 4 that you know of that would change this appeals 5 process that we just talked about in paragraph 17?</p> <p>6 MR. DISHER: Object to the form.</p> <p>7 MR. McCARRICK: Objection to form.</p> <p>8 THE WITNESS: Let me have a 9 second.</p> <p>10 BY MS. CORBELLO:</p> <p>11 Q. Sure.</p> <p>12 MS. CORBELLO: We'll go ahead and 13 mark the language of HB 20 in tab 1 as 14 defense Exhibit 3.</p> <p>15 (Exhibit 3, HB 20, was 16 marked for identification.)</p> <p>17 THE WITNESS: Yes.</p> <p>18 BY MS. CORBELLO:</p> <p>19 Q. Do you want me to reask my question?</p> <p>20 A. Please do.</p> <p>21 Q. Can you point me to the specific 22 sections of HB 20 that modifies anything that we 23 just talked about in regards to paragraph 17?</p> <p>24 MR. McCARRICK: Object to the 25 form.</p>

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1 THE WITNESS: Yeah. It's a bit  
 2 difficult for me to understand the  
 3 definitions of what you mean by -- in  
 4 these terms of review content. I think  
 5 review content has different definitions,  
 6 who the reviewer is, how those things  
 7 are, the body that oversees potential  
 8 appeal. I think that's one of the main.  
 9 We aspire to give people feedback  
 10 very quickly on their appeals. I cannot  
 11 say that we are, we comply with 14 days  
 12 in all cases. And for, you know,  
 13 particularly difficult cases it may be  
 14 longer. Including things that we  
 15 ultimately may send to the oversight  
 16 board where they, as you noted, they  
 17 have -- with 18 cases put out over the  
 18 course of a year, it's not necessarily  
 19 the most speedy body, nor is it designed  
 20 to be.  
 21 BY MS. CORBELLO:  
 22 Q. You said you're not able to provide  
 23 decisions within the 14-day deadline that HB 20  
 24 provides for?  
 25 MR. DISHER: Objection to form.

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1 MR. McCARRICK: Object to the  
 2 form.  
 3 THE WITNESS: I'd say we're not  
 4 able to -- we may not be able to provide  
 5 appeals decisions within those 14 days.  
 6 BY MS. CORBELLO:  
 7 Q. Where do you see that there's a  
 8 14-day deadline for appeals decisions?  
 9 MR. DISHER: Object to the form.  
 10 THE WITNESS: If you are on HB 20  
 11 under Section 120.104, I believe that is  
 12 the third line. The social media  
 13 platform shall not and no later than the  
 14 14th day. I may have misread that, but  
 15 that's how I interpret it.  
 16 BY MS. CORBELLO:  
 17 Q. So starting at the beginning of  
 18 Section 120.104, it says, "If a social media  
 19 platform receives a user complaint on the social  
 20 media platform's removal from the platform of  
 21 content provided by the user that the user believes  
 22 was not potentially policy-violating content, the  
 23 social media platform shall not later than the  
 24 14th day, excluding Saturdays and Sundays," and  
 25 then it has some different requirements including

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1 review the content, determine whether it violates  
 2 policies.  
 3 A. Yes.  
 4 Q. You're saying Facebook cannot meet a  
 5 14-day deadline?  
 6 MR. McCARRICK: Hold on. Ask the  
 7 question.  
 8 MR. DISHER: Object to the form.  
 9 BY MS. CORBELLO:  
 10 Q. Are you saying that Facebook cannot  
 11 meet this 14-day deadline as it's laid out in  
 12 HB 20?  
 13 MR. McCARRICK: Objection to form.  
 14 You can answer.  
 15 THE WITNESS: There are four -- it  
 16 seems that there are four requirements  
 17 there to review, determine, take  
 18 appropriate steps and to notify. I'm  
 19 unclear on the notification there. For  
 20 certain that we may or we may not be able  
 21 to, you know, we aspire to. I can't say  
 22 that we certainly will.  
 23 In certain cases again where we  
 24 are seeking -- where we make referrals to  
 25 the oversight board, that decision may

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1 rest with them, and as we discussed  
 2 earlier, the oversight board may or may  
 3 not be able to meet such a deadline.  
 4 BY MS. CORBELLO:  
 5 Q. If you go to tab 16.  
 6 A. 16.  
 7 Q. Yes. Facebook 65.  
 8 A. Sure. Is that the Bates number?  
 9 Q. Yes, it's at the bottom right. Have  
 10 you had a chance to look at it?  
 11 A. One second, please, thanks. Yes.  
 12 Q. What is this document?  
 13 A. It's a document explaining I guess  
 14 both how you can disagree or appeal a decision, and  
 15 it's a point that I should have made note with in  
 16 my previous statement, the impacts of COVID-19 and  
 17 the pandemic on our ability to actually review and  
 18 appeal of content decisions, because appeals are  
 19 going generally to humans for that review.  
 20 Facebook relying on a team of over 40,000  
 21 people that work in and specifically 15,000 content  
 22 moderators. Many of those people were sent home in  
 23 many cases without access of their devices for  
 24 private sensitive information to access users'  
 25 posts, users' potential user violations. And

<p style="text-align: right;">110</p> <p>1 during that period of time our appeals process had                  2 a significant lag if it was appealed or if the                  3 appeals were actually met.                  4 In certain cases we would what we call                  5 auto-close and just say that essentially you use it                  6 as a signal that you disagree with a decision but                  7 not actually give you a specific decision on your                  8 appeal.                  9 Q. This is one of the documents that                  10 you relied on in drafting your declaration;                  11 correct?                  12 A. I believe that's correct, yes.                  13 Q. And this was -- this is posted to                  14 Facebook's website currently; right?                  15 A. I don't have -- I don't have the                  16 website in front of me right now. It was                  17 posted when --                  18 Q. When you drafted your declaration,                  19 was it posted to Facebook?                  20 A. Yes.                  21 Q. And you drafted your declaration                  22 some time around this past summer, 2021, is that                  23 fair to say?                  24 A. That's correct.                  25 Q. Do you see at the very bottom</p>	<p style="text-align: right;">112</p> <p>1 THE WITNESS: Run of the mill, we                  2 aspire to review it within 24 hours.                  3 BY MS. CORBELLO:                  4 Q. Well, you're telling your users this                  5 on your website. Is it generally within 24 hours                  6 absent some exception, or is it, it will be 24                  7 hours if we feel like it?                  8 MR. McCARRICK: Object to the                  9 form.                  10 THE WITNESS: It's definitely if                  11 we feel like it. We try to do it within                  12 24 hours.                  13 BY MS. CORBELLO:                  14 Q. So that's the general practice?                  15 A. We try to do it within 24 hours.                  16 MS. CORBELLO: Marking this as                  17 defense Exhibit 4.                  18 (Exhibit 4, document                  19 entitled I Don't Think Facebook                  20 Should Have Taken Down My Post,                  21 was marked for identification.)                  22 Q. Going to Paragraph 18 of your                  23 declaration.                  24 A. Sure.                  25 Q. This paragraph is specifically about</p>
<p style="text-align: right;">111</p> <p>1 paragraph there, the first sentence starts out,                  2 "Once you ask us to take another look, your content                  3 will be removed again by Facebook usually within 24                  4 hours"?                  5 A. Yes.                  6 Q. So currently Facebook is promising                  7 its users that it will review an appeal of content                  8 that's been removed within 24 hours. Is that fair?                  9 MR. McCARRICK: Object to the                  10 form.                  11 THE WITNESS: I think the                  12 operative word there is "usually," that                  13 we will hinge on. We aspire to do it                  14 within 24 hours, but to say that we                  15 always meet that mark for the number of                  16 reasons that I laid out, including some                  17 of these COVID impacts, is particularly                  18 difficult content, it may take longer to                  19 review as well.                  20 BY MS. CORBELLO:                  21 Q. Generally for just a run-of-the-mill                  22 appeal of content removed within 24 hours, usually                  23 Facebook will review a user's appeal of that                  24 decision; right?                  25 MR. DISHER: Objection to form.</p>	<p style="text-align: right;">113</p> <p>1 a user's ability to curate their own Facebook page                  2 or any content that they see; correct?                  3 A. That's correct.                  4 Q. This paragraph has nothing to do                  5 with the decisions that Facebook made in regards to                  6 a user's Facebook page or the content of its                  7 safety; right?                  8 MR. DISHER: Object to the form.                  9 THE WITNESS: We enable the                  10 tools -- not trying to be difficult, but                  11 we enable the tools that a user uses to                  12 select like who they would block, for                  13 example, or things that they would                  14 follow.                  15 BY MS. CORBELLO:                  16 Q. So you provide users the ability to                  17 make these decisions for themselves, is that what                  18 you're trying to say?                  19 A. Correct.                  20 Q. This paragraph isn't about the                  21 decisions that Facebook is making in regards to                  22 what a user can see or can't see?                  23 A. That -- can you repeat that one more                  24 time.                  25 Q. Nothing in this paragraph, there's</p>

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1 plenty of other paragraphs in this declaration  
 2 about how Facebook moderates its content for users.  
 3 A. Correct.  
 4 Q. Is there anything in this paragraph  
 5 about the decisions of Facebook or its algorithms  
 6 or its humans are making in terms of moderating the  
 7 content and displaying it for users?  
 8 MR. DISHER: Object to the form.  
 9 THE WITNESS: I guess the point  
 10 may be that I'm hung up on a bit is that  
 11 these are tools that people can use to  
 12 help inform their news feed. They are  
 13 still subject to the overall news feed,  
 14 if that makes sense. So they're using  
 15 tools to help curate their own news feed  
 16 experience, but the news feed is still  
 17 running, but, yes, they do have tools to  
 18 curate their news feed experience.  
 19 BY MS. CORBELLO:  
 20 Q. And the curation of that experience  
 21 by the user is what this paragraph is about?  
 22 A. Yes.  
 23 Q. Facebook allows users to, it says,  
 24 choose a list of favorite friends, pages to  
 25 feature, they can even block content from certain

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1 users or pages and report content; is that right?  
 2 A. That is correct.  
 3 Q. Can you point me to the specific  
 4 provision in HB 20 that does not allow what you  
 5 describe in paragraph 18 to continue?  
 6 MR. DISHER: Objection to form.  
 7 MR. McCARRICK: Object to the  
 8 form.  
 9 THE WITNESS: Can I review?  
 10 BY MS. CORBELLO:  
 11 Q. Sure. It's tab 1. Defense Exhibit,  
 12 I believe.  
 13 A. Maybe repeat the question.  
 14 Q. Sure. Can you point me to the  
 15 specific provision in HB 20 that you believe would  
 16 essentially prohibit what you describe in  
 17 paragraph 18 from continuing to happen?  
 18 MR. DISHER: Objection to form.  
 19 MR. McCARRICK: Same objection.  
 20 BY MS. CORBELLO:  
 21 Q. Actually, let me put it this way:  
 22 Can you point to a specific provision in HB 20 that  
 23 does not allow users to continue to curate their  
 24 own news feeds on Facebook?  
 25 MR. DISHER: Objection to form.

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1 THE WITNESS: If we go to  
 2 Section 143A.002, Censorship Prohibited,  
 3 my understanding of the way that I read  
 4 censorship in this context vis-a-vis the  
 5 viewpoint of the user, the user's  
 6 expression, et cetera, is that we will  
 7 make certain decisions on this based off  
 8 of the feedback that we receive from the  
 9 users, so those signals that the users  
 10 are giving us about what types of content  
 11 they like to be surfaced or engaged with.  
 12 And if we make decisions that use  
 13 that feedback, that may be read to the  
 14 violating of the policies of  
 15 discrimination against the viewpoint of a  
 16 user.  
 17 I don't understand what a  
 18 viewpoint means in this term. It's a  
 19 pretty broad expression, but the way that  
 20 our ranking algorithms work in concert,  
 21 including with the way that people choose  
 22 to curate and choose to try to curate  
 23 themselves, these things aren't, as I was  
 24 trying to explain earlier or the reason  
 25 why I was hung up, they're not wholly

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1 separate. They do work together and so  
 2 these things would overlap.  
 3 BY MS. CORBELLO:  
 4 Q. Can you turn to the next page from  
 5 where you were just reading from. There's a  
 6 subsection B there towards the top of the page.  
 7 A. On page --  
 8 Q. It's the very next page from where  
 9 you were reading.  
 10 A. Subsection, I'm sorry, B?  
 11 Q. Yes. It's under Section 143A.006  
 12 subsection B.  
 13 A. Okay, yes.  
 14 Q. Just read it to yourself basically.  
 15 A. (Witness complies with request.)  
 16 Yes.  
 17 Q. Does this change your testimony at  
 18 all from a moment ago that Facebook is not allowed  
 19 to continue to permit their users to curate their  
 20 own content?  
 21 MR. DISHER: Object to the form.  
 22 MR. McCARRICK: Object to the  
 23 form.  
 24 THE WITNESS: Again, we're using  
 25 signals to help model what a user would

<p style="text-align: right;">118</p> <p>1 likely want to have appear in their feed.  2 So that may include specific things that  3 you've already said that I don't want to  4 see that, but also modeling towards  5 things that are highly likely to be the  6 same as that. We used earlier the  7 example of I don't want to see Ray Ban,  8 random Ray Ban spam ads in my feed. I  9 may do that.  10 We would always use that to model  11 also, you don't want to see random, you  12 know, some fake Jordans ads, you don't  13 want to see fake other types of material,  14 you know, kind of goods presented in your  15 feed. And we would make decisions  16 likewise on those.  17 BY MS. CORBELLO:  18 Q. So the example you gave of a user,  19 you know, pressing block on a Ray Bans spam ad,  20 what in HB 20 prohibits that from happening?  21 MR. DISHER: Objection to form.  22 THE WITNESS: Nothing prevents the  23 user from pressing block. It is the  24 downstream effects of how that would  25 ultimately inform our news feed</p>	<p style="text-align: right;">120</p> <p>1 A. For certain types of content when  2 you get feedback, it does present you with options.  3 When you hide specific content, it does present you  4 with options generally, but I can't speak to all  5 instances and all versions of Facebook.  6 Q. Who would be able to speak to that?  7 A. I don't know offhand. Our UX  8 designer.  9 Q. A what?  10 A. User experience designer. Sorry.  11 Shorthand. The user experience designer that has  12 the most up-to-date version of Facebook.  13 Q. Go down to Paragraph 22.  14 A. 22? On my declaration?  15 Q. Yes. Page 8 of your declaration.  16 A. Page 7? Oh, page 8.  17 Q. Yes. Eight at the top.  18 MR. DISHER: Eight at the top,  19 seven at the bottom.  20 THE WITNESS: Yes.  21 BY MS. CORBELLO:  22 Q. So paragraph 22 talks about one way  23 in which HB 20 is -- would impact Facebook. Is  24 that right?  25 A. I believe so, yes.</p>
<p style="text-align: right;">119</p> <p>1 algorithm, and it's important to also  2 point out that the news feed is specific  3 to each user, how that impacts that  4 user's news feed experience, and we will  5 make decisions based off of the user's  6 feedback, indirect and direct feedback.  7 We make those decisions to present them  8 the -- present them the news feed that we  9 believe that they want the most.  10 Here where you say about specific  11 expression, I assume, but I don't know,  12 but specific expression is very vague to  13 me. Does that mean all content that  14 falls in that category, or is it about a  15 specific piece of like one piece of  16 content that falls, that the user  17 specifically pressed.  18 Those are the decisions that we  19 would be forced to make.  20 BY MS. CORBELLO:  21 Q. When a user decides to block  22 content, they press the, what is it, the radio  23 button for block, does Facebook pop up a question  24 as to, you know, why are you blocking this content,  25 anything like that?</p>	<p style="text-align: right;">121</p> <p>1 Q. What specific provision of HB 20 are  2 you referring to in paragraph 22?  3 MR. DISHER: Objection to form.  4 THE WITNESS: Section 143A.002.  5 BY MS. CORBELLO:  6 Q. Any other provisions?  7 A. That is the main provision that I  8 focused on.  9 Q. Paragraph 23. Just let me know when  10 you're ready.  11 A. I am ready.  12 Q. What part of -- what provision of  13 HB 20 are you referring to in paragraph 23?  14 MR. DISHER: Objection, form.  15 THE WITNESS: Again,  16 Section 143A.002, but I believe there is  17 one other section. If you bear with me,  18 please.  19 BY MS. CORBELLO:  20 Q. Sure, take your time.  21 A. Here we go. I should read it in  22 order, perhaps. So if we go to, I believe this  23 is -- actually, I'm just going to stick with that  24 chapter. I know there's a portion that says it  25 talks about curation, but unfortunately I'm not</p>

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1 finding it right now.  
 2 Q. So you said previously 143A.002?  
 3 A. That is correct.  
 4 Q. Any particular subsection?  
 5 MR. DISHER: Object to the form.  
 6 THE WITNESS: Again, I think it's  
 7 all-encompassing of that subsection A  
 8 that begins with "The social media  
 9 platform may not censor" is the main.  
 10 BY MS. CORBELLO:  
 11 Q. Paragraph 24 of your declaration,  
 12 let me know when you've read that.  
 13 A. Sure. Yes.  
 14 Q. It talks there at the end about, it  
 15 gives a few examples, white supremacist content,  
 16 anti-Semitic conspiracy theories and other racist  
 17 content.  
 18 Is it your opinion that HB 20 does not  
 19 allow Facebook to prohibit racist as a category on  
 20 its platform as a result of that law?  
 21 MR. DISHER: Objection to form.  
 22 THE WITNESS: I don't understand  
 23 what viewpoint means. There's no  
 24 definition that I see for viewpoint. So  
 25 it's hard for me to understand what a

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1 viewpoint means.  
 2 Facebook, we want multiple  
 3 viewpoints. We don't make rules or  
 4 agnostic to someone's religion or  
 5 agnostic to your political party, but we  
 6 want to treat certain types of speech and  
 7 potentially certain positions and  
 8 viewpoints as very hostile.  
 9 If you're a terrorist, we don't  
 10 want you. If you traffic in child  
 11 exploitative images, we don't want you.  
 12 If you're someone who traffics in hate  
 13 broadly, if you're a scammer or spammer,  
 14 we don't want you on the platform. We  
 15 want to be able to moderate things of  
 16 that content.  
 17 BY MS. CORBELLO:  
 18 Q. So is the answer to my question yes?  
 19 MR. DISHER: Object to the form.  
 20 THE WITNESS: Repeat the specific  
 21 question and see if I can give you a  
 22 yes-or-no answer.  
 23 BY MS. CORBELLO:  
 24 Q. Is it your position that HB 20 would  
 25 not allow Facebook to prohibit racist content as a

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1 category if it would go into effect?  
 2 MR. DISHER: Object to the form.  
 3 THE WITNESS: I don't know what  
 4 viewpoint means here. If viewpoint would  
 5 mean that we would have to allow people  
 6 who share racist, anti-Semitic conspiracy  
 7 theories that would share a specific type  
 8 of misinformation that could lead to  
 9 imminent harm, that could share terrorist  
 10 activity, then yes. Then that would  
 11 prevent us from doing our job, and it  
 12 would be -- it would undo our current  
 13 moderation practices.  
 14 BY MS. CORBELLO:  
 15 Q. You're aware that HB 20 right now is  
 16 currently set to go into effect on December 2,  
 17 2021; right?  
 18 A. I am.  
 19 Q. Do you have any personal knowledge  
 20 as to whether Facebook believes it's going to have  
 21 to remove racist content as a category that it  
 22 moderates for as a result of HB 20 going into  
 23 effect?  
 24 MR. DISHER: Objection to form.  
 25 MR. McCARRICK: Objection to form.

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1 THE WITNESS: Again, the viewpoint  
 2 definition here is at best vague if  
 3 nonexistent, so it's hard for me to say.  
 4 I understand that if this law were  
 5 to go into effect on the 1st that it  
 6 would be extremely, extremely maybe  
 7 impossible for us to comply. It would  
 8 force us to change all of our systems to  
 9 try to come into compliance.  
 10 We've spent billions of dollars, I  
 11 mentioned earlier about 13 billion on  
 12 this specific area since 2016, 40,000  
 13 people.  
 14 We have to -- I am sure invest  
 15 nearly as much to be able to comply with  
 16 all that would undo our systems in such a  
 17 fundamental way.  
 18 BY MS. CORBELLO:  
 19 Q. And by "comply," you mean  
 20 essentially take away racist content as a category  
 21 of something that Facebook moderates for?  
 22 MR. DISHER: Objection to form.  
 23 MR. McCARRICK: Objection to form.  
 24 THE WITNESS: Could you repeat  
 25 what the taking away was? I'm trying to

<p style="text-align: right;">126</p> <p>1 make sure I get the verbs and negatives</p> <p>2 correct.</p> <p>3 BY MS. CORBELLO:</p> <p>4 Q. Sure. You talked about you're going</p> <p>5 to have to modify a lot of the systems if HB 20</p> <p>6 goes into effect.</p> <p>7 A. Correct.</p> <p>8 Q. Would one of those modifications</p> <p>9 mean taking away, for example, racist content as a</p> <p>10 category that Facebook moderated for?</p> <p>11 MR. DISHER: Objection to form.</p> <p>12 THE WITNESS: Possibly. And much</p> <p>13 more, depending on, you know, what's the</p> <p>14 definition of viewpoint, viewpoint here</p> <p>15 is. That could be -- racist content</p> <p>16 could be content that violates and</p> <p>17 incites all the training that the</p> <p>18 algorithms have done over the years, all</p> <p>19 the training that the human reviewers</p> <p>20 have done all the years, our strong</p> <p>21 engagement built within and then broadly</p> <p>22 the safety of the platform.</p> <p>23 So yes, all the things that we</p> <p>24 have built up as an infrastructure and</p> <p>25 guardrails to ensure that we have a safe</p>	<p style="text-align: right;">128</p> <p>1 refers to.</p> <p>2 Q. So other than the carve-out you</p> <p>3 identified in 143A.006, are there any other</p> <p>4 categories of content that you believe HB 20 allows</p> <p>5 Facebook to continue to moderate?</p> <p>6 MR. DISHER: Objection to form.</p> <p>7 THE WITNESS: I think outside of</p> <p>8 those specific things, again, without an</p> <p>9 understanding fully of -- because I don't</p> <p>10 think it's defined -- unlawful expression</p> <p>11 broadly, it seems that all of our other</p> <p>12 abuse areas would be subject to, and then</p> <p>13 we would not be able to moderate content</p> <p>14 in those spaces up to and including. I</p> <p>15 think despite what you have here as</p> <p>16 criminal incitement to violence, perhaps,</p> <p>17 our definition is not one that's tied to</p> <p>18 the criminality or the Texas statutes on</p> <p>19 inciting violence.</p> <p>20 BY MS. CORBELLO:</p> <p>21 Q. How does Facebook make its money?</p> <p>22 MR. DISHER: Object to the form.</p> <p>23 THE WITNESS: We have a few</p> <p>24 revenue streams, but primarily through</p> <p>25 advertising.</p>
<p style="text-align: right;">127</p> <p>1 site would undergo massive, massive</p> <p>2 change to allow these types of content to</p> <p>3 it.</p> <p>4 BY MS. CORBELLO:</p> <p>5 Q. What -- what categories of content</p> <p>6 do you believe HB 20 allows Facebook to moderate</p> <p>7 for?</p> <p>8 MR. DISHER: Object to the form.</p> <p>9 MR. McCARRICK: Object to the</p> <p>10 form.</p> <p>11 THE WITNESS: Can I go back to --</p> <p>12 BY MS. CORBELLO:</p> <p>13 Q. Sure.</p> <p>14 A. Under Section 143A.006, I think</p> <p>15 there are some carve-outs for specific, would be</p> <p>16 considered probably criminal sharing. So that</p> <p>17 would include sexual abuse. Some that -- it's</p> <p>18 listed here content that would directly incite</p> <p>19 criminal activity or consist of specific threats,</p> <p>20 but I don't see and I don't know if these are</p> <p>21 incorporated somewhere else. But I don't see</p> <p>22 definitions on what is considered to be inciting or</p> <p>23 what is considered to be specific in the threat</p> <p>24 categorization there. And then like the broad</p> <p>25 unlawful expression, which I don't know what that</p>	<p style="text-align: right;">129</p> <p>1 BY MS. CORBELLO:</p> <p>2 Q. What's the percentage of funds that</p> <p>3 you receive for revenue that you receive from</p> <p>4 advertisers?</p> <p>5 A. I don't have an exact figure.</p> <p>6 Q. Is it above 80 percent?</p> <p>7 A. I believe so.</p> <p>8 Q. Is it above 90 percent?</p> <p>9 A. I don't have an exact figure.</p> <p>10 Q. So somewhere between 80 and</p> <p>11 100 percent?</p> <p>12 A. I believe so.</p> <p>13 Q. Go to paragraph 26 for me.</p> <p>14 A. Sure.</p> <p>15 Q. Let me know when you're done with</p> <p>16 that.</p> <p>17 A. Sure. Yes, I'm done.</p> <p>18 Q. Okay. It looks like this paragraph</p> <p>19 is mostly about the concerns that Facebook has with</p> <p>20 having to comply with the law that applies to</p> <p>21 Texans when they are a global company. Did I read</p> <p>22 that right?</p> <p>23 MR. DISHER: Object to the form.</p> <p>24 THE WITNESS: I think that it's</p> <p>25 complying with the law even for our</p>

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1 citizens of Texas as well with some of  
 2 the kind of the vague descriptions there.  
 3 But also recognizing that we are a global  
 4 company, a 3 billion person company, and  
 5 enforcing rules dictated by the Texas  
 6 government on to other users as well.  
 7 BY MS. CORBELLO:  
 8 Q. Are there currently any state laws  
 9 that regulate Facebook in any way?  
 10 MR. DISHER: Object to the form.  
 11 MR. McCARRICK: Object to the  
 12 form.  
 13 THE WITNESS: State as in the 50  
 14 several states?  
 15 BY MS. CORBELLO:  
 16 Q. Yes.  
 17 A. I'm not aware of any specific state  
 18 laws outside of -- I'm aware of the federal laws.  
 19 I don't know any specific state laws on content  
 20 regulation.  
 21 Q. Is there a law out of California  
 22 that's in effect right now regarding -- regarding  
 23 collection of user data on Facebook?  
 24 MR. DISHER: Object to the form.  
 25 THE WITNESS: I'm not aware. I'm

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1 not aware.  
 2 BY MS. CORBELLO:  
 3 Q. Are there laws in other countries  
 4 that currently regulate Facebook in any way?  
 5 MR. DISHER: Object to the form.  
 6 THE WITNESS: Yes.  
 7 BY MS. CORBELLO:  
 8 Q. What laws are those?  
 9 A. I know there are regulations. I  
 10 don't know the laws specifically.  
 11 Q. What are the regulations aimed at  
 12 primarily, if you know?  
 13 MR. DISHER: Object to the form.  
 14 THE WITNESS: Broadly privacy,  
 15 some based on misinformation. Others on  
 16 data localization issues, issues of that  
 17 nature.  
 18 BY MS. CORBELLO:  
 19 Q. How do those international laws  
 20 affect Facebook's ability to do business here in  
 21 the U.S.?  
 22 MR. DISHER: Object to the form.  
 23 THE WITNESS: I don't know  
 24 specifically.  
 25

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1 BY MS. CORBELLO:  
 2 Q. Can you think of any examples as to  
 3 how international laws affects Facebook's ability  
 4 to do business in the U.S.?  
 5 MR. DISHER: Object to the form.  
 6 THE WITNESS: Try to comply with  
 7 law -- with laws. We do make product  
 8 changes and product investments to comply  
 9 with laws that we are actually able to  
 10 comply with. I have not seen something  
 11 that is -- would create such a  
 12 fundamental shift as the rest of the  
 13 Texas law in the way that a social media  
 14 company would be forced to moderate  
 15 content.  
 16 BY MS. CORBELLO:  
 17 Q. In terms of these international laws  
 18 that are in effect, has Facebook had to  
 19 substantially modify its policies or practices in  
 20 order to comply?  
 21 MR. DISHER: Object to the form.  
 22 THE WITNESS: Repeat one more  
 23 time.  
 24 BY MS. CORBELLO:  
 25 Q. Sure. In terms of the international

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1 laws that regulate Facebook, has it had to  
 2 substantially modify its policies and practices in  
 3 order to comply with those laws?  
 4 MR. DISHER: Object to the form.  
 5 THE WITNESS: I'm not aware.  
 6 Again, we try to comply, but we don't  
 7 always comply with laws. Sometimes we  
 8 object.  
 9 BY MS. CORBELLO:  
 10 Q. Well, in your personal capacity as  
 11 vice president in Trust and Safety teams -- sorry  
 12 if I'm getting that wrong -- have you or your team  
 13 had to modify your policies and practices in any  
 14 way as a result of an international law?  
 15 MR. DISHER: Object to the form.  
 16 THE WITNESS: On an international  
 17 provision, my team has not, but I'm not  
 18 aware of other teams that may have.  
 19 BY MS. CORBELLO:  
 20 Q. Is it Facebook's position that no  
 21 state is allowed to regulate it in any way?  
 22 MR. DISHER: Object to the form.  
 23 THE WITNESS: Define the state.  
 24 BY MS. CORBELLO:  
 25 Q. In the 50 states.



<p style="text-align: right;">134</p> <p>1 A. Repeat the question.</p> <p>2 Q. Sure. Is it Facebook's position</p> <p>3 that no state within the 50 states should be able</p> <p>4 to regulate Facebook?</p> <p>5 MR. DISHER: Object to the form.</p> <p>6 THE WITNESS: I don't know if we</p> <p>7 have a fundamental position on the</p> <p>8 state's regulation.</p> <p>9 BY MS. CORBELLO:</p> <p>10 Q. Paragraph 27.</p> <p>11 A. Yes.</p> <p>12 Q. Are you ready?</p> <p>13 A. No. That was yes for acknowledging</p> <p>14 27. Not yes for I've read it.</p> <p>15 Yes, I am now ready.</p> <p>16 Q. I think you said this a couple times</p> <p>17 before, but just to be clear, does Facebook</p> <p>18 currently discriminate based on a user's viewpoint?</p> <p>19 MR. DISHER: Objection to form.</p> <p>20 THE WITNESS: Again, it's a</p> <p>21 definition of viewpoint. If your</p> <p>22 viewpoint is one that violates our</p> <p>23 policies, we will for these purposes</p> <p>24 discriminate you, we will remove your</p> <p>25 content.</p>	<p style="text-align: right;">136</p> <p>1 "viewpoint" and then gave a few examples, including</p> <p>2 bullying, as a type of viewpoint. So is it</p> <p>3 Facebook's position that under this bill that</p> <p>4 bullying is a viewpoint in and of itself?</p> <p>5 A. What I don't understand is how the</p> <p>6 state of Texas is using viewpoint and what</p> <p>7 constitutes a viewpoint for the purposes of</p> <p>8 complying with this statute.</p> <p>9 So if you tell me that bullying is a</p> <p>10 viewpoint, then I have to make the necessary</p> <p>11 compliance protocols and remove our bullying and</p> <p>12 harassment policies to comply with that. If I'm</p> <p>13 not allowed to discriminate -- and discriminate</p> <p>14 meaning remove content, rank content, demote</p> <p>15 content -- based off of that position -- but I'm</p> <p>16 not creating the term "viewpoint." The term</p> <p>17 "viewpoint" is created by the statute.</p> <p>18 Q. So using the bullying example,</p> <p>19 Facebook currently removes content that qualifies</p> <p>20 as bullying; right?</p> <p>21 A. That qualifies as bullying and</p> <p>22 harassment under our policies; correct. We remove</p> <p>23 that content.</p> <p>24 Q. When looking at content that is</p> <p>25 flagged for that or reviewed for that, for bullying</p>
<p style="text-align: right;">135</p> <p>1 So, again, if you are a terrorist,</p> <p>2 if you are sharing child things that</p> <p>3 we -- that the statute carves out, but</p> <p>4 also if you're engaged in bullying and</p> <p>5 harassment, if you're sharing personal</p> <p>6 and negative information, if you are</p> <p>7 using -- trying to exploit our platform</p> <p>8 for coordinated activity against a nation</p> <p>9 and their election, if that's a</p> <p>10 viewpoint. We do remove that content and</p> <p>11 we often will remove the actors behind</p> <p>12 that content as well.</p> <p>13 BY MS. CORBELLO:</p> <p>14 Q. Let's take bullying, for example.</p> <p>15 When you remove content that qualifies as bullying,</p> <p>16 what's the viewpoint, first of all, that you</p> <p>17 believe is at issue there?</p> <p>18 MR. DISHER: Objection to form.</p> <p>19 MR. McCARRICK: Objection to form.</p> <p>20 THE WITNESS: I didn't draft the</p> <p>21 bill. The way that I'm focused on is the</p> <p>22 way that the state of Texas is using that</p> <p>23 viewpoint.</p> <p>24 BY MS. CORBELLO:</p> <p>25 Q. Sorry. You used the term</p>	<p style="text-align: right;">137</p> <p>1 or harassment, does Facebook focus at all on the</p> <p>2 user's viewpoint?</p> <p>3 MR. DISHER: Object to the form.</p> <p>4 MR. McCARRICK: Object to the</p> <p>5 form.</p> <p>6 THE WITNESS: Again, what I'm</p> <p>7 focused on, I think, is the definition</p> <p>8 under HB 20 of what viewpoint is, which I</p> <p>9 don't understand from HB 20. So if your</p> <p>10 viewpoint is one that I have a position,</p> <p>11 I have a viewpoint of harassing people,</p> <p>12 we would remove that content. And if you</p> <p>13 have egregious violations and repeated</p> <p>14 harassment of people, we would remove you</p> <p>15 from the platform and try to prevent you</p> <p>16 from coming back. So yes, in that</p> <p>17 context.</p> <p>18 BY MS. CORBELLO:</p> <p>19 Q. Maybe it will be easier in an</p> <p>20 example. Let's say you have two pieces of content,</p> <p>21 they both contain the same type of harassment and</p> <p>22 bullying. One is against, just for ease of</p> <p>23 divisiveness, a Trump supporter and one is against</p> <p>24 a Biden supporter. Are those two pieces of</p> <p>25 content, because they qualify under the policy for</p>

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1 bullying and harassment, going to be treated the  
 2 same or differently by Facebook?  
 3 MR. DISHER: Object to the form.  
 4 THE WITNESS: We are agnostic to  
 5 viewpoints, as I mentioned, whether  
 6 political, whether religious, ideology.  
 7 We're not just those viewpoints, unless  
 8 your ideology is one that's tied to  
 9 violence. But for those ideologies, we  
 10 do discriminate.  
 11 Again, for HB 20 I'm unclear as to  
 12 the viewpoint that the bill means -- I  
 13 guess now law -- I guess I'm unclear as  
 14 to what this means vis-a-vis our  
 15 moderation systems. We are agnostic to  
 16 that, but if you are implying a  
 17 definition of viewpoint to that type of  
 18 content, then that puts us in a bind of  
 19 having to now upend all of our moderation  
 20 systems.  
 21 BY MS. CORBELLO:  
 22 Q. Paragraph 27 mentions graphically  
 23 violent content.  
 24 Do you see that?  
 25 A. I do.

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1 Q. Does Facebook allow graphically  
 2 violent content on its platform now?  
 3 A. As often with content on Facebook,  
 4 it depends.  
 5 Q. What does it depend on?  
 6 A. It depends on how it's shared. Many  
 7 of our decisions are context-based. For example,  
 8 me showing a video that is very graphic and maybe  
 9 objectionable, may satisfy our policies and be  
 10 removed if it does not have, perhaps, public  
 11 interest. But if it is in serving the public  
 12 interest, we may allow that same type of content.  
 13 So as we do that and in certain cases, I  
 14 think, as this paragraph is meant to do, we  
 15 describe that we will label that content, label it  
 16 what we call interstitial, essentially warning  
 17 screens, so to perhaps remove some of the shocking  
 18 elements of that content.  
 19 But if you want to see that, an example of  
 20 this would be there may be someone involved in a  
 21 protest, a large political protest that is attacked  
 22 by one side or the other or of the state. Them  
 23 showing the effects of the attack, perhaps physical  
 24 effects may violate our policies.  
 25 For example, we have the policies are very

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1 broad, so deep wounds, head gashes, things of that  
 2 nature, may violate our policies depending on how  
 3 graphic they are. But because of the, perhaps the  
 4 context on which this happened, the context of the  
 5 speaker as well, we will then apply, we'll say that  
 6 actually that's not within the spirit or the intent  
 7 of the policy; but we recognize that this is so  
 8 shocking to an individual that if they were just to  
 9 stumble on it in their news feed that we will place  
 10 a warning screen over that and label that and say  
 11 hey, this is graphic. If you want to see it you  
 12 can click through, but maybe if you're, perhaps,  
 13 would be disturbed or a bit queasy, you may not  
 14 want to view this content.  
 15 Q. You mentioned that one of the  
 16 determining content, graphically violent content is  
 17 whether it's in the public interest; is that right?  
 18 A. It's not always about the public  
 19 interest. That is one factor that we do.  
 20 Q. Why is public interest one of the  
 21 things that Facebook considers?  
 22 A. Again, Facebook is a platform for  
 23 expression. So I think that's kind of the  
 24 overarching, you know, focus of the platform. I  
 25 talked about how that's not -- we talked about

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1 safety, we talked about the authenticity and  
 2 privacy.  
 3 There are certain times that we recognize  
 4 that our policies are blunt. They are meant to  
 5 serve a community of 3 billion people. So  
 6 sometimes they don't have -- they are meant to be  
 7 very objective in their application so we can  
 8 remove things like bias and subjectivity from that  
 9 application.  
 10 That does not always drive the right  
 11 outcome on certain situations; we recognize that.  
 12 So in those situations we do look at the public  
 13 interest as a test to say would the public actually  
 14 benefit from understanding more about whatever the  
 15 situation it may be, seeing this type of image for  
 16 whatever reason.  
 17 Q. So does Facebook consider itself to  
 18 have influence on the public in any way?  
 19 MR. DISHER: Object to the form.  
 20 MR. McCARRICK: Object to the  
 21 form.  
 22 THE WITNESS: I don't consider  
 23 myself to have influence on the public.  
 24 BY MS. CORBELLO:  
 25 Q. Well, but maybe I asked that a

<p style="text-align: right;">142</p> <p>1 little unclear. Does Facebook believe itself to  2 have any influence, good or bad, on the public  3 currently?  4 MR. DISHER: Object to the form.  5 THE WITNESS: Facebook wants to  6 create a product that people find to be  7 meaningful, that they come back to the  8 product to experience, both social  9 connections. So in that sense I hope we  10 have a good impact. I don't know if we  11 have a feeling. It's a little kind of --  12 I'm struggling with the term.  13 BY MS. CORBELLO:  14 Q. So from what you just said, it  15 sounds like maybe one of the goals of Facebook is  16 to have a good influence on the public. Is that  17 fair to say?  18 MR. DISHER: Object to the form.  19 THE WITNESS: We want people to be  20 able to use the product to build  21 community, to have meaningful  22 interactions, meaningful experiences. If  23 we qualify those as good, yes, then that  24 is a good activity on the platform.  25</p>	<p style="text-align: right;">144</p> <p>1 content that they find on our platform, make a  2 decision on that content, whether this is true,  3 false, partly true, partly false, context missing.  4 At that point we would take action based off of  5 their decisions, and we would label that content.  6 We would label that content as being, you know,  7 this has been found true by a third-party factor,  8 this has been found false or it has been cited as  9 false by a third-party factor.  10 Sorry, I know I'm mumbling. I apologize.  11 Q. So far I'm keeping up. How does  12 content get to the fact checkers? What's the  13 workflow there?  14 A. There's a system of automation that  15 allows our content that's eligible for fact  16 checking to be in queued to fact checkers, and fact  17 checkers at that point have the option because a  18 third-party -- excuse me -- we don't tell them what  19 to fact check. They have total independence on  20 picking up essentially what to fact check.  21 Now we would love them to fact check things  22 that are more viral or they have the potential for  23 virality and maybe spread and shared more often  24 than, you know, me saying that the Knicks are the  25 best basketball team of the '90s. No one, A,</p>
<p style="text-align: right;">143</p> <p>1 BY MS. CORBELLO:  2 Q. The last sentence of paragraph 27  3 talks about content determined to be false.  4 A. That's correct.  5 Q. What does that refer to?  6 A. We at Facebook, I guess first it's  7 always important to point out that we don't want to  8 be the arbiters, we recognize it's probably not  9 appropriate for a platform to be the arbiters of  10 truth.  11 As you can imagine with billions of pieces  12 of content as you mentioned earlier posted to  13 Facebook that sometimes people will tell -- will  14 make misstatements, some will outright potentially  15 lie. But there will be a fair amount of posts that  16 people disagree with and some would say may contain  17 misinformation.  18 Because we're not the arbiters of truth, we  19 partner with a third-party fact checking network,  20 it's about 80 media companies globally. They  21 subscribe to a third-party entity called the  22 Poynter International Fact Checking Network. If  23 they're accepted with the known ethical standards  24 to meet the Poynters threshold, they are eligible  25 to act as a fact-checking partner to then review</p>	<p style="text-align: right;">145</p> <p>1 either believes it, but also it's so -- it's both  2 inconsequential and not going to reach a lot of  3 people that we probably shouldn't invest their time  4 debunking those claims. But if there are claims  5 that are much more consequential with the level of  6 morality, we would like them to focus the issue --  7 they are independent so they get to also -- they  8 obviously have a say in what they focus on, and  9 they choose.  10 And part of the calculus that they must do  11 is would they have the ability to actually fact  12 check. So they have to go through their standards  13 and, you know, whether it's writing an article,  14 investigating, whatever those things are. They  15 have to go through their standards to meet and make  16 a decision.  17 Q. So you talked about the content  18 getting queued for their review. Is it an  19 algorithm within Facebook's systems that queues  20 those pieces of content?  21 A. It is algorithm informed by people.  22 Q. The first look is it's either  23 algorithm or human in Facebook and then it goes  24 into a queue for the outside fact checkers?  25 A. Broadly speaking, yes. There are</p>

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1 likely some additions. If content has been  
 2 previously fact checked by a fact checker before it  
 3 appears on Facebook, there are different mechanisms  
 4 on how that would apply, but broadly speaking, yes.  
 5 Q. So once the algorithms are in the  
 6 queue, is that when the fact checkers have the  
 7 autonomy to essentially pick what they want to  
 8 review?  
 9 A. I'm going to ask you to reframe,  
 10 because I think you mean the content in the queue.  
 11 Q. I'm sorry, the content in the queue,  
 12 once it's in the queue, is that when the fact  
 13 checkers -- I think you talked a moment ago about  
 14 them being able to essentially select what they  
 15 want to review. Is that when that occurs?  
 16 A. Broadly, yes.  
 17 Q. And is there any -- what's the  
 18 review of the fact checkers' review once it heads  
 19 back to Facebook?  
 20 A. There's limited review at that  
 21 point. The one thing we do take measure on, we  
 22 have instructed fact checkers to take measure on  
 23 ensuring that fact checkers aren't reviewing  
 24 opinion content. That gets very in depth because  
 25 opinion could be based on underlying incorrect or

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1 already fact-checked information where we would  
 2 have a certain approach.  
 3 But if it's just someone's opinion, we're  
 4 not -- the fact checkers are not meant to fact  
 5 check someone's opinion. It's hard to tell someone  
 6 that their opinion is misinformation. So that is  
 7 how broadly it works.  
 8 Again, it's important to note that their  
 9 standards that are set out by that international  
 10 body, that Poynter Network, is what they need to  
 11 subscribe to and fulfill the standards of applying  
 12 a fact-checking rating to any content.  
 13 Q. So the screening that happens to  
 14 determine whether an opinion was inappropriately  
 15 reviewed by the fact checkers, that happens after  
 16 the fact checkers have first looked through it?  
 17 A. It may be simultaneously in certain  
 18 situations with the underlying -- as you can  
 19 imagine, some of these are longer pieces where they  
 20 are being queued, and simultaneously someone might  
 21 say, actually that is -- after reading it that is  
 22 actually opinion that should not be eligible for  
 23 in-queuing. So we'll make the decision to perhaps  
 24 remove it. A fact checker may in the interim pick  
 25 it up to fact check it.

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1 Likewise, because they are independent they  
 2 may have fact checked it on their own, but we would  
 3 not at that point apply a label on Facebook. What  
 4 happens -- if you're the AP, what happens on the  
 5 AP's site, if they use it, if they share it out  
 6 with another social media company that does apply a  
 7 similar fact checking or labeling of authoritative  
 8 information or sources, model, I can't speak to.  
 9 Q. Who at Facebook is making that  
 10 determination about potentially an opinion sort of  
 11 content getting mixed in with the fact-checking  
 12 content?  
 13 A. We're -- sorry. I'll take a pause.  
 14 We have a broad team of people that work on these  
 15 issues. But broadly speaking, again, it's the same  
 16 group of individuals that we've been discussing  
 17 today, the policy team, the integrity team and the  
 18 operations team.  
 19 Q. So there's not one group that's  
 20 reviewing all of these for potential opinions in  
 21 the content?  
 22 A. I don't know the name of the  
 23 specific group that helps you to do that on a daily  
 24 basis.  
 25 Q. Okay. Paragraph 29. Go ahead and

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1 let me know when you're done reviewing that.  
 2 A. Sure. (Witness complies with  
 3 request.) Yes.  
 4 Q. Where in HB 20 does it require  
 5 Facebook to give the information you talk about in  
 6 paragraph 29 in any specific way?  
 7 A. Sure.  
 8 MR. DISHER: Objection to form.  
 9 MR. McCARRICK: Object to the  
 10 form.  
 11 THE WITNESS: I believe it's  
 12 Chapter 143A is the broad disclosure  
 13 chapter.  
 14 BY MS. CORBELLO:  
 15 Q. Is there a point zero zero  
 16 something?  
 17 A. Okay, I'll find that.  
 18 Q. I think you're looking at the bottom  
 19 of the first page.  
 20 A. Actually, you know what, I misspoke.  
 21 What I was focused on rewriting that was actually  
 22 120 -- Section 120.051.  
 23 Q. So where in this section does it  
 24 require Facebook to provide the information that it  
 25 wants disclosed in any specific way or format?

<p style="text-align: right;">150</p> <p>1 MR. DISHER: Objection to form.                  2 THE WITNESS: Can you repeat the                  3 question, please.                  4 BY MS. CORBELLO:                  5 Q. Sure. In the section you just                  6 identified, 120.051 --                  7 A. Correct.                  8 Q. -- where in this section does HB 20                  9 require the categories that you describe in                  10 paragraph 29? Does it require those categories to                  11 be disposed in any specific way or format?                  12 MR. DISHER: Objection, form.                  13 THE WITNESS: I think between 120,                  14 Section 120.051A, 1 through 5.                  15 BY MS. CORBELLO:                  16 Q. Let's take one, for example. Number                  17 1, A1 says, "Curates and target content to users."                  18 Where in that sentence does it provide that                  19 product to be provided in a specific way, in that                  20 format?                  21 MR. DISHER: Objection to form.                  22 MR. McCARRICK: Objection to form.                  23 THE WITNESS: On your question, I                  24 think I'm referring to as you look at                  25 1200.51A, if we can take a slight step</p>	<p style="text-align: right;">152</p> <p>1 A. That's correct.                  2 Q. Does that in any way indicate to you                  3 the way in which that specific information needs to                  4 be presented?                  5 MR. DISHER: Objection, form.                  6 THE WITNESS: It does not.                  7 BY MS. CORBELLO:                  8 Q. What about 2 through 5, is there any                  9 indication of how that information, specific                  10 information needs to be presented?                  11 MR. DISHER: Objection, form.                  12 THE WITNESS: It does not.                  13 BY MS. CORBELLO:                  14 Q. Paragraph 29, we'll start with I,                  15 where it talks about curating and targeting content                  16 to users, also A1?                  17 A. Correct.                  18 Q. What is -- what would be -- what are                  19 the specifics as to how this requirement would be                  20 burdensome to Facebook were it to have to comply?                  21 A. I don't understand what the                  22 specifics of the bill is asking for in this.                  23 That's a huge burden. Without understanding                  24 specifics, we at Facebook have a way about showing                  25 our transparency.</p>
<p style="text-align: right;">151</p> <p>1 back. The sentence that begins "Social                  2 media platform shall," skipping forward,                  3 accurate information regarding its                  4 content management, data management,                  5 business practices including specific                  6 information regarding and then a list of                  7 1 through 5, curates, targets, places,                  8 promotes, moderates and users search and                  9 ranking.                  10 BY MS. CORBELLO:                  11 Q. So where it says specific                  12 information, what in that phrase requires Facebook                  13 to provide that information in any specific way or                  14 format?                  15 MR. DISHER: Objection, form.                  16 THE WITNESS: It's a specific -- I                  17 think I'm focused on the specific                  18 information that you're requesting. It                  19 doesn't provide information on what the                  20 specific information being requested is.                  21 BY MS. CORBELLO:                  22 Q. So HB 20 it looks like in this                  23 sentence requires specific information on, for                  24 example, number one, curating and targeting content                  25 to users; right?</p>	<p style="text-align: right;">153</p> <p>1 I don't know the specifics of what this                  2 bill is asking for and whether that infringed upon                  3 business secrets or how our algorithm works. There                  4 are things that we are extremely transparent about,                  5 standards, for example, the rules, we're very                  6 transparent about those. But there are other                  7 things that regulate business concerns that you're                  8 not entitled to, how the algorithm ranks content,                  9 for example.                  10 Q. Does Facebook's current transparency                  11 reports include information about how it curates                  12 and targets content to users?                  13 A. We do have public-facing posts that                  14 talk about broadly the curation. Again, I think                  15 the specificity that would be required is an                  16 important element of what is required and how we                  17 would be able to comply.                  18 Q. And what's the point of providing a                  19 report as to how, even in broad terms, as to how                  20 Facebook curates and targets content to users?                  21 MR. DISHER: Objection, form.                  22 THE WITNESS: Can you repeat the                  23 question.                  24 BY MS. CORBELLO:                  25 Q. What's the point of any transparency</p>

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1 report or broad posting as to how Facebook curates  
 2 and targets content to users? Why is Facebook  
 3 making that public information now?  
 4 MR. DISHER: Objection, form.  
 5 THE WITNESS: We would like to  
 6 give people as much information to make  
 7 informed decisions about how to use the  
 8 platform.  
 9 BY MS. CORBELLO:  
 10 Q. If you can look just right below  
 11 where we were just talking about, subsection B of  
 12 Section 120.051.  
 13 A. Uh-huh.  
 14 Q. Do you see that it says, "The  
 15 disclosure required by subsection A must be  
 16 sufficient to enable users to make an informed  
 17 choice regarding the purchase of or use of access  
 18 to or services from the platform"?  
 19 A. I do.  
 20 Q. Do Facebook's transparency reports  
 21 currently provide users sufficient information to  
 22 make an informed choice regarding the platform  
 23 they're using?  
 24 MR. DISHER: Object to the form.  
 25 MR. McCARRICK: Object to the

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1 form.  
 2 THE WITNESS: I don't know what  
 3 the definition of "informed choice" under  
 4 the Texas law is. It doesn't define it.  
 5 I know what we try to do at Facebook. At  
 6 Facebook we try to give users information  
 7 to make those choices. Again, what I  
 8 don't understand or I can't articulate  
 9 here or maybe what is not articulated is  
 10 what informed choice means to the state  
 11 of Texas.  
 12 BY MS. CORBELLO:  
 13 Q. Well, as to how Facebook views it.  
 14 Does Facebook believe that it's currently providing  
 15 adequate information for users to make informed  
 16 decisions?  
 17 A. We believe that we're providing  
 18 adequate information based off of our standards and  
 19 our rules. I don't know if that complies with or  
 20 would satisfy the elements of this statute.  
 21 Q. So going back to my question a few  
 22 minutes ago, the first requirement of subsection  
 23 A1, curating and targeting content to users, is it  
 24 your testimony that the only burden with complying  
 25 with that is simply Facebook being unaware of what

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1 that means?  
 2 MR. DISHER: Objection, form.  
 3 THE WITNESS: That is not what I  
 4 said. I also flagged that there may be  
 5 like proprietary information depending on  
 6 what is required from there.  
 7 BY MS. CORBELLO:  
 8 Q. What would be the other burdens of  
 9 complying with subsection A1?  
 10 A. I think there are a few other  
 11 burdens. One that jumps out to mind also is that  
 12 in many of the spaces that we work to moderate  
 13 content they are, quote/unquote, adversarial spaces  
 14 where people will seek to game the systems that are  
 15 placed upon them. Game the regulations to skirt  
 16 enforcement. Broad enforcement, specific  
 17 enforcement are seen as specific disclosures on  
 18 certain ways or on ways that the system is used can  
 19 also jeopardize the way -- the effectiveness of our  
 20 content moderation abilities.  
 21 Q. Are there any other burdens you can  
 22 think of that would -- that Facebook could endure  
 23 if it had to comply with subsection A1?  
 24 A. Broadly speaking just the investment  
 25 of resources. I have no -- I don't know the exact

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1 investment of resources. I know how detailed -- we  
 2 were speaking to earlier about how the data is  
 3 necessary -- the data needed to produce an  
 4 enforcement to report in the time it takes to do so  
 5 on transparency measures there. I would assume  
 6 that investments would rival for other transparency  
 7 issues.  
 8 Q. What does it cost to create the  
 9 current transparency reports that happen quarterly?  
 10 A. Again, I don't have a specific line  
 11 item that. I don't have a line item number, but I  
 12 have the macro number, and that goes into that  
 13 13 billion where we are spending \$13 billion since  
 14 2016 on that specific place, including increasing  
 15 the size of our company, measurably now 40,000  
 16 people working in that space, which is the majority  
 17 of the company working.  
 18 Q. Has anyone done the math on how much  
 19 money would have to be added to that 13 billion  
 20 figure if HB 20 were to go into effect?  
 21 MR. DISHER: Object to the form.  
 22 MR. McCARRICK: Object to the  
 23 form.  
 24 THE WITNESS: I have not done the  
 25 math. I haven't done the math. I can't

<p style="text-align: right;">158</p> <p>1 speak to what our finance teams have been                  2 able to calculate.                  3 BY MS. CORBELLO:                  4 Q. Who would be the best person to ask                  5 that question?                  6 A. Our chief financial officer is David                  7 Weiner. But I don't think if he knows offhand                  8 either.                  9 Q. Subsection A2, places and promotes                  10 content services and products including its own                  11 content services and products. What burdens would                  12 Facebook have to endure if it were to disclose the                  13 information in subsection A2?                  14 MR. DISHER: Objection to form.                  15 THE WITNESS: Again, these -- this                  16 is part of -- it's very, I guess,                  17 attached to one. And this goes to -- in                  18 my mind goes towards the ranking                  19 algorithms and how we prioritize and in                  20 certain cases deprioritize content within                  21 one's news feed, how we surface                  22 recommendations to an individual. All                  23 these things do have -- I'll start there,                  24 they have a level of proprietary business                  25 secret with that as well as -- and we've</p>	<p style="text-align: right;">160</p> <p>1 performance data." I think that                  2 definition would be important to                  3 understand before I can comment. It                  4 sounds very taxing on that. Broadly for                  5 1, 2, 3 and 4, though, I think those are                  6 primarily the same at which the                  7 investments that we have made, the ways                  8 that we moderate content also potentially                  9 harming the safety of our users and the                  10 safety of the environment that we want to                  11 have on Facebook.                  12 BY MS. CORBELLO:                  13 Q. Any other burdens you can think of                  14 associated with having to comply with subsection A1                  15 through 5?                  16 MR. DISHER: Objection to form.                  17 THE WITNESS: If the subsections                  18 were to change the way that we moderate                  19 content and change the way that we can                  20 provide a safe environment for our users,                  21 it has the potential of driving users off                  22 the platform. We spoke about that                  23 earlier. It has the potential of driving                  24 advertisers from our platform, and we                  25 spoke about that earlier as well.</p>
<p style="text-align: right;">159</p> <p>1 seen this in a number of spaces too, as                  2 more information about the algorithm                  3 becomes available, people in an                  4 adversarial space may try to exploit the                  5 algorithm.                  6 Sometimes that is for harm,                  7 foreign interference, terrorist content.                  8 Sometimes it is for also harmful content,                  9 but maybe not as gray but like as                  10 spammers and scammers to get you to                  11 engage more likely to bait you into                  12 things, to drive you off of our platform                  13 to other platforms where more harmful                  14 activity can occur.                  15 BY MS. CORBELLO:                  16 Q. Maybe, let's take the time, let's do                  17 this. Subsections A1 through 5, we've talked about                  18 a few burdens as they relate to subsections 1 and                  19 2. Would you say that those burdens we've talked                  20 about are the same for complying with subsections                  21 A3, 4 and 5 as well, or are there any additional                  22 burdens?                  23 MR. DISHER: Objection to form.                  24 THE WITNESS: Yeah. On 5 I really                  25 don't understand what we mean by "user</p>	<p style="text-align: right;">161</p> <p>1 BY MS. CORBELLO:                  2 Q. Subsection A1 through 5 is about the                  3 disclosures that Facebook has to make; right?                  4 MR. DISHER: Objection, form.                  5 THE WITNESS: That is correct.                  6 BY MS. CORBELLO:                  7 Q. Okay. So is it your testimony that                  8 one of the burdens with having to disclose this                  9 information is that it will drive users away?                  10 A. My testimony is that I don't                  11 understand what specific information about                  12 disclosures means in this context. If we are                  13 disclosing with such a level of specificity that                  14 people can then now subvert our policies where they                  15 can post more harmful content, the logical                  16 conclusion in my mind at least is that that creates                  17 an unsafe environment because now they have                  18 subverted our moderation systems which means users                  19 may not find it safe.                  20 They tend to go off, users go off,                  21 advertisers and their brand safety concerns, they                  22 would persist as well. And so that's where I have,                  23 you know, specific concerns. We have seen that in                  24 the past where groups of users have intended to                  25 subvert our systems, YouTube systems, other social</p>

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1 media platforms based off of transparent -- about  
 2 knowledge about how those systems work. So that  
 3 level of specificity again really matters here.  
 4 Q. And I understand Facebook might  
 5 think that there are secondary effects of having to  
 6 comply with disclosures, but in terms of the  
 7 disclosures themselves, having to gather this data  
 8 and present it, what are the specific burdens  
 9 associated with that?  
 10 MR. DISHER: Objection, form.  
 11 THE WITNESS: I think, as I think  
 12 I've explained those, explained those  
 13 again about the burden for actually  
 14 gathering the investments needed to do  
 15 so, the potential for harm that may come  
 16 within disclosing this where those  
 17 systems can be gamed.  
 18 BY MS. CORBELLO:  
 19 Q. Does the fact that users might leave  
 20 the site as a result of any of these categories  
 21 being disclosed, does that alter in any way  
 22 Facebook's ability to report on any of these  
 23 categories?  
 24 MR. DISHER: Objection, form.  
 25 THE WITNESS: May I ask you to

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1 MR. DISHER: Object to the form.  
 2 THE WITNESS: May I ask about what  
 3 subjects?  
 4 BY MS. CORBELLO:  
 5 Q. Well, HB 20 requires the certain  
 6 sorts of disclosures that we just talked about.  
 7 Are there any other laws or regulations that  
 8 Facebook abides by that would require it to provide  
 9 information regarding or related to content  
 10 moderation?  
 11 MR. ALLEN: Object to the form.  
 12 THE WITNESS: In the context of  
 13 moderation specifically, I'm not sure.  
 14 BY MS. CORBELLO:  
 15 Q. Are there any reporting requirements  
 16 in relation to user retention?  
 17 MR. DISHER: Object to the form.  
 18 THE WITNESS: I'm not sure.  
 19 BY MS. CORBELLO:  
 20 Q. Are there any reporting requirements  
 21 in terms of gathering users' data?  
 22 MR. DISHER: Object to the form.  
 23 THE WITNESS: I'm not a privacy  
 24 lawyer, so I can't speak to what the  
 25 requirements are.

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1 repeat that question one more time.  
 2 BY MS. CORBELLO:  
 3 Q. Sure. Does the fact that -- let's  
 4 just assume for the sake of this question that  
 5 users might leave the platform as a result,  
 6 secondary result of having to disclose this  
 7 information, does that make any of this information  
 8 impossible for Facebook to compile and disclose?  
 9 MR. DISHER: Objection, form.  
 10 THE WITNESS: I can't really  
 11 comment on possibility. That's like a  
 12 hard one, whether it's possible or  
 13 impossible.  
 14 I do think it would be very  
 15 difficult for us to, based off of what I  
 16 said, without understanding what the  
 17 specific information in this context  
 18 means. It would be very, very difficult  
 19 and burdensome for us to comply with the  
 20 law.  
 21 BY MS. CORBELLO:  
 22 Q. Other than the transparency  
 23 reporting that Facebook provides on its website,  
 24 what other reporting obligations does it currently  
 25 have?

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1 BY MS. CORBELLO:  
 2 Q. Are there any reporting requirements  
 3 as it relates to advertiser retention?  
 4 MR. DISHER: Object to the form.  
 5 THE WITNESS: I don't know. I  
 6 also -- are you saying reporting  
 7 requirements for Facebook or meaning a  
 8 government's reporting requirements? I  
 9 don't know either way, but I'm just  
 10 curious.  
 11 BY MS. CORBELLO:  
 12 Q. Yes. Any sort of government,  
 13 international or domestic.  
 14 A. I don't know.  
 15 MR. ALLEN: Object to the form.  
 16 THE WITNESS: I don't know.  
 17 BY MS. CORBELLO:  
 18 Q. Paragraph 30. Let me know when  
 19 you're done.  
 20 A. Yes.  
 21 Q. What provision of HB 20 is  
 22 paragraph 30 talking about? This is about the  
 23 disclosure requirements; right?  
 24 A. Right, right.  
 25 Q. I believe it's page 2 of the HB 20



<p style="text-align: right;">166</p> <p>1 text.</p> <p>2 A. Okay.</p> <p>3 Q. 120.051 subsection B. Is that where</p> <p>4 you pulled this quote from in Paragraph 30?</p> <p>5 A. I believe so.</p> <p>6 Q. So subsection B is talking about the</p> <p>7 requirement for what gets disclosed, correct, by</p> <p>8 Facebook?</p> <p>9 A. About the essential use policy, yes.</p> <p>10 Q. Is it your understanding that</p> <p>11 subsection B applies to how Facebook's Terms of</p> <p>12 Service and community standards must be created or</p> <p>13 worded?</p> <p>14 MR. DISHER: Objection, form.</p> <p>15 THE WITNESS: Repeat the question.</p> <p>16 BY MS. CORBELLO:</p> <p>17 Q. Sure. Maybe I'll ask it like this.</p> <p>18 Correct me if I'm wrong, paragraph 30 talks about</p> <p>19 Facebook publishing its own Terms of Service and</p> <p>20 community standards and then says that the bill</p> <p>21 doesn't understand what Facebook's -- how</p> <p>22 Facebook's editorial policies must be sufficient to</p> <p>23 enable users to make an informed choice.</p> <p>24 Is paragraph 30 essentially saying that its</p> <p>25 Terms of Service and community standards are</p>	<p style="text-align: right;">168</p> <p>1 that Facebook has are somehow impacted by</p> <p>2 subsection B of Section 120.051?</p> <p>3 MR. DISHER: Objection to form.</p> <p>4 THE WITNESS: For our policies,</p> <p>5 for our community standards what I'm</p> <p>6 reading it as what you're saying as the</p> <p>7 acceptable use policy. To reasonably</p> <p>8 inform the definition of what would be</p> <p>9 suffer to reasonably inform someone may</p> <p>10 be different than what we use when we</p> <p>11 consider our objectives of transparency</p> <p>12 around our policies.</p> <p>13 BY MS. CORBELLO:</p> <p>14 Q. Well, if you go to the next section,</p> <p>15 Section 120.052, that's the acceptable use policy;</p> <p>16 right?</p> <p>17 A. Correct.</p> <p>18 Q. Is there anything in that section</p> <p>19 that requires the policy to be sufficient to enable</p> <p>20 users to make an informed choice regarding the</p> <p>21 purchase of or ease of access to or services from</p> <p>22 the platform?</p> <p>23 MR. DISHER: Objection. Form.</p> <p>24 THE WITNESS: Again, the way that</p> <p>25 I read the community standards, Terms of</p>
<p style="text-align: right;">167</p> <p>1 dictated by subsection B?</p> <p>2 MR. DISHER: Object to the form.</p> <p>3 MR. McCARRICK: Object to the</p> <p>4 form.</p> <p>5 THE WITNESS: I think under the</p> <p>6 way subsection B is framing the essential</p> <p>7 use policy, I think you would be in a</p> <p>8 better position to explain exactly what</p> <p>9 that all entails. But yes, that our</p> <p>10 community standards the way that we</p> <p>11 enforce content moderation, those</p> <p>12 editorial policies that we -- that these</p> <p>13 things would be in conflict.</p> <p>14 BY MS. CORBELLO:</p> <p>15 Q. Well, subsection B talks about the</p> <p>16 disclosure required by subsection A; correct?</p> <p>17 A. That is correct.</p> <p>18 Q. Does it say anything about the</p> <p>19 accessible use policy that would be in a different</p> <p>20 section of HB 20?</p> <p>21 MR. DISHER: Objection. Form.</p> <p>22 THE WITNESS: I don't see it here.</p> <p>23 BY MS. CORBELLO:</p> <p>24 Q. So what's your basis for stating</p> <p>25 that the Terms of Service and community standards</p>	<p style="text-align: right;">169</p> <p>1 Service vis-a-vis acceptable use policies</p> <p>2 in the provisions in I guess B as well as</p> <p>3 subsection 10 -- 120.052(b)(1),</p> <p>4 sufficiently inform reasonably informed,</p> <p>5 I just don't have the definition of what</p> <p>6 you all consider to be those policies.</p> <p>7 BY MS. CORBELLO:</p> <p>8 Q. Well, maybe my question wasn't</p> <p>9 clear. In the acceptable use policy</p> <p>10 Section 120.052 specifically, is there anywhere in</p> <p>11 that section that requires the policy to be</p> <p>12 sufficient to enable users to make an informed</p> <p>13 choice regarding the purchase of or ease of access</p> <p>14 to or services from the platform?</p> <p>15 MR. DISHER: Objection. Form.</p> <p>16 THE WITNESS: In the way that</p> <p>17 section is used and the content, my</p> <p>18 reading of 120.05 to be -- the social</p> <p>19 media platform's accountable use policies</p> <p>20 must be reasonably informed. Maybe I</p> <p>21 incorporated the word "sufficient" as</p> <p>22 well, but that reasonably informed is</p> <p>23 what I don't understand what you mean by</p> <p>24 reasonably. What the state means by</p> <p>25 reasonably informed versus what we do</p>

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1 when we are transparent about our  
 2 policies. We're very transparent, we  
 3 include our community standards. It does  
 4 not mean that those meet any standard  
 5 that the state of Texas is holding out.  
 6 BY MS. CORBELLO:  
 7 Q. Is there a reason you didn't quote  
 8 Section 120.052 subsection (b)(1) in Paragraph 30?  
 9 MR. McCARRICK: Objection. Form.  
 10 THE WITNESS: I can't recall.  
 11 BY MS. CORBELLO:  
 12 Q. Paragraph 31.  
 13 A. Yes.  
 14 Q. So the first sentence there talks  
 15 about although Facebook's detailed policies are  
 16 publicly available, the bill purports to demand  
 17 even more.  
 18 What are you referring to when you say  
 19 "purports to demand even more"?  
 20 A. Sure. I'm looking for the specific  
 21 section. I think, again, it goes back to the  
 22 specifics of 120. I had a -- I wish I had a  
 23 different -- underlining is making it a little  
 24 difficult on my eyes to try to read it through, to  
 25 try to go through, but I thought I recalled the

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1 provision that it required specific, specific  
 2 notifications also on instances. But those may be  
 3 conflating two things at this point.  
 4 Q. Let's go to paragraph 32.  
 5 A. Sure. Yes.  
 6 Q. What's the basis for your claim that  
 7 Facebook is required by HB 20 to disclose highly  
 8 confidential or competitively sensitive business  
 9 information?  
 10 MR. DISHER: Objection, form.  
 11 THE WITNESS: Under  
 12 subsection 120.051 again, the public  
 13 disclosure requirement, I believe the  
 14 information that we would be required to  
 15 disclose on it, information targeting,  
 16 place and promoting content are all  
 17 things that could be viewed as highly  
 18 sensitive business and proprietary  
 19 information.  
 20 BY MS. CORBELLO:  
 21 Q. Is that -- are you referring to the  
 22 algorithms as the proprietary information, or is  
 23 there something else that would be considered  
 24 proprietary by Facebook?  
 25 A. I'm speaking to the algorithms.

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1 There may be additional proprietary information in  
 2 regards to Facebook.  
 3 Q. We talked a little bit in this  
 4 deposition about how the algorithms worked broadly;  
 5 correct?  
 6 A. That's correct.  
 7 Q. Is what you told me considered  
 8 proprietary information?  
 9 A. Broadly no, but, and I don't know if  
 10 I know all the proprietary information. I'm not an  
 11 engineer.  
 12 Q. In the subsection you pointed to, it  
 13 says, "Algorithms or procedures that determine  
 14 results on the platform."  
 15 Do you see that "or"?  
 16 MR. DISHER: In your declaration.  
 17 Q. In your declaration.  
 18 A. Yes.  
 19 Q. Did that "or" indicate to you that  
 20 Facebook is required to provide its algorithms to  
 21 comply with HB 20?  
 22 MR. DISHER: Objection. Form.  
 23 THE WITNESS: I believe it is a  
 24 non or it is an exclusive "or." So it  
 25 could be either at the same time

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1 procedures that inform the algorithm.  
 2 Again, I'm not an engineer so I don't  
 3 know how you would be able to necessarily  
 4 derive, but I know that is definitely a  
 5 concern.  
 6 BY MS. CORBELLO:  
 7 Q. Well, the discussion we had earlier  
 8 was -- were those not about the procedures that  
 9 determined the results on the platform?  
 10 MR. DISHER: Objection. Form.  
 11 THE WITNESS: There were some of  
 12 the procedures but definitely not  
 13 wholesome.  
 14 BY MS. CORBELLO:  
 15 Q. It wasn't all the procedures; right?  
 16 MR. DISHER: Objection, form.  
 17 THE WITNESS: I do not know all  
 18 the procedures.  
 19 BY MS. CORBELLO:  
 20 Q. But we did talk about some of the  
 21 procedures that determine the results on the  
 22 platform; right?  
 23 A. Broadly speaking, we spoke about  
 24 some procedures.  
 25 Q. Paragraph 33.

<p style="text-align: right;">174</p> <p>1 A. Can I have a moment?</p> <p>2 Q. Sure.</p> <p>3 A. Yes.</p> <p>4 Q. Going to the first bullet point in</p> <p>5 Paragraph 33, what is the substantial investment of</p> <p>6 time that would have to be done by Facebook in</p> <p>7 order to comply with this bullet point.</p> <p>8 A. This is another example of without</p> <p>9 knowing exactly the specificity of what is required</p> <p>10 by the law on what the law is requiring the</p> <p>11 companies to provide the user, it's hard to</p> <p>12 explain.</p> <p>13 Facebook currently gives a very, you know,</p> <p>14 broad violation type, you violated, you post</p> <p>15 something of hate speech, we violate it for hate</p> <p>16 speech. It may not go much further than that. The</p> <p>17 specificity required by the law is very detailed to</p> <p>18 include essentially what we may be colloquially</p> <p>19 almost a legal opinion on why this is violating.</p> <p>20 That would create immense burdens.</p> <p>21 Q. Do you see the first sentence of</p> <p>22 paragraph 33 you say, "The bullet points below</p> <p>23 describe certain requirements under HB 20 that</p> <p>24 would require a substantial investment of time and</p> <p>25 resources to comply."</p>	<p style="text-align: right;">176</p> <p>1 resources are not available, we do not</p> <p>2 have the engineering capacity to do so,</p> <p>3 the investments may be too burdensome.</p> <p>4 BY MS. CORBELLO:</p> <p>5 Q. So how much more time and resources</p> <p>6 would be required for Facebook to comply with</p> <p>7 bullet point 1?</p> <p>8 A. I do not have a specific time or</p> <p>9 resource.</p> <p>10 Q. For bullet point 2, how much time or</p> <p>11 resources would have to be invested into by</p> <p>12 Facebook in order to comply?</p> <p>13 A. I don't have specific numbers</p> <p>14 invested of people nor resources. We explained</p> <p>15 through the CSCR in how that process works today,</p> <p>16 the incredible investment that team makes.</p> <p>17 Q. For bullet point 3, how much time</p> <p>18 and resources would Facebook have to invest in in</p> <p>19 order to comply with bullet point 3?</p> <p>20 A. Again, I think that would be</p> <p>21 substantial. As we spoke to the appeals process</p> <p>22 earlier, the current appeals process in some of the</p> <p>23 just created -- or excuse me, natural issues that</p> <p>24 have been inserted into the appeals process for us,</p> <p>25 a way of saying the COVID-19 pandemic and the</p>
<p style="text-align: right;">175</p> <p>1 That's what you attested to; right?</p> <p>2 MR. DISHER: Object to the form.</p> <p>3 THE WITNESS: I did.</p> <p>4 BY MS. CORBELLO:</p> <p>5 Q. So having attested that these</p> <p>6 figurative bullet points are going to require</p> <p>7 substantial investment of time and resources, what</p> <p>8 in bullet point 1 would require more investment of</p> <p>9 time and resources?</p> <p>10 MR. DISHER: Object to the form.</p> <p>11 THE WITNESS: The time and</p> <p>12 resources it takes for us today to enact</p> <p>13 the procedures and the systems, again, go</p> <p>14 back to that 13 -- excuse me -- billion</p> <p>15 dollar number, go back to the 40,000</p> <p>16 people. Any change in that is going to</p> <p>17 be a potentially very consequential,</p> <p>18 consequential change.</p> <p>19 Predicting out that my experience</p> <p>20 with having changes inputted to gain more</p> <p>21 specificity on certain things, to have</p> <p>22 better clarity on, better clarity on</p> <p>23 abuse types, these things are issues that</p> <p>24 we have not been able to achieve because</p> <p>25 of what I have been told because the</p>	<p style="text-align: right;">177</p> <p>1 impacts that we have there, I don't have a specific</p> <p>2 number on how we would, the size of the workforce</p> <p>3 that we would need to build out to meet the</p> <p>4 structures of this.</p> <p>5 Q. These three bullet points here, are</p> <p>6 these all tasks that you, Neil Potts, would be</p> <p>7 required to perform if HB 20 went into effect?</p> <p>8 MR. DISHER: Object to the form.</p> <p>9 THE WITNESS: Personally? I would</p> <p>10 not personally be required to perform it,</p> <p>11 but I work with a cross-functional manner</p> <p>12 with the teams on these issues.</p> <p>13 BY MS. CORBELLO:</p> <p>14 Q. Are these bullet points ones in</p> <p>15 which the team that you are the vice president of</p> <p>16 be tasked with performing if HB 20 went into</p> <p>17 effect?</p> <p>18 A. I'm struggling a bit to -- as you</p> <p>19 say "task," when you mean task, to execute, who was</p> <p>20 the -- how are you defining "execute" in that</p> <p>21 situation?</p> <p>22 Q. Well, each bullet point talks about</p> <p>23 certain actions that Facebook would have to</p> <p>24 undertake under HB 20; right?</p> <p>25 A. Yes.</p>

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1 Q. Are any of these actions ones you  
 2 describe in which your team would be taking in  
 3 order to comply?  
 4 A. We work in a very cross-functional  
 5 manner, so we advise, we seek input from external  
 6 sources for those things that my team handles. We  
 7 are not coders, we are not engineers. We do not  
 8 necessarily build the product. That is another  
 9 team. But those teams can't operate in a divorce  
 10 completely bifurcated. You can't have a team build  
 11 a product without knowing what they were doing.  
 12 You can't have a team that has no coding experience  
 13 go out and actually code a new version of Facebook.  
 14 Q. So this substantial investment of  
 15 time and resources that you attest to is not solely  
 16 those that would be invested by your team; is that  
 17 right?  
 18 A. It's for Facebook. It's for the  
 19 Facebook's investment of resources.  
 20 Q. So given that these are investments  
 21 of time and resources from people other than those  
 22 within your team, who did you speak to in order to  
 23 attest to these three bullet points?  
 24 A. Again, the group of integrity,  
 25 integrity professionals, the engineers. Also the

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1 operations of the human review team.  
 2 Q. You spoke to those two groups prior  
 3 to this portion of the declaration being finalized?  
 4 A. Two of the leaders within those  
 5 groups, yes.  
 6 Q. Did you speak to anyone else  
 7 regarding these three bullet points before they  
 8 were finalized?  
 9 A. I know I spoke to in-house counsel.  
 10 I'm not sure if I spoke to -- I take that back.  
 11 I know I spoke to also members of my team  
 12 on certain issues, but I'm not exactly sure what  
 13 specific part, but part of the job.  
 14 Q. Paragraph 34 --  
 15 A. Sure. Yes.  
 16 Q. -- talks kind of broadly about the  
 17 burdensome requirement of HB 20. Are there any  
 18 burdens that you have attested to in this  
 19 declaration that are impossible to comply with as  
 20 opposed to simply burdensome?  
 21 MR. DISHER: Objection. Form.  
 22 THE WITNESS: "Impossible" is such  
 23 a unique word. What I think would be  
 24 impossible is for us to comply with  
 25 anything by December 1. I'm pretty

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1 confident of expressing that it's  
 2 impossible, we would not be able to  
 3 change systems in that nature.  
 4 More broadly speaking, it would be  
 5 such an undoing of the way that we  
 6 moderate content, the way these systems  
 7 have been built, the investments that  
 8 have been made, whether it's a true  
 9 impossibility or a practical  
 10 impossibility, I'm pretty confident it's  
 11 a practical impossibility.  
 12 Now, you may say that something is  
 13 theoretically true if you spend 50 years  
 14 trying to do it if you change the way  
 15 that your company completely operated;  
 16 perhaps I can't attest to that. I can't  
 17 foresee the future.  
 18 For, I think I have the realm of  
 19 both control over the teams that I work  
 20 with, not only my team, the teams I work  
 21 cross-functionally with. I don't see a  
 22 way that we would actually be able to go  
 23 forward with compliance in a meaningful  
 24 way.  
 25

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1 BY MS. CORBELLO:  
 2 Q. So are there any specific provisions  
 3 that Facebook believes are just impossible to  
 4 comply with in HB 20?  
 5 MR. DISHER: Objection. Form.  
 6 THE WITNESS: I think I covered  
 7 them. So even going back to the  
 8 declaration, whether it's the curating,  
 9 the targeting, for all the reasons  
 10 mentioned, the way that the algorithm  
 11 works, even as I explained, where we have  
 12 steps on transparency around reporting of  
 13 removed -- even changes to that I think  
 14 would be -- I don't think, I know would  
 15 be impossible to comply with by  
 16 December 1.  
 17 But I think it would be tremendous  
 18 investments over time to actually have  
 19 them in compliance in the out years,  
 20 whatever those out years numbers are. It  
 21 would take extreme, extreme changes to  
 22 the way that we do business.  
 23 BY MS. CORBELLO:  
 24 Q. So you said that the things you  
 25 discussed in your declaration, it sounds like the

<p style="text-align: right;">182</p> <p>1 position is that the burdens you described would be  2 impossible for Facebook to comply with?  3 A. Again, 100 years from now, maybe  4 not. For the time that I plan on being at  5 Facebook, probably so. So whether I'm going to be  6 at Facebook for 10 days, 10 months or 10 years, if  7 we use 10 years, I think that we would not be able  8 to comply in a meaningful way with these issues  9 without undoing the whole way that we do business.  10 Q. We've -- you've given me a few names  11 of people that might have more specific answers to  12 some of my questions. Is there anyone else at  13 Facebook that would have personal knowledge of how  14 content moderation works?  15 MR. DISHER: Objection. Form.  16 MR. McCARRICK: Objection to form.  17 THE WITNESS: Those names, I guess  18 my manager knows broadly, although I may  19 be more, have more knowledge of the  20 specifics at this point. Her name is  21 Monica Bickert.  22 BY MS. CORBELLO:  23 Q. Monica Bickert is your supervisor?  24 A. My supervisor.  25 Q. Is there anyone else you can think</p>	<p style="text-align: right;">184</p> <p>1 "Moreover, although Facebook's detailed policies  2 are publicly available, the bill purports to demand  3 even more without guidance out"?  4 Do you see that?  5 A. I do see that.  6 Q. Do you recall counsel for AG asking  7 you some questions about that?  8 A. I do.  9 Q. And do you recall, you spent some  10 time looking over the law; correct?  11 A. I did.  12 Q. Can I draw your attention to, it's  13 the second page of the version I have, at least.  14 A. Sure.  15 Q. The section 120.053.  16 A. Correct.  17 Q. Bi-annual transparency report.  18 A. Yes.  19 Q. Can you read through that silently  20 to yourself and let me know when you're done.  21 A. (Witness complies with request.)  22 Yes.  23 Q. And so when counsel for the AG's  24 asked you to kind of -- I believe that you have, I  25 forgot the exact question, but I believe it's</p>
<p style="text-align: right;">183</p> <p>1 of?  2 MR. DISHER: Objection. Form.  3 THE WITNESS: I think you have --  4 I think all the names that I've given are  5 sufficient.  6 MS. CORBELLO: Let's take a quick  7 break and then we'll wrap up.  8 THE VIDEOGRAPHER: We're going off  9 the record. This is the end of media  10 No. 2. The time is 12:38 p.m.  11 (Recess)  12 THE VIDEOGRAPHER: We're back on  13 the record. This is the beginning of  14 media Unit No. 3. The time is 12:49 p.m.  15 MS. CORBELLO: Mr. Potts, you are  16 relieved. Thank you so much for your  17 time. Pass the witness.  18 MR. McCARRICK: I just have one  19 quick question.  20 EXAMINATION BY  21 MR. MCCARRICK:  22 Q. Mr. Potts, could you look at  23 paragraph 31 for me real quickly.  24 A. Sure.  25 Q. And do you see where it says,</p>	<p style="text-align: right;">185</p> <p>1 something along the lines of what in the law are  2 you referring to when it said, were you trying to  3 recall Section 10.53?  4 A. This is exactly. There are a number  5 of things in I guess Section Number 2 from A  6 through G that would be extremely burdensome, and  7 quite frankly I don't believe that we have fidelity  8 and information on, to the level of detail on how  9 the law would require on how these things operate  10 now.  11 It's important to realize that everyone's  12 news feeds experience is curated through  13 themselves, and that includes the ranking of  14 content is exclusive and unique to the individual  15 user.  16 So it's speaking of what other ways that  17 content is deprioritized is one. Content removal  18 is obviously, we are transparent about, but even  19 going into global specificity perhaps, asked for by  20 this subsection may be onerous, but really the  21 deprioritization would be extremely, extremely  22 difficult to quantify for the community of two  23 point X billion users on any specific piece of  24 content. And then the kind of broad any other  25 action defining what the other actions would be is</p>

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1 also important.  
 2 MR. McCARRICK: Thank you,  
 3 Mr. Potts. I have no further questions.  
 4 EXAMINATION BY  
 5 MS. CORBELLO:  
 6 BY MS. CORBELLO:  
 7 Q. Mr. Potts, look at subsection 2 of  
 8 Section 120.053, subsection 2A.  
 9 A. Yes.  
 10 Q. Does Facebook currently provide any  
 11 number of instances in which content removal  
 12 occurred on its platform?  
 13 A. We do.  
 14 Q. Does subsection 2A require anything  
 15 more than what Facebook already provides?  
 16 MR. McCARRICK: Objection to form.  
 17 MR. DISHER: Objection to form.  
 18 THE WITNESS: Potentially. You're  
 19 asking for a legal activity, the  
 20 definition of illegal activity pursuant  
 21 to what, I guess, criminal statute would  
 22 be important to understand as well.  
 23 Further really the potentially violating  
 24 where it says, if we're looking at  
 25 subsection 2, potentially policy

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1 violating content known to the platform.  
 2 I guess all types of content are  
 3 theoretically potentially violating. We  
 4 talked about before about what a "Hello"  
 5 post would look like, but without having  
 6 thresholds, without understanding what  
 7 that means in practice it could be  
 8 extremely, extremely burdensome to  
 9 provide any level of detail and  
 10 specificity about all the contents posted  
 11 to Facebook.  
 12 BY MS. CORBELLO:  
 13 Q. But currently the details that  
 14 Facebook does provide includes certain numbers as  
 15 to categories of content and how many it's removed;  
 16 right?  
 17 MR. DISHER: Objection, form.  
 18 THE WITNESS: We provide numbers  
 19 on the content that we are able to  
 20 identify for removal and the content that  
 21 we then remove removed, yes.  
 22 BY MS. CORBELLO:  
 23 Q. What about subsection 2B, content  
 24 demonitization, is that a number that Facebook  
 25 currently provides in any sort of way?

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1 A. I don't have -- I don't know. I  
 2 don't know.  
 3 Q. And deprioritization, did I  
 4 understand your testimony that Facebook does  
 5 provide that in any sort of number percentage  
 6 currently?  
 7 A. That is my testimony. To clarify, I  
 8 don't quite understand what deprioritization means  
 9 here. We do rank content. We rank content for  
 10 every individual we have on the platform for their  
 11 news feed.  
 12 That prioritization does happen per  
 13 individual per piece of content. I don't even know  
 14 or understand the math that you would need to go  
 15 through to be able to calculate that.  
 16 Q. So in terms -- if it's per  
 17 individual, if we're talking about that sort of  
 18 prioritization, is that something that Facebook  
 19 keeps in terms of aggregate numbers?  
 20 A. Deprioritization of content or  
 21 specifically what one piece of content, how it's  
 22 distributed to different people's news feeds?  
 23 Q. Yes.  
 24 A. I don't know.  
 25 Q. What about subsection 2D, the

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1 addition of an assessment to content, is that  
 2 something that Facebook currently does not keep any  
 3 sort of data or numbers on?  
 4 MR. McCARRICK: Object to the  
 5 form.  
 6 THE WITNESS: I want to be clear  
 7 here that I'm not fully, fully aware of  
 8 what that means in practice of the  
 9 addition to the assessment. I do not  
 10 believe we keep numbers on assessments of  
 11 content, meaning broad assessment.  
 12 In a very kind of minute way was  
 13 there a decision made on a piece of  
 14 content the way one would object to  
 15 saying assessment, is there something  
 16 more, some type of deliberation over that  
 17 with a detail, I don't know, I don't know  
 18 numbers for either.  
 19 BY MS. CORBELLO:  
 20 Q. Do you know how difficult it would  
 21 be to get those numbers?  
 22 A. I don't know if those numbers exist.  
 23 I think it would be extremely difficult absent just  
 24 utilizing the broad brush that all content is  
 25 subject to review on Facebook via automation.

<p style="text-align: right;">190</p> <p>1 Q. What about 2E, account suspension?</p> <p>2 Does Facebook currently keep data or numbers on how</p> <p>3 many user accounts are suspended?</p> <p>4 A. We do have data on account</p> <p>5 suspensions. I do not have -- I don't believe I</p> <p>6 have access to that data.</p> <p>7 Q. But that data exists somewhere?</p> <p>8 A. I believe it does.</p> <p>9 Q. What about 2F, account removal, does</p> <p>10 that -- does the data exist somewhere as to how</p> <p>11 many accounts are removed from Facebook's platform</p> <p>12 currently?</p> <p>13 A. For specific types of removals, the</p> <p>14 data exists including fake accounts as we spoke to</p> <p>15 earlier. For other types of removals, I'm</p> <p>16 uncertain.</p> <p>17 MS. CORBELLO: Nothing further.</p> <p>18 MR. McCARRICK: Nothing further</p> <p>19 from me.</p> <p>20 MR. DISHER: Mr. Potts, I have</p> <p>21 nothing for you at this time. I thank</p> <p>22 you for your time today.</p> <p>23 MR. McCARRICK: We can close the</p> <p>24 deposition.</p> <p>25 THE VIDEOGRAPHER: We are off the</p>	<p style="text-align: right;">192</p> <p>1 DISTRICT OF COLUMBIA: SS</p> <p>2 I, Barbara Moore, a Registered Court Reporter</p> <p>3 of the District of Columbia, do hereby certify that</p> <p>4 these proceedings took place before me at the time</p> <p>5 and place herein set out, and the proceedings were</p> <p>6 recorded stenographically by me and this transcript</p> <p>7 is a true record of the proceedings.</p> <p>8</p> <p>9 I further certify that I am not of counsel to</p> <p>10 any of the parties, nor an employee of counsel nor</p> <p>11 related to any of the parties, nor in any way</p> <p>12 interested in the outcome of this action.</p> <p>13</p> <p>14</p> <p>15</p> <p>16</p> <p>17 _____</p> <p>18 BARBARA MOORE, CRR, RMR</p> <p>19 _____</p> <p>20 My Commission Expires:</p> <p>21 July 31, 2023</p> <p>22</p> <p>23</p> <p>24</p> <p>25</p>
<p style="text-align: right;">191</p> <p>1 record at 12:57 p.m, and this concludes</p> <p>2 today's testimony given by Neil Potts.</p> <p>3 (Proceedings adjourned at 12:57</p> <p>4 p.m.)</p> <p>5</p> <p>6</p> <p>7</p> <p>8</p> <p>9</p> <p>10</p> <p>11</p> <p>12</p> <p>13</p> <p>14</p> <p>15</p> <p>16</p> <p>17</p> <p>18</p> <p>19</p> <p>20</p> <p>21</p> <p>22</p> <p>23</p> <p>24</p> <p>25</p>	





# Appendix 8.e

IN THE UNITED STATES DISTRICT COURT  
FOR THE WESTERN DISTRICT OF TEXAS  
AUSTIN DIVISION

NETCHOICE, LLC d/b/a	*	
NetChoice, a 501(c)(6)	*	
District of Columbia	*	
organization, COMPUTER &	*	
COMMUNICATIONS INDUSTRY	*	
ASSOCIATION d/b/a CCIA, a	*	
501(c)(6) non-stock	*	CIVIL ACTION
Virginia Corporation,	*	NO. 1:21-cv-00840-RP
Plaintiffs,	*	
	*	
v.	*	
	*	
KEN PAXTON, in his	*	
official capacity as	*	
Attorney General of Texas,	*	
Defendant.	*	

VIDEOTAPED ORAL DEPOSITION

OF

STACIE D. RUMENAP,

PRESIDENT AT STOP CHILD PREDATORS

Friday, November 12, 2021

(Remotely Reported)

VIDEOTAPED ORAL DEPOSITION OF STACIE D.

RUMENAP, produced as a witness at the instance of the Defendant, and duly sworn, was taken in the above-styled and numbered cause on Friday, November 12, 2021, from 12:01 p.m. to 1:35 p.m., before Debbie D. Cunningham, CSR in and for the State of Texas, remotely reported via Machine Shorthand, pursuant to the Federal Rules of Civil Procedure.

2

1 APPEARANCES

2

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16

17

18 VIDEOGRAPHER:

19 Brian Christopher

20

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22 --ooOoo--

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1 (Friday, November 12, 2021, 12:01 p.m.)

2 P R O C E E D I N G S

3 THE REPORTER: Today's date is Friday,

4 November 12, 2021. The time is 12:01 p.m. Central

5 Standard Time. This is the videotaped oral deposition

6 of Stacie Rumenap, President of Stop Child Predators;

7 and it is being conducted remotely. The witness is

8 located in Washington, DC.

9 My name is Debbie Cunningham, CSR

10 Number 2065. I am administering the oath and reporting

11 the deposition remotely by stenographic means from

12 Austin, Texas.

13 Would Counsel please state their

14 appearances and locations for the record, beginning with

15 Plaintiffs' Counsel?

16 MR. DISHER: Yes. This is Todd Disher.

17 I am in Washington, DC; and I have Jeremy Maltz with me

18 today, who is in Falls Church, Virginia.

19 MR. WALTON: This is Ben Walton for the

20 Defendant. I am from the Attorney General's Office. I

21 am physically present in Austin, Texas. With me is also

22 Courtney Corbello, who is also physically present in

23 Austin, Texas.

24 \*

25 \*

<p style="text-align: right;">6</p> <p>1 STACIE RUMENAP,                  2 having been duly sworn, testified as follows:                  3 EXAMINATION                  4 BY MR. WALTON:                  5 Q. Could you please state your name for the                  6 record?                  7 A. Stacie Rumenap.                  8 Q. Is it Rumenap or "Rumenap"?                  9 A. "Rumenap." My father used to always say: You                  10 take a shot of rum, and then you need a nap. "Rumenap."                  11 Q. Okay. I love it. I got it. Okay. That's a                  12 great way to start a Friday afternoon.                  13 So, Ms. Rumenap, have you ever given a                  14 deposition before?                  15 A. I have not.                  16 Q. Okay. All right. Well, welcome to the                  17 wonderful world of depositions. I'm sure that your                  18 attorney has probably gone over some of the basic ground                  19 rules with you; but I want to go ahead and voice a few                  20 of those ground rules, just so we make sure we're all                  21 operating from the same set of expectations here.                  22 So, first of all, you understand that                  23 you've just been placed under oath; and that obligates                  24 you to tell the truth just as if you were in front of a                  25 live courtroom with a judge and a jury. Do you</p>	<p style="text-align: right;">8</p> <p>1 that will help keep things clean for the court reporter.                  2 Does that sound fine to you?                  3 A. Yes.                  4 Q. Okay. If at any point you don't understand my                  5 questions today, please do ask me to clarify because I                  6 want to make sure that we're not talking past each                  7 other. I want to make sure that we're both on the same                  8 page and we're understanding one another clearly so that                  9 we can actually be efficient and productive today. So                  10 if I ask something and you're not sure, just ask me to                  11 clarify; and I'll be happy to work with you and make                  12 sure we're on the same page. Okay?                  13 A. Yes.                  14 Q. And then if at any point you would like to                  15 take a break, you are more than welcome to do so. If                  16 I've asked a question, then after you've answered the                  17 question, you can simply say, "Hey, I'd like to take a                  18 break now," and we will do that. All right?                  19 A. Okay.                  20 Q. Let's see. So getting that out of the way, my                  21 first question for you is: What did you do to prepare                  22 for your testimony here today?                  23 A. So I have 15 years experience in child safety                  24 advocacy, so I thought through a lot of what I have                  25 learned through those 15 years. I read through my</p>
<p style="text-align: right;">7</p> <p>1 understand that?                  2 A. I do.                  3 Q. And the court reporter, Ms. Cunningham, is                  4 taking down everything that is said; but she's not                  5 taking down all of our, you know, body language. So if                  6 you're going to answer a question or respond to a                  7 question, please do so verbally instead of simply by                  8 head motions, using words like "yes" or "no" that will                  9 appear clearly on a transcript so that we actually have                  10 a written record of our dialogue today. Is that all                  11 right?                  12 A. Yes.                  13 Q. And on that note, since the court reporter is                  14 taking down everything that's being said. It makes her                  15 job a lot easier if only one person is talking at a                  16 time. So I will try to not interrupt. I know sometimes                  17 there are pauses and glitches due to the remote format;                  18 but I will do my best not to interrupt you and to let                  19 you finish answering a question before I jump in with                  20 another one. But if at any point I do that                  21 inadvertently, then, please, you know, do something to                  22 signal at me to let me know that I did interrupt you;                  23 and I will stop speaking and let you finish whatever it                  24 is you're saying. And then, if you would wait for me to                  25 finish asking my question before you start answering,</p>	<p style="text-align: right;">9</p> <p>1 declaration, which I have in front of me. I pulled the                  2 New York Times article which I sourced in the                  3 declaration; and, of course, I talked to my attorney,                  4 Todd.                  5 Q. Okay. Other than your attorney, did you talk                  6 to anybody else as part of preparing for your deposition                  7 today?                  8 A. No.                  9 Q. Okay. Other than that, other than your                  10 declaration and the New York Times article you                  11 mentioned, did you review any other documents in                  12 preparation for your deposition today?                  13 A. No -- well, sorry. The bill, HB 20, I guess.                  14 Q. Okay.                  15 A. Right, yes.                  16 Q. All right. All right. That's a good                  17 clarification.                  18 And then, outside of those documents,                  19 along with the bill, the text of HB 20 itself, are there                  20 any other documents that you looked at to get ready for                  21 today?                  22 A. I did not.                  23 Q. Okay. I guess before we get into your                  24 declaration, which is where I want to spend most of our                  25 time, asking you about that declaration; but before we</p>

<p style="text-align: right;">10</p> <p>1 get into that, can you give me a brief description of                  2 your history with Stop Child Predators? How did you get                  3 involved with that organization?                  4 A. So almost 20 years ago, I was approached by a                  5 law professor, who I knew, who had come out of the                  6 Department of Justice. He was an Assistant Attorney                  7 General under General Ashcroft, so quite some time ago.                  8 He was starting a law firm. He was a professor at                  9 Georgetown Law. He was also starting his own law firm,                  10 and he was approached by a client of his to start a                  11 child safety organization.                  12 And the premise behind the client, who                  13 had no recollection about any of these laws or this                  14 issue, he and his wife had six children of their own.                  15 And he had watched in 2005 the horrific story play out                  16 on national media around Jessica Lunsford; and Jessica                  17 was a nine-year-old girl in Florida who was abducted by                  18 a twice-convicted sex offender and was captured, raped                  19 repeatedly, kept alive for about three days, and                  20 ultimately buried alive. And the story just received a                  21 tremendous amount of attention.                  22 Cary and his wife were living in                  23 California at the time and had become successful in the                  24 college loan industry; and they decided: You know, if                  25 something like this had happened to one of our six</p>	<p style="text-align: right;">12</p> <p>1 laws really on the books that dealt with tough penalties                  2 or electronic monitoring of sex offenders. That                  3 technology itself in the criminal justice system was                  4 very new and controversial, as are mandatory sentences;                  5 but they felt like when you looked at this story and the                  6 case out of Florida in the Lunsford case, the system and                  7 the laws that had been on the books had really failed                  8 this family. And so they thought if we started this                  9 organization around this idea of passing Jessica's Law,                  10 which would deal with mandatory sentencing and                  11 electronic monitoring, we thought if we passed this law                  12 around the country, that that would solve our problem.                  13 And we really were naive at the time to                  14 think that that would solve our problem; but that's how                  15 we started the organization, with the sole mission of                  16 passing this law, state by state. And so we teamed up                  17 with Mark Lunsford, Jessica's father. I pitched him,                  18 saying: You know, listen, your story has really                  19 affected a whole group of us; and we have this very                  20 small nonprofit that we want to make a difference. And                  21 I don't know -- at that time, you know, I was telling                  22 him I didn't know a lot about child safety; but I knew                  23 how to pass bills and I knew how to organize and build                  24 coalitions. And so I made a commitment to him that if                  25 he would trust me and he would join forces with us, we</p>
<p style="text-align: right;">11</p> <p>1 children, our lives would be destroyed. We wouldn't                  2 know what to do.                  3 And so they decided they were going to                  4 take some of the success that they had and start their                  5 own group and they looked around at places like                  6 National Center for Missing and Exploited Children to                  7 see if they could have an impact there, but they felt                  8 like NCMEC is -- was and still is a well-oiled machine                  9 and doing incredible work. And what they wanted to do                  10 was something a little more scrappy. They wanted a                  11 small organization that they felt like they could really                  12 see the impact.                  13 And when they talked to this law                  14 professor, whom I knew, he said: Well, listen, I'm                  15 starting this law firm and I'm teaching and I, you know,                  16 just came out of DOJ and I'm doing all these things. I                  17 can't take on this project, but I know this woman and                  18 let me see if she would be interested in taking it on.                  19 And so we sat down and they had already started the                  20 entities, just from a legal perspective, the (c)(3) and                  21 the (c)(4) entities; but they hadn't figured out what to                  22 do with the organization.                  23 And so a group of us got together and                  24 said: Well -- again, this is 2005; now we're going into                  25 early 2006. And at that time there weren't a lot of</p>	<p style="text-align: right;">13</p> <p>1 would take what he was trying to do in Florida -- Texas                  2 was an early adopter of Jessica's law -- what he was                  3 trying to do in Florida and Texas and we would take it                  4 across the country and his daughter's death would not be                  5 in vain. And so we teamed up, and we did that.                  6 To this day he is still just an                  7 incredible friend and mentor and advisor, an incredible                  8 person that I keep in touch with. He chairs our                  9 advisory board. We traveled the country together over,                  10 gosh, probably a decade. We learned a lot of lessons                  11 along the way.                  12 We learned the art of compromise. You                  13 know, in the early days we said: Absolutely not. If                  14 it's not 25 years to life, we won't accept it. And we                  15 sort of learned along the way that, all right, maybe we                  16 can start with 20 years; maybe we can start with a                  17 second offense, you know.                  18 And so we really built out, through Stop                  19 Child Predators and through Mark, a coalition where we                  20 brought other victims in to tell their stories to the                  21 media and to lawmakers in an effort to make change.                  22 We talked to law enforcement a lot                  23 because what we were finding, especially at the state                  24 level, is we were asking law enforcement to enact these                  25 sentences or be part of the process on these long</p>

<p style="text-align: right;">14</p> <p>1 sentences and the electronic monitoring aspects; but no                  2 one was actually getting their input of was it possible,                  3 was it enforceable, what would that look like from a                  4 criminal justice perspective.                  5         And so we really built a big coalition                  6 at the state and local levels to rally support and                  7 pass these laws. We have passed Jessica's Law in 46                  8 states -- technically all 50, but we -- 47 -- there's a                  9 couple, New York being one of them, that we say doesn't                  10 go quite far enough. Even though we've learned to                  11 compromise, it doesn't go quite far enough. But for the                  12 most part, we've been able to pass this law across the                  13 country.                  14         During that time period, because we had                  15 the platform and the ability to share these stories, we                  16 started working with other victims as well. Jessica --                  17 or -- I'm sorry -- Jenna Quinn down in Texas is a great                  18 example. I don't know if you've ever come across her;                  19 but she has a bill, a law, called Jenna's Law that we've                  20 worked closely with her on over the years which really                  21 focuses on educating educators and people in the school                  22 system who have interaction with kids about detecting                  23 and trying to prevent signs of abuse.                  24         We've teamed up with Erin Runnion out in                  25 California and Marc Klaas out in California to look at</p>	<p style="text-align: right;">16</p> <p>1 AOL and CompuServe and, you know, companies that you                  2 just don't really hear about these days.                  3         And what we were doing is we were really                  4 looking at: Okay. What is possible in the technology                  5 space, and what could we be doing to try to get ahead of                  6 these bad actors that were going to try to use this very                  7 cool, new innovation and, you know, how were they going                  8 to use it to harm children.                  9         And so we started looking at bills like                  10 cyberbullying, which was pretty new. The first case was                  11 a My- -- you know, if you remember that case of MySpace                  12 out of Missouri, if I remember correctly, where an adult                  13 woman actually got involved with her teen daughter and                  14 her teen daughter's -- like, one of her good friends,                  15 they had a falling out; and the mom was bullying this,                  16 like, twelve-year-old girl, who ultimately ended up                  17 committing suicide.                  18         And people were saying: Well, our laws                  19 don't keep up with -- some law was broken. What do we                  20 do with this? And in the end, it ended up being                  21 litigated out of California because MySpace was housed                  22 in California, although this issue was in Missouri;                  23 and what they ended up prosecuting the mom on was terms                  24 of -- terms and condition, right, breaking the terms and                  25 conditions of use of service.</p>
<p style="text-align: right;">15</p> <p>1 different laws and child safety initiatives there. And                  2 once we started doing this early on in the original                  3 days, we realized, you know, one, we were very naive to                  4 think we could pass this one law and that would change                  5 things; hence, why we started getting involved in other                  6 laws.                  7         But, two, we really realized this problem                  8 was much bigger than just what was happening in the real                  9 world; and by 2008, 2009, and 2010 -- it's hard to                  10 believe now -- but, you know, the internet was still                  11 pretty new. And talking about what was going on and the                  12 impact it had to children and to families and to                  13 communities around safety was still pretty new                  14 conversation. Parents didn't grow up at that time with                  15 a smartphone, with the technology, with social media                  16 platforms.                  17         And so we took the same type of energy                  18 and process that we put into passing Jessica's Law and                  19 Jenna's Law and different laws in the real world, and we                  20 started applying them to the internet space. It was                  21 then that we started reaching out to corporate partners                  22 and people who -- you know, again, Facebook was new,                  23 Google wasn't what it was -- what it is today. I'm not                  24 even sure if I can remember if Apple was even on the map                  25 at that point in these very early conversations. It was</p>	<p style="text-align: right;">17</p> <p>1         So -- but all of this, again, was just                  2 brand-new; and I tell that to show that we didn't know                  3 what we know now. And we were trying to figure out how                  4 to get ahead of some of these internet safety issues,                  5 luring, grooming, sharing of -- then it was called child                  6 pornography -- these images of children, that a lot was                  7 being done through peer-to-peer communications and being                  8 done in sort of the dark -- early days of the dark web.                  9         And so we started talking to educators.                  10 We worked with some Attorneys General over the years.                  11 We went into schools. A lot of what we saw in those                  12 early days was the AG's Office was partnering with                  13 school systems to actually teach internet safety in the                  14 schools and working together. And so we went down to                  15 Florida, where then it was Bill McCollum, again, a very                  16 long time ago; but we -- I can't remember if we came to                  17 Texas. We went out to California. We went to North                  18 Carolina. We were up in Pennsylvania and Ohio, anywhere                  19 who would take us, really, right?                  20         We were just putting information out and                  21 trying to say: Hey, we want to do these trainings,                  22 especially for parents because parents didn't really                  23 know exactly what their kids were doing online; and they                  24 didn't understand the capabilities of the internet.                  25 And, you know, when they were handing their kid a phone,</p>

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1 they didn't necessarily understand the power that that  
 2 phone had. It wasn't just making phone calls, but it  
 3 was a way to play games. It was a way to get onto  
 4 social media. It was a way to connect with one another.  
 5 And so those early days is what launched  
 6 us into this internet safety space and really  
 7 collaborating with other nonprofits and advocacies, law  
 8 professors, industry, lawmakers, and law enforcement;  
 9 that has taken us all the way through to today.  
 10 Q. So --  
 11 MR. DISHER: Stacie, let me -- sorry,  
 12 Ben. So Debbie doesn't, you know, come through the  
 13 computer and strangle me, I would just ask if you could  
 14 just slow down just a little bit.  
 15 THE WITNESS: Sorry.  
 16 MR. DISHER: She's trying -- I know she's  
 17 getting --  
 18 THE WITNESS: Sorry, Debbie.  
 19 MR. DISHER: I know she's getting all of  
 20 what you're saying; but, you know, if we go for two  
 21 hours like that, her fingers might catch on fire.  
 22 THE WITNESS: Noted.  
 23 Q (BY MR. WALTON) Thank you, Ms. Rumenap, that  
 24 was helpful, a helpful overview.  
 25 At this point, you know, what laws are

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1 out there, either that you've been involved in helping  
 2 to lobby for and pass; but what would you describe as  
 3 the state of -- you know, with this online material  
 4 that's dangerous to children, et cetera, and sexual  
 5 predators, what laws are out there? How far do they go?  
 6 MR. DISHER: Objection, form.  
 7 Go ahead and answer.  
 8 A. There are a lot of laws that are protecting  
 9 children and a lot more that needs to be done. We have  
 10 the laws, like, the PROTECT Act, the Adam Walsh Act,  
 11 Jessica's Law, which I mentioned, Erin's Law, Jenna's  
 12 Law, where there's a theme of so many of these laws  
 13 being written about abducted and missing and harmed and  
 14 exploited and murdered children. There's too many of  
 15 them, frankly.  
 16 There are current debates around  
 17 Section 230. There's certainly laws on the books around  
 18 child sexual abuse images. It depends if at the state  
 19 or federal level, but the list is very long and  
 20 exhaustive and I couldn't tell you every single law.  
 21 Q. I wasn't asking for that, just a general  
 22 setting of the stage, which I think you did nicely. So  
 23 thank you.  
 24 What is -- we'll go ahead and get into  
 25 your declaration here soon; but since you mentioned

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1 Section 230, I'm kind of curious what is SCP -- by the  
 2 way, when I say "SCP," I will be referring to Stop Child  
 3 Predators, the organization of which you are the  
 4 President. Do you understand that?  
 5 A. Yes.  
 6 Q. Okay. So SCP, does it have a position  
 7 regarding Section 230?  
 8 MR. DISHER: Objection, form.  
 9 Go ahead.  
 10 A. Our organization has tried to bridge the  
 11 conversation between tech industry, lawmakers, law  
 12 enforcement, and child safety advocates to bring  
 13 awareness and education to all people involved. That  
 14 has been our position.  
 15 Q. (BY MR. WALTON) Okay. So do you take a  
 16 position regarding whether Section 230 is a good law or  
 17 a bad law?  
 18 MR. DISHER: Objection, form.  
 19 A. We believe that Section 230 is outdated and  
 20 that there could be some reforms, but we also believe  
 21 that Section 230 is valid and needed. And we don't have  
 22 a perfect answer of how you address the concerns around  
 23 Section 230.  
 24 Q. (BY MR. WALTON) Okay. What are some of SCP's  
 25 concerns with Section 230 as it currently stands?

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1 MR. DISHER: Objection, form.  
 2 Go ahead.  
 3 A. We believe that internet safety companies and  
 4 platforms that allow for user-generated content should  
 5 not be solely held responsible for the users' generated  
 6 content. We think that internet companies have a role  
 7 to play in keeping its users safe, but they are not  
 8 solely responsible for content on their platform.  
 9 Q. (BY MR. WALTON) So how would you suggest  
 10 updating or amending Section 230 in order to reflect  
 11 those concerns?  
 12 MR. DISHER: Objection, form.  
 13 A. I think that internet companies do a lot to  
 14 try to keep children safe and we applaud their efforts  
 15 in doing that and there's always more that can be done.  
 16 Q (BY MR. WALTON) Do you believe that -- do you  
 17 believe that it would be appropriate to have affirmative  
 18 regulations in place requiring internet service  
 19 providers, platforms, et cetera, to implement specific  
 20 content moderation policies when it comes to CSAM and  
 21 other related material?  
 22 MR. DISHER: Objection, form.  
 23 A. I'm not sure I have an opinion on that. I  
 24 think we need internet companies to have a seat at the  
 25 table and work with child advocates and work with law

22	<p>1 enforcement and lawmakers to keep children safe, but I                  2 don't know the ins and outs of how you solve that                  3 problem.                  4 Q. (BY MR. WALTON) But do you believe that it's                  5 sufficient to allow the internet providers themselves to                  6 develop their own content moderation policies?                  7 MR. DISHER: Objection, form.                  8 A. I am not an expert on the individual companies                  9 and what they could or couldn't do of any one company.                  10 So I think I don't know that I'm qualified to answer                  11 that question.                  12 Q. (BY MR. WALTON) Okay. Let's say there were a                  13 social media platform that put together their own social                  14 media app or whatever they call it these days; but there                  15 was a social media company created where users could go                  16 on and post stuff and it was not moderated in any way                  17 for sexually explicit material, material that would                  18 endanger children, et cetera. Do you think that such a                  19 social media platform should be permitted to operate                  20 like that, or should they be subject to regulation that                  21 requires them to prohibit that sexually explicit                  22 material?                  23 MR. DISHER: Objection, form.                  24 A. I mean, that sounds so vague and so just sort                  25 of a pie in the sky, I don't -- I don't know how I would</p>	24	<p>1 THE WITNESS: Oh, okay.                  2 MR. DISHER: Yeah, download the PDF; and                  3 that's going to be your declaration.                  4 THE WITNESS: Too many things open on my                  5 computer here. There we go.                  6 A. Okay. I've got it.                  7 Q (BY MR. WALTON) Okay. And very briefly, I'm                  8 going to share my screen just so that we can make sure                  9 that we're all operating off of the same document.                  10 Let's see. Ms. Rumenap, can you see the                  11 document that I have on my screen now?                  12 A. I can.                  13 Q. Okay. And is this the same document that you                  14 just opened through the chat box from what you can tell?                  15 A. Yes, sir.                  16 Q. Okay. And this looks like your declaration                  17 that you submitted in support of Plaintiffs' Motion for                  18 Preliminary Injunction in this lawsuit?                  19 A. Yes.                  20 Q. Okay. I'm going to go ahead and just let each                  21 of us keep the document open and scroll through it                  22 however you'd like to, but that's the document that I'll                  23 be walking us through through most of the remainder of                  24 our time here this afternoon.                  25 First, a couple of general questions.</p>
23	<p>1 answer that properly.                  2 Q. (BY MR. WALTON) Let's go ahead and -- I did                  3 this earlier -- so let me go ahead and send through the                  4 chat box here a copy of your declaration so that the                  5 court reporter can have it to mark it as an exhibit and                  6 we can all make sure that we're operating off of the                  7 same document as we walk through the declaration. So if                  8 you will give me just a second, I will send that.                  9 Okay. I have just sent through the chat                  10 box a document entitled 12-6 Rumenap Declaration, and I                  11 will ask the court reporter to mark that as Exhibit 1 to                  12 this deposition.                  13 (Exhibit 1 marked.)                  14 Q (BY MR. WALTON) Ms. Rumenap, are you able to                  15 download or open that document?                  16 A. I am not, but I have it in front of me.                  17 MR. WALTON: Mr. Disher, are you able to                  18 access the document I just sent in the chat?                  19 MR. DISHER: Yes, I got it.                  20 So, Stacie, are you able to open the chat                  21 feature?                  22 THE WITNESS: I can open the chat, but                  23 it's not just opening. It's making me save a file. Is                  24 that accurate?                  25 MR. DISHER: Yes.</p>	25	<p>1 How did you decide to submit this declaration?                  2 A. I was watching what was happening in the                  3 debate in Texas. This similar debate has come up in                  4 other states. We have followed that as well and have                  5 weighed in, and so I had an opportunity to weigh in and                  6 decided to do so.                  7 Q. In what other states have you weighed in?                  8 A. Florida. California had a bill sort of like                  9 this years ago.                  10 Q. And then you mentioned Florida. Was that more                  11 recently?                  12 A. It was.                  13 Q. Did you submit a declaration in the California                  14 case?                  15 A. No, I submitted testimony. I went and                  16 testified before the Legislature.                  17 Q. I see. Did the California Legislature end up                  18 passing the bill at hand?                  19 A. They did not.                  20 Q. Did Florida pass a roughly similar bill?                  21 A. Yes.                  22 Q. And did you submit any testimony to the                  23 Florida Legislature regarding that bill?                  24 A. I did a similar declaration to this.                  25 Q. And was that similar declaration submitted to</p>



<p style="text-align: right;">26</p> <p>1 the Legislature or to a court?</p> <p>2 A. To a court.</p> <p>3 Q. And it was submitted to a court. Was that in</p> <p>4 a lawsuit over the bill the Florida Legislature had</p> <p>5 passed?</p> <p>6 A. Yes.</p> <p>7 Q. Did you can provide any live testimony in the</p> <p>8 Florida case?</p> <p>9 A. I did not.</p> <p>10 Q. Did anyone help you draft this declaration?</p> <p>11 A. No.</p> <p>12 Q. Did you discuss this declaration with anyone</p> <p>13 else while you were preparing it?</p> <p>14 A. No.</p> <p>15 Q. All right. Let's go ahead -- let's look at</p> <p>16 Paragraph 1. We've already talked a lot about SCP, the</p> <p>17 organization that it is. So I may not have a lot of</p> <p>18 specific questions; but starting, I guess, on page 2 of</p> <p>19 the PDF file, Paragraph 1 of your declaration, are you</p> <p>20 able to see that?</p> <p>21 A. Yes.</p> <p>22 Q. Okay. SCP, Stop Child Predators, is that</p> <p>23 organization an e-mail service provider?</p> <p>24 A. No.</p> <p>25 Q. Is it a social media platform?</p>	<p style="text-align: right;">28</p> <p>1 any social media platforms?</p> <p>2 A. Usually we're not required to disclose where</p> <p>3 our funding comes from, but I will tell you "no."</p> <p>4 Q. Okay. And then the same question: Do you</p> <p>5 receive any funding from any e-mail service providers?</p> <p>6 A. I do not.</p> <p>7 Q. Okay. Let's see. I want to jump down, for</p> <p>8 the sake of time, to Paragraph 5; and that would be on</p> <p>9 the next page, page 3 of the PDF file. But Paragraph 5</p> <p>10 in your declaration, are you able to see that paragraph?</p> <p>11 A. Yes.</p> <p>12 Q. It says that, "We work with leading online</p> <p>13 platforms." What does that refer to?</p> <p>14 A. So over our 15 years of operations, we have</p> <p>15 worked with National Center for Missing and Exploited</p> <p>16 Children. We've worked with law enforcement. And we</p> <p>17 have worked with companies like Google and Facebook to</p> <p>18 better understand the back-end operations of internet</p> <p>19 safety as it applies to sexual abuse images.</p> <p>20 Q. Okay. You talk in Paragraph 5 about</p> <p>21 developing and enforcing safety policies. So with what</p> <p>22 companies -- well, let me be more specific. Have you</p> <p>23 worked -- has SCP worked with any social media platforms</p> <p>24 to develop and enforce safety policies that prioritize</p> <p>25 children's safety?</p>
<p style="text-align: right;">27</p> <p>1 A. No.</p> <p>2 Q. Does it control or administer a social media</p> <p>3 platform?</p> <p>4 A. No.</p> <p>5 Q. And does it control or administer an e-mail</p> <p>6 service provider?</p> <p>7 A. No.</p> <p>8 Q. Have there been any conversations at SCP about</p> <p>9 any way in which SCP would be required to change any of</p> <p>10 its current operations in order to comply with HB 20 if</p> <p>11 HB 20 went into effect?</p> <p>12 MR. DISHER: Objection, form.</p> <p>13 A. No.</p> <p>14 Q. (BY MR. WALTON) As you sit here today, are</p> <p>15 you aware of any requirements that HB 20 would put upon</p> <p>16 the operations of SCP if it went into effect?</p> <p>17 A. No.</p> <p>18 MR. DISHER: Objection, form.</p> <p>19 Q. (BY MR. WALTON) How is SCP funded?</p> <p>20 MR. DISHER: Objection, form.</p> <p>21 Go ahead.</p> <p>22 A. It is funded through private donations,</p> <p>23 through foundations, most individual donors, and some</p> <p>24 industry support.</p> <p>25 Q. (BY MR. WALTON) Do you receive funding from</p>	<p style="text-align: right;">29</p> <p>1 A. We have had conversations about how best to do</p> <p>2 this, best practices, primarily at task force meetings,</p> <p>3 conferences, summits around child safety.</p> <p>4 Q. Okay. What specifically do you encourage</p> <p>5 social media platforms to do in order to enhance their</p> <p>6 safety policies for children's safety?</p> <p>7 MR. DISHER: Objection, form.</p> <p>8 A. We can't tell any one company how to run their</p> <p>9 business or what they should do. Our hope is that we</p> <p>10 can work in partnership with law enforcement, industry,</p> <p>11 and child safety advocates to put as much -- as many</p> <p>12 resources as possible behind the prevention of child</p> <p>13 exploitation.</p> <p>14 Q. (BY MR. WALTON) Okay. So SCP encourages them</p> <p>15 to put resources behind prevention. Does -- I guess I'm</p> <p>16 confused by when you say "develop and enforce safety</p> <p>17 policies." Are there specific things that SCP wants to</p> <p>18 see in those policies?</p> <p>19 A. In those policies we're looking for things</p> <p>20 like how do we prevent the proliferation of these</p> <p>21 images. You know, this New York Times article points to</p> <p>22 a few years ago there being 45 million images and videos</p> <p>23 being reported from these companies. We know the</p> <p>24 numbers are much higher than that. It's a real problem.</p> <p>25 We don't have enough law enforcement to</p>

<p style="text-align: right;">30</p> <p>1 handle the issue. We don't have enough people in 2 industry to do it. We certainly don't have enough 3 people at an organization like mine or others to be able 4 to fully prevent this from happening. 5 Every one of these images is a child 6 being exploited and abused; and every time that image is 7 shared, a child is re-victimized. What we try to do is 8 bring really smart people and technical people together 9 to say: What can we do to monitor this, to prevent it, 10 and to get rid of it? 11 Q. And just to clarify -- these may be double 12 questions; they may not be -- but when we're talking 13 about these images and material, are you referring to 14 child sexual abuse material? 15 A. Correct. 16 Q. And is that abbreviated with the acronym CSAM? 17 A. It is. 18 Q. And is that an acronym that SCP came up with? 19 A. No. 20 Q. Okay. Is this an acronym that's generally 21 recognized in the law enforcement world? 22 A. Yes. 23 Q. Okay. Is CSAM illegal? 24 MR. DISHER: Objection, vague -- or 25 excuse me. Objection, form. Sorry.</p>	<p style="text-align: right;">32</p> <p>1 gaming devices different filters to allow for parental 2 controls, to allow for, you know, opportunities for 3 education, for -- for just the ability for parents to 4 have more control and more -- better understanding of 5 what their children are doing when they are online. 6 Q. The private moderation and filtering 7 technologies that are currently being utilized, do you 8 believe that those technologies are sufficient? 9 MR. DISHER: Objection, form. 10 A. I think there's always more that can be done 11 to protect children. 12 Q (BY MR. WALTON) How good of a job do you 13 think those current technologies are doing to protect 14 children today? 15 MR. DISHER: Objection. Objection, form. 16 A. I think without them, we'd see an even worse 17 problem of child predation online. 18 Q (BY MR. WALTON) That second sentence there 19 says that, "In order to detect CSAM, as well as to 20 report it to authorities, online companies must develop 21 and use advanced algorithms and other screening tools." 22 Is CS- -- is SCP -- I'm using way too many acronyms here 23 today. Is SCP involved in developing advanced 24 algorithms and other screening tools? 25 MR. DISHER: Objection, form.</p>
<p style="text-align: right;">31</p> <p>1 A. Yes. 2 Q (BY MR. WALTON) Okay. I just wanted to 3 clarify, you know. If there's any CSAM out there that's 4 actually not illegal, you know, we should talk about 5 that. 6 And, there again, just to try to be 7 clear, does SCP advocate the removal of all CSAM from 8 internet websites? 9 A. Yes. 10 Q. Gotcha. Okay. Let's skip down to 11 Paragraph 7, which is at the top of page 4 in my 12 document. Are you able to see Paragraph 7 of your 13 declaration, Ms. Rumenap? 14 A. Yes. 15 Q. And I think you alluded to this earlier in one 16 of your answers, but you mentioned the government's 17 limited resources. You say that these -- let me just 18 read the first sentence, and then I'll ask you about it. 19 "The government's limited resources underscore the 20 critical importance of private moderation and filtering 21 technologies." What are private moderation and 22 filtering technologies? 23 A. So different companies have different -- 24 different capabilities, different technologies. You can 25 have on your phone or your laptop or your, you know,</p>	<p style="text-align: right;">33</p> <p>1 A. We are not engineers or computer scientists 2 who can develop algorithms; but we have worked hand in 3 hand, we have seen firsthand these companies work with 4 law enforcement, with child safety organizations to try 5 and better understand the problems in an effort to try 6 and prevent the problem. 7 Q. (BY MR. WALTON) What do you mean by "other 8 screening tools"? 9 A. So, look, it's more than just child sexual 10 abuse images. That is fairly straightforward. But 11 there are other issues and tactics that predators use, 12 things like grooming, things like luring, you know, age 13 detection. You know, you see in chat rooms these 14 predators. They're savvy and they're keeping up with 15 what the laws and what the rules are. They're keeping 16 up with what the companies are doing. 17 And it's why it's so important to have 18 the partnership, to look ahead and try to figure out the 19 best way to remove these images and to prevent these 20 crimes from happening and to make sure that we have 21 tough penalties when the crime does happen, as a 22 deterrent. It's much more difficult to catch and 23 monitor luring and grooming crimes, especially if it's 24 someone lying about their age, lying about who they are. 25 Q. So when private companies are able to gather</p>

<p style="text-align: right;">34</p> <p>1 information like this, do you believe that that 2 information can be passed on to law enforcement? 3 MR. DISHER: Objection, form. 4 A. We know that they pass that information on to 5 law enforcement. 6 Q (BY MR. WALTON) Is that a good thing? 7 A. Yes. 8 Q. Okay. Let's go to Paragraph 8. And here's 9 where we start getting into HB 20. It says that, in 10 Paragraph 8 of your declaration, "If House Bill 20 is 11 allowed to go into effect, we are concerned it will be 12 harder to remove objectionable content online and to 13 keep children safe online." What do you mean when you 14 say "we are concerned"?</p> <p>15 A. Well, we are confident that HB 20 injects 16 questions. It's very vague, and we are very concerned 17 that -- there are just concerns of how platforms could 18 monitor the content if this bill were to go into effect. 19 Q. When you say that you have a concern about 20 something being vague, what specifically do you believe 21 is vague? 22 A. I think the bill is vague on the role of what 23 these platforms would need to do. 24 Q. How do you believe HB 20 would make it harder 25 to remove objectionable content?</p>	<p style="text-align: right;">36</p> <p>1 A. I think that this law as written, the intent 2 is good; but it is too vague. And I just don't think 3 that these companies could comply and that it would be 4 enforceable and it would -- it could cause real problems 5 to safety and to more children being harmed. 6 Q. (BY MR. WALTON) Have you had any 7 conversations with social media platforms regarding how 8 they would or would not change their practices if HB 20 9 went into effect? 10 MR. DISHER: Objection, form. 11 A. I have not. 12 Q (BY MR. WALTON) Have you had any 13 conversations with e-mail service providers regarding 14 how they may or may not change their practices were they 15 required to comply with HB 20? 16 A. I have not. 17 Q. Okay. Let's go down to Paragraph 10. The 18 first sentence in Paragraph 10 says, "Similarly, HB 20's 19 disclosure requirements give child predators a roadmap 20 to escape detection." What does that mean? 21 A. It's my experience, especially working closely 22 with law enforcement, that predators are savvy. They 23 know about technology. They know what laws are being 24 passed. They share information about how to try to get 25 around detection in an effort to post images and to</p>
<p style="text-align: right;">35</p> <p>1 A. I'm sorry. Can you repeat the question? 2 Q. Yeah, sure. How do you believe that HB 20 3 will make it harder to remove objectionable content 4 online? 5 A. I'm concerned that what it would do is it 6 would require groups like mine to be responsible for 7 reporting. It would restrict and prohibit these 8 companies from removing content. I'd be concerned 9 there'd be a fear, that they would be afraid of 10 lawsuits themselves and that, as a result, they 11 wouldn't be able to sufficiently monitor. 12 You know, look, they monitor. I think 13 they do a lot of good. I think they could still be 14 doing more. The problem is just so prevalent, 15 they're -- they're -- you could spend, you know, teams 16 and teams and teams of people to be looking for this 17 objectionable content and trying to remove it; and it 18 still wouldn't be enough. 19 Q. What are your concerns based on? What I mean 20 by that is, if you're concerned that social media 21 platforms, these internet companies, you know, would 22 stop what they're currently doing or diminish what 23 they're currently doing to monitor objectionable 24 content, why do you believe that? 25 MR. DISHER: Objection, form.</p>	<p style="text-align: right;">37</p> <p>1 reach children; and I worry with these disclosure 2 requirements that any information we'd be requiring 3 these companies to put out is just another roadmap, 4 another tool that these predators would have to be able 5 to get around detection. 6 Q. I'm assuming that you've read the disclosure 7 requirements that HB 20 lays out -- 8 A. Yes. 9 Q. -- is that fair? 10 A. Yes. 11 Q. What is it about the material that HB 20 12 would require internet companies to disclose that you 13 are concerned about? 14 MR. DISHER: Objection, form. 15 A. I worry that it ties the companies' hands. I 16 think anytime you're asking them to put out information, 17 all except maybe the very specific algorithm they use to 18 detect such images, the more information they make 19 available to the general public, the people who are 20 already trying to do children harm, the worse off that 21 children and families are. 22 Q. (BY MR. WALTON) Are you able to give me an 23 example of the specific type of information that a 24 predator would use to escape detection in specific 25 circumstances?</p>

<p style="text-align: right;">38</p> <p>1 MR. DISHER: Objection, form.  2 A. I can tell you a story about 2008, 2009, when  3 we were first launching Stop Internet Predators, which  4 is a project to stop child predators, really was  5 focusing our efforts around internet safety; and one of  6 the main concerns that we had then was Google Street  7 View. Google Street View, when it first came out, was a  8 very cool, innovative technology to allow people to  9 really see the whole world, right, street by street,  10 house by house.  11 What it did not do is cover or blur or in  12 any way, in the early version, any photos of children,  13 of families, someone getting out of their car, license  14 plate numbers. It did not -- a swing set in someone's  15 backyard, a homeless shelter, or a rape counseling  16 center, a child -- children's advocacy center, any of  17 these types of places were all put out for anyone to  18 see.  19 What we were very concerned about at the  20 time is with very basic Google searches, you could look  21 out on Google, look out on Facebook, kids are putting  22 information out there about themselves; and someone who  23 was savvy could take their picture, could take their  24 address, could find things -- maybe they had posted  25 something for sale on Craigslist; maybe they had</p>	<p style="text-align: right;">40</p> <p>1 A. I think any kind of disclosure requirements  2 that are going to make it easier for a bad actor to  3 commit a bad act is something that we should be getting  4 away from.  5 Q (BY MR. WALTON) Gotcha. Okay. So how does  6 the information that HB 20 requires be disclosed, how  7 does that help a bad actor?  8 MR. DISHER: Objection, form.  9 Go ahead and answer.  10 A. Bad actors are trying to circumvent the  11 process and trying to circumvent detection every chance  12 they get. Any kind of bill, whether it's HB 20 or some  13 other bill that is going to force the hands of the  14 platforms of the technology companies to talk publicly  15 or disclose any kind of information about the inner  16 workings of how they create these algorithms and what  17 they do to try to combat this problem is giving a hand  18 up to the predators.  19 Q. (BY MR. WALTON) The -- so I -- let me back  20 up. And there are -- let's see if we can do it this  21 way. There are certain social media platforms that  22 disclose, at least to their users, a certain amount of  23 information about the way they collect and moderate  24 their content. Would you agree with that?  25 MR. DISHER: Objection, form.</p>
<p style="text-align: right;">39</p> <p>1 something about a vacation on Facebook, harmless  2 information. But when all that information, all of that  3 data is collected by the wrong person, we were very  4 concerned that a predator could take that information  5 and literally pinpoint where that child lived in the  6 house, where that child went to school, at least with  7 some very best guesses, how they got to school, the time  8 of day, maybe, when their parents came home from work.  9 When you are talking about so many  10 millions and millions of data points out for anyone to  11 be able to see, people who are trying to harm children,  12 these bad actors, they will stop at nothing to try and  13 get the information and figure out a way just around  14 detection.  15 Q. Yeah. So if I'm understanding you correctly,  16 that example you described was an example of how if  17 predators are able to have access to specific  18 information, they can put the pieces of the puzzle  19 together in order to harm people. My question was more  20 specifically about the disclosure requirements of HB 20.  21 So if a social media platform were to  22 disclose what HB 20 requires them to disclose, how would  23 that specific technical information enable a predator to  24 escape detection?  25 MR. DISHER: Objection, form.</p>	<p style="text-align: right;">41</p> <p>1 A. I'm not sure how that fits into HB 20 or the  2 declaration that I have drafted.  3 Q. (BY MR. WALTON) Sure. I'm just -- I'm trying  4 to understand -- there are -- there are some of the ways  5 in which social media platforms moderate content that  6 they have affirmatively decided to disclose to their  7 users. Are you familiar with that?  8 MR. DISHER: Objection, form.  9 A. What type of information are you asking about?  10 Q (BY MR. WALTONJ) Well, just generally, are  11 you familiar with any social media platforms that give  12 disclosures to their users about how they moderate and  13 use content that their users decide to post on their  14 platform?  15 A. Yes.  16 Q. Okay. Do you believe that there's anything in  17 what is currently being disclosed that is too much, that  18 helps enable predators to escape detection?  19 MR. DISHER: Objection, form.  20 A. I don't know that I have an opinion on that.  21 Q (BY MR. WALTON) Okay. Paragraph 11, the  22 first sentence there says, "Likewise, HB 20's onerous  23 obligations for account and content removal will likely  24 cause online platforms to moderate less aggressively."  25 What is your basis for saying that?</p>

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1 A. If you are -- I think if you are asking these  
 2 companies to -- to not moderate content, that we are  
 3 opening ourselves up to more illicit material becoming  
 4 available online. I want these companies to do more to  
 5 block this type of content. I think they do a lot. I  
 6 think they could do more. I don't know exactly what  
 7 more they could do, but I think they could do more.  
 8 Q. Have you -- maybe this will help provide some  
 9 clarity here: Have you had any discussion with  
 10 companies that offer social media platforms regarding  
 11 what they would or wouldn't do if HB 20 went into  
 12 effect?  
 13 MR. DISHER: Objection, form.  
 14 A. No.  
 15 MR. WALTON: Okay. Let's see. We've  
 16 been going for almost an hour. How about we go ahead  
 17 and take a ten-minute break?  
 18 MR. DISHER: Sure. That's fine.  
 19 THE REPORTER: We're going off the record  
 20 at 12:56 p.m.  
 21 (Off the record from 12:56 to 1:10 p.m.)  
 22 THE REPORTER: We're back on the record  
 23 at 1:10 p.m.  
 24 Q (BY MR. WALTON) Ms. Rumenap, we are back  
 25 after a brief break. Are you ready to proceed with your

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1 deposition?  
 2 A. I am.  
 3 Q. All right. I believe we had left off around  
 4 Paragraph 11 or 12 in walking through your declaration.  
 5 Let me ask you a question that's not  
 6 explicitly related to Paragraph 12. Are you aware,  
 7 generally, that HB 20 permits social media platforms to  
 8 sensor material that is illegal?  
 9 MR. DISHER: Objection, form.  
 10 A. Yes.  
 11 Q (BY MR. WALTON) Okay. Going to Paragraph 15,  
 12 I'm now on the last page of your declaration.  
 13 Oh, oops. I got ahead of myself.  
 14 Paragraph 14 -- sorry -- still on the last page. You  
 15 refer to "programatic efforts we have helped develop."  
 16 What are those?  
 17 A. Primarily, we have worked with social media  
 18 companies with their government affairs teams, some with  
 19 their engineers, to better understand algorithms and  
 20 what processes are in place to be able to detect and  
 21 prevent this proliferation of sexual abuse images of  
 22 children. What we have done is we have worked with  
 23 advocates and victims and parents of victims to really  
 24 do a deep dive of how their stories came to be, what  
 25 types of pitfalls did their children find themselves in

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1 when they were exploited, to be able to share those  
 2 stories with social media companies for them to  
 3 understand the problem and to be part of coming up with  
 4 a solution.  
 5 Q. Was SCP involved in developing any algorithms  
 6 as part of those efforts?  
 7 A. No.  
 8 MR. DISHER: Ob- -- never mind. Go  
 9 ahead.  
 10 Q. (BY MR. WALTON) And when you say in the last  
 11 phrase there, "the covered 'social media platforms,'"  
 12 what are you referring to?  
 13 A. Major internet companies.  
 14 Q. Can you give any examples?  
 15 A. Facebook.  
 16 Q. Any other social media platforms?  
 17 A. We have worked a lot with local schools on  
 18 their -- even on their websites and blogs over the  
 19 years. People don't always think of a local school blog  
 20 or a PTO page as being a social media site; but if users  
 21 are generating content and photos of kids and activities  
 22 and updates about the school are being generated by  
 23 parents and by staff, we consider those to be social  
 24 media platforms. They certainly don't have the users  
 25 that a Facebook or Instagram would have, but they

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1 certainly do have users. And so we have worked over the  
 2 years with PTOs and a couple of schools to try to just  
 3 be more mindful about the type of information that's  
 4 being posted on these platforms, with an eye, really, to  
 5 the privacy of the students.  
 6 Q. For any of those websites or platforms that  
 7 are related to local schools, are you aware of any of  
 8 those sites that have 50 million active users per month?  
 9 MR. DISHER: Objection, form.  
 10 Q. (BY MR. WALTON) I'm sorry. What was your  
 11 answer?  
 12 A. No.  
 13 Q. Okay. That's what I thought.  
 14 Okay. Let's go now to Paragraph 15. I  
 15 got ahead of myself earlier. This paragraph says, "We  
 16 are concerned that the threat of countless lawsuits will  
 17 lead to under-enforcement of such policies." What is  
 18 the basis for that concern?  
 19 A. If you are tying the hands of these companies  
 20 in what they can and cannot moderate, our concern is  
 21 that the proliferation of child sexual abuse images will  
 22 be confounded; and as a result, families and individuals  
 23 and victims and others will sue the companies as part of  
 24 that. And we want the companies to be able to do  
 25 everything they absolutely can to try to take down such

<p style="text-align: right;">46</p> <p>1 content and not restrict them in any way or in some way  2 make it -- make it easier for -- "easier" may not be the  3 right word -- make it more difficult for them to be able  4 to be a part of the solution.  5 Q. Are you aware of anyone who intends to bring a  6 lawsuit under HB 20?  7 MR. DISHER: Objection, form.  8 A. I do not.  9 Q (BY MR. WALTON) Are you aware of anyone that  10 would bring a lawsuit against a social media platform  11 for censoring CSAM?  12 MR. DISHER: Objection, form.  13 A. I do not.  14 Q (BY MR. WALTON) You mentioned that you have  15 submitted a declaration in the Florida lawsuit; is that  16 correct?  17 A. Yes.  18 Q. How does -- well, does this declaration differ  19 from the Florida declaration?  20 MR. DISHER: Objection, form.  21 A. It's similar.  22 Q (BY MR. WALTON) Similar. So I'm assuming,  23 you know, it would have a different date and so forth on  24 it; but as far as the substance, do you recall any  25 substantive differences in your two declarations?</p>	<p style="text-align: right;">48</p> <p>1 positions called?  2 A. We have an advisory board. We also have a  3 board of directors; and then, on occasion, we have a  4 research fellow.  5 Q. Have you discussed with the advisory board  6 HB 20?  7 A. Yes.  8 Q. What does the advisory board think about  9 HB 20?  10 MR. DISHER: Objection, form.  11 (Simultaneous speakers.)  12 THE WITNESS: Sorry, Todd.  13 Q. (BY MR. WALTON) I'm sorry. I didn't hear  14 your answer.  15 A. They are in agreement with the declaration.  16 Q. Okay. So they are aware that you submitted  17 this declaration then?  18 A. Yes.  19 Q. Other than the advisory board, did you talk to  20 anybody else at SCP about HB 20?  21 A. No.  22 Q. What about your declaration in the Florida  23 lawsuit, did you talk to the advisory board about that  24 declaration as well?  25 A. Yes.</p>
<p style="text-align: right;">47</p> <p>1 A. No.  2 Q. Okay. Have you had discussions with anyone --  3 and I'm not asking for discussions with your attorney,  4 okay? So let's set aside attorney-client discussions.  5 But anyone who's not your attorney, have you had  6 discussions with them about the substance of the Florida  7 law?  8 A. No.  9 Q. And then the same thing for HB 20. Here in  10 Texas, have you had discussions with anyone other than  11 your attorney about the substance of HB 20?  12 A. I've had very minimal conversation about it  13 when we were writing the -- after we drafted the  14 declaration, to make sure that it was submitted, but not  15 a substantive conversation outside of what I have  16 included in the declaration.  17 Q. Gotcha. So your job title, your position  18 title, is President of SCP, right?  19 A. Right.  20 Q. Okay. Does SCP have any other -- I don't know  21 what you would call them -- officers, directors, board  22 members, executive directors, anything like that?  23 A. Yes.  24 Q. Okay. I guess describe for me a little bit  25 the chain there, the setup. What are those other</p>	<p style="text-align: right;">49</p> <p>1 Q. And were they in support of you providing that  2 declaration in the Florida lawsuit?  3 A. Yes.  4 Q. Did they have a chance to review or comment on  5 your declaration in the Florida lawsuit before you  6 signed it?  7 A. No.  8 Q. And did they have a chance to review or  9 comment on your declaration in this case before you  10 signed it?  11 A. No.  12 Q. Why is SCP not a plaintiff in this case?  13 MR. DISHER: Objection, form.  14 A. We're not a plaintiff simply because we just  15 don't have the staff and the resources to take on a big  16 lawsuit. This was a way for us to get engaged and be  17 involved in the process and have our opinions known and  18 heard, but we just simply don't have the resources to be  19 able to file a lawsuit.  20 Q. (BY MR. WALTON) And if I ask you why you were  21 not a plaintiff in the Florida lawsuit, would your  22 answer be the same?  23 A. Yes.  24 Q. Okay. I thought so.  25 We talked earlier about CSAM. Are there</p>

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1 any other types of content that SCP believes would be  
 2 appropriate for social media platforms to flag and/or  
 3 remove?  
 4 MR. DISHER: Objection, form.  
 5 Go ahead and answer.  
 6 A. Our organization focuses strictly on  
 7 prevention of child exploitation. We do not take an  
 8 opinion on other types of illicit material.  
 9 Q. (BY MR. WALTON) What information does a  
 10 person, an individual, provide to a social media  
 11 platform when they set up a user account?  
 12 MR. DISHER: Objection, form.  
 13 A. So it depends on if it's a child or someone  
 14 who's over the age of 18 what information is required of  
 15 them. I couldn't tell you exactly every piece of  
 16 information for every social media company that someone  
 17 has to provide, but typically it is basic information  
 18 about the person that they can verify they are an actual  
 19 person.  
 20 Q. (BY MR. WALTON) Do you believe that it's  
 21 appropriate to have different requirements for a minor  
 22 to set up a social media account?  
 23 MR. DISHER: Objection, form.  
 24 A. I do.  
 25 Q. (BY MR. WALTON) And why is that?

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1 MR. DISHER: Objection, form.  
 2 A. Minors' brains just simply haven't developed  
 3 the way that they do as an adult. They're not  
 4 completely cognizant of decisions that they're making,  
 5 and they don't always do the right thing or know the  
 6 right thing to do or to say. When we are talking about  
 7 internet platforms, it's very easy for someone to say or  
 8 do things, put information out there about themselves  
 9 that they might not actually say to someone's face, say  
 10 or do in front of someone. And when you're talking  
 11 about minors, they sometimes just don't know right from  
 12 wrong. They don't always make the best decisions; and  
 13 so restricting some of their access and information that  
 14 is required or asked of them to make available is a good  
 15 thing in helping to keep them safe.  
 16 Q. (BY MR. WALTON) Okay. Sorry. I'm just  
 17 looking through my notes here to see if I missed  
 18 something.  
 19 All right. Well, those are all the  
 20 questions I have at this time.  
 21 MR. WALTON: So I will go ahead and pass  
 22 the witness.  
 23 MR. DISHER: All right.  
 24 \*  
 25 \*

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1 EXAMINATION  
 2 BY MR. DISHER:  
 3 Q. Ms. Rumenap, I just have a few questions for  
 4 you to clarify some things that I heard.  
 5 The first thing is in your prior  
 6 testimony, I heard you make a statement that, "The  
 7 intent was good." Now, I want to just clarify for the  
 8 record, when you said, "The intent was good," were you  
 9 referring to what you think the intent of HB 20, as a  
 10 whole, is or what the intent of the specific carveout  
 11 regarding referrals from agencies like yours is?  
 12 A. Thank you for allowing me to clarify that. I  
 13 was referencing the intent of the carveout. The intent  
 14 of the bill holistically, I do not agree with. I do  
 15 agree with the intent of the carveout for allowing  
 16 groups like mine to be able to report and flag and  
 17 monitor child sexual abuse images. I think that intent  
 18 is good, but that carveout simply doesn't go far enough.  
 19 Q. Okay. Thank you.  
 20 Now, my last question is regarding CSAM.  
 21 You have also mentioned material that is, you know,  
 22 intended to be grooming or somehow other -- you know, in  
 23 another way predatory towards children. Would that type  
 24 of material fall under CSAM, or is that separate from  
 25 CSAM?

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1 A. It is separate from CSAM.  
 2 Q. Okay. Thank you. Thank you for those  
 3 clarifications.  
 4 MR. DISHER: I have nothing further.  
 5 FURTHER EXAMINATION  
 6 BY MR. WALTON:  
 7 Q. When you were talking with Mr. Disher about  
 8 the carveout in terms of your reference to the intent,  
 9 just for clarification, were you talking about the  
 10 exception that is contained in -- well, what will be  
 11 codified as the Texas Commerce Code, Business Commerce  
 12 Code, Chapter 143A.006(a)(2)?  
 13 MR. WALTON: Do I need to throw it up,  
 14 Todd?  
 15 MR. DISHER: Yes. Thank you.  
 16 MR. WALTON: All right. Just hold on.  
 17 Just give me a second.  
 18 Okay. I've just sent through the chat  
 19 box a PDF file labeled HB 20, if the court reporter  
 20 could note that that will be Exhibit 2 to this  
 21 deposition.  
 22 (Exhibit 2 marked.)  
 23 Q. (BY MR. WALTON) And, Ms. Rumenap, just let me  
 24 know when you're able to open that document.  
 25 A. I have it opened.

<p style="text-align: right;">54</p> <p>1 Q. All right. Let me find the specific section 2 to which we are referring. 3 Okay. In the PDF that I sent, Exhibit 2, 4 it should be on the twelfth page in that PDF document, 5 towards the bottom of page 12. Do you see Line Number 6 17? 7 A. Line 17, yes. 8 Q. Okay. And that Line 17 starts out with a 9 section number; and the section number is 143A.006, 10 correct? 11 A. Correct. 12 Q. And so what -- I believe what you and 13 Mr. Disher were talking about was Section (a)(2), which 14 is just -- begins on Line 22; and so I just wanted to 15 clarify that for the record. Is that the specific 16 carveout that you say you approve the intent behind that 17 carveout? 18 A. That is correct. 19 Q. Okay. And in the other question, Mr. Disher 20 asked you about CSAM and there being other illicit 21 material. Okay. How would you describe that other 22 material that falls outside the scope of CSAM? 23 MR. DISHER: Objection, form. 24 But go ahead and answer. 25 A. Well, it's nuanced; and it's hard to explain</p>	<p style="text-align: right;">56</p> <p>1 trunk, kept her chained to a bed in his apartment for 2 days upon days. He was posting photos of her of 3 terrible, terrible sex acts that he was committing 4 against her. He was having friends come in and do the 5 same thing, and he was videotaping it and posting it. 6 And someone in an underground chat was so 7 disturbed by what was happening to this young girl, they 8 anonymously made a tip to the FBI; and the FBI was able 9 to go in and rescue her. When they walked into the room 10 she was so petrified and she had been so traumatized 11 that she was hiding under the bed with a dog chain 12 around her neck and as far as she could go was under the 13 bed to try to get away from whom she thought was a 14 perpetrator. It was the FBI. They were able to rescue 15 her. It took quite some time to convince her to even 16 come out, to get her out of that house, and then arrest 17 the perpetrator. 18 That is hard to describe. That is hard 19 to police and monitor and report. When it started, the 20 conversation between Alicia and this person, she thought 21 she was talking to an 18-year-old boy who was expressing 22 some interest in her. He convinced her to send pictures 23 of her. He was telling her how beautiful she was. She 24 wasn't getting this attention from somewhere else, and 25 she sought it from someone she didn't know.</p>
<p style="text-align: right;">55</p> <p>1 or hard to see. Typically, this is luring or grooming 2 of a child that can take place over days, weeks, months, 3 years sometimes. 4 We worked with a young woman out of 5 Pennsylvania, Alicia Kozakiewicz. I don't know if 6 you've ever heard of her story, but she was one of the 7 very first stories to make national attention around a 8 young girl being online, talking to a stranger, someone 9 she thought she knew, someone who lied to her about who 10 she [sic] was; and she agreed to meet him. Having 11 chatted with him online, she agreed to meet him in 12 person. And she, fortunately, thanks to the FBI, was 13 rescued but, by all accounts, should have never -- 14 should have never made it. 15 This is someone who she thought she knew, 16 she had spent quite a bit of time talking to; and when 17 she went to meet him, she said she knew immediately -- 18 she was 14 years old at the time -- that she new 19 immediately, as she got closer to the car, that the 20 person was not who she had thought he was. She thought 21 she was talking to an 18-year-old boy, at 14. 22 This guy was in his mid 30s and not a 23 good person; and as she turned to run, to try to run 24 back to her house -- she was in her own neighborhood 25 when she met him -- he grabbed her, threw her in the</p>	<p style="text-align: right;">57</p> <p>1 That's what goes back to -- not all kids, 2 of course; certainly not all adults are bad -- but kids 3 do and say and post things that they don't necessarily 4 understand what they're doing or saying or who they're 5 even talking to when they're talking online. 6 And so when we're talking about that, 7 this is a story of a young girl who was groomed, was 8 lured into meeting him in person, and is sort of the 9 worst-case scenario. She was abducted. She was raped 10 repeatedly. She was really left for dead had it not 11 been for someone so disgusted by what was happening to 12 actually report the person. That's the type of thing we 13 are trying to prevent. 14 And we want to make sure that victims 15 have a seat at the table to tell their story so it 16 doesn't happen to another person, that law enforcement 17 has every resource at their disposal, so advocacy groups 18 like mine can try to come up with solutions. And 19 internet companies can be part of the problem because 20 without all of us involved in the process, kids are the 21 ones who will lose out; and they are the ones who are 22 harmed. 23 Q. (BY MR. WALTON) Those grooming activities 24 through social media that took place, those were 25 illegal, right?</p>



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1 MR. DISHER: Objection, form.  
 2 Go ahead.  
 3 A. At the time when that happened, there were no  
 4 laws on the books to actually define what luring or  
 5 grooming online was.  
 6 Q. (BY MR. WALTON) Do those laws exist today?  
 7 A. Yes.  
 8 MR. WALTON: Pass the witness.  
 9 MR. DISHER: I have nothing further.  
 10 Thank you for your time.  
 11 THE REPORTER: Mr. Disher, do you need --  
 12 MR. WALTON: We can go off the record.  
 13 THE REPORTER: Do you need an expedited  
 14 copy of the transcript as well?  
 15 MR. DISHER: Yes, ma'am.  
 16 THE REPORTER: Okay. This concludes the  
 17 deposition at 1:35 p.m.  
 18 (Deposition adjourned at 1:35 p.m.)  
 19 (Signature not requested.)  
 20 --ooOoo--  
 21  
 22  
 23  
 24  
 25

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1 STATE OF TEXAS)  
 2 REPORTER'S CERTIFICATION  
 3 I, DEBBIE D. CUNNINGHAM, CSR, hereby certify  
 4 that the witness was duly sworn and that this transcript  
 5 is a true record of the testimony given by the witness.  
 6 I further certify that I am neither counsel  
 7 for, related to, nor employed by any of the parties or  
 8 attorneys in the action in which this proceeding was  
 9 taken. Further, I am not a relative or employee of any  
 10 attorney of record in this cause, nor am I financially  
 11 or otherwise interested in the outcome of the action.  
 12 I further certify that pursuant to FRCP  
 13 Rule 30(f)(1) that the signature of the deponent was not  
 14 requested by the deponent or a party before the  
 15 completion of the deposition.  
 16 Subscribed and sworn to by me this day,  
 17 November 14, 2021.  
 18  
 19  
 20  
 21  
 22 \_\_\_\_\_  
 23 Debbie D. Cunningham, CSR  
 24  
 25

# Appendix 9

IN THE UNITED STATES DISTRICT COURT  
FOR THE WESTERN DISTRICT OF TEXAS  
AUSTIN DIVISION

NETCHOICE, LLC d/b/a NetChoice, )  
a 501(c)(6) District of Columbia organization, )

and )

COMPUTER & COMMUNICATIONS )  
INDUSTRY ASSOCIATION d/b/a CCIA, a )  
501(c)(6) non-stock Virginia Corporation, )

Civil Action No. 1:21-cv-00840-RP

*Plaintiffs,* )

v. )

KEN PAXTON, in his official capacity as )  
Attorney General of Texas )

*Defendant.* )

\_\_\_\_\_ )

**Exhibit H –  
CCIA’s  
Interrogatory Responses**

**IN THE UNITED STATES DISTRICT COURT  
FOR THE WESTERN DISTRICT OF TEXAS  
AUSTIN DIVISION**

NETCHOICE, LLC d/b/a NetChoice, )  
a 501(c)(6) District of Columbia organization, )  
) )  
and )  
) )  
COMPUTER & COMMUNICATIONS )  
INDUSTRY ASSOCIATION d/b/a CCIA, a )  
501(c)(6) non-stock Virginia Corporation, )  
) )  
*Plaintiffs,* )  
) )  
v. )  
) )  
KEN PAXTON, in his official capacity as )  
Attorney General of Texas, )  
) )  
*Defendant.* )  
\_\_\_\_\_ )

Civil Action No. 1:21-cv-00840-RP

**PLAINTIFF CCIA’S RESPONSE TO DEFENDANT’S  
FIRST SET OF INTERROGATORIES**

Pursuant to the Federal Rules of Civil Procedure, Plaintiff CCIA hereby responds to Defendant’s First Set of Interrogatories and states as follows:

**RESPONSES AND OBJECTIONS**

**INTERROGATORY NO. 1:** Identify all steps in the process of each of your members’ content moderation policies and practices on its platform. If content moderation occurs in differing ways based on the type of content, the purpose in displaying that content, or the viewpoint expressed in the content, describe each process therein.

**Objections:**

Plaintiff objects to this interrogatory on grounds that it is unduly burdensome and seeks information equally available to Defendant from a plain reading of its own statute, or that is

publicly available to Defendant. Plaintiff also objects to this interrogatory to the extent it calls for legal conclusions.

**Responses:**

Notwithstanding these objections, CCIA answers as follows:

Policies and practices that Defendant defines as “content moderation” generally fall under an important business function frequently referred to as “trust & safety,” which includes both content and behavior. The identified CCIA member companies generally account for the possibility of certain illegal, dangerous, or otherwise harmful content or behavior in five stages of the product life cycle: at product design; in the development of product governance; during the enforcement of that governance; and through iteration on the outputs from previous stages, as informed by observed results. Lastly, companies document these practices for digital products and services and report out on actions taken.

More specifically, companies generally manage content- and conduct-related risks through practices including:

1. Identifying, evaluating, and adjusting for content- and conduct-related risks in product development. Specific examples of this may include adopting appropriate technical measures that help users to control their own product experience where appropriate (such as blocking or muting).

2. Adopting explainable processes for product governance, including which team is responsible for creating rules, and how rules are evolved. Specific instances of this may include facilitating self-regulation by the user or community to occur where appropriate, for example by providing forums for community-led governance or tools for community moderation, and finding opportunities to educate users on policies, for example, when they violate the rules.

3. Conducting enforcement operations to implement product governance. This may include implementing methods by which content, conduct, or a user account can be easily reported as potentially violating policy (such as in-product reporting flow, easily findable forms, or designated email address) and ensuring relevant processes exist that enable users or others to “flag” or report content, conduct, or a user account as potentially violating policy, and enforcement options on that basis.

4. Assessing and improving processes associated with content- and conduct-related risks. Specific instances of this may include establishing appropriate remedy mechanisms for users that have been directly affected by moderation decisions such as content removal, account suspension or termination.

5. Ensuring that relevant trust & safety policies are published to the public, and reporting periodically to the public and other stakeholders regarding actions taken. Specific examples of this may include providing notice to users whose content or conduct is at issue in an enforcement action (with relevant exceptions, such as legal prohibition or prevention of further harm).

Below, CCIA points to where its members have made their policies publicly available and has provided summaries of the members’ respective policies. These summaries are not exhaustive, as the policies speak for themselves and are the best source of information responsive to this interrogatory.

**eBay**

eBay publishes its User Agreement at <https://ebay.to/3bQuzU7>.

Under eBay’s Prohibited and Restricted Items Policy (<https://ebay.to/3CW2Z3K>), eBay identifies various kinds of products it does not allow, or otherwise restricts, on its website, which includes (but is not limited to) the following policies:

- Adult items (<https://ebay.to/3kjUaJL>)
- Animal products (<https://ebay.to/3H1oiU6>)
- Artifacts and cave formations (<https://ebay.to/3obytNi>)
- Disaster and tragedy (<https://ebay.to/3qixU75>)
- Illegal explicit content (<https://ebay.to/3mVq5Cb>)
- Offensive material (<https://ebay.to/308BAgl>)
- Prohibited adult items (<https://ebay.to/3CW42AI>)
- Protecting minors (<https://ebay.to/3orzocH>)
- Violence and violent criminals (<https://ebay.to/3wu1APK>)

As described further therein, these practices can vary based on the context and potential risk.

## **Facebook**

Facebook publishes its Terms and Policies under a page entitled “Everything you need to know, all in one place,” at: <https://bit.ly/3GJDZzg>.

In the Terms, Facebook explains many facets of its content moderation.

- Facebook Safeguards Against Harmful Conduct
- Facebook provides a personalized experience
- Facebook provides recommendations
- Facebook enables you to discover things
- Use of Automated systems

Facebook limits who may use Facebook, and prohibits any (1) users under 13 years old; (2) convicted sex offenders; (3) people whose account has been disabled for violations of terms and policies; and (4) anyone not allowed to use the service under law.

Facebook explains, “We want people to use Facebook to express themselves and to share content that is important to them, but not at the expense of the safety and well-being of others or the integrity of our community. You therefore agree not to engage in the conduct described below (or to facilitate or support others in doing so)”:

- You may not use our Products to do or share anything:
  - That violates these Terms, our Community Standards, and other terms and policies that apply to your use of Facebook.
  - That is unlawful, misleading, discriminatory or fraudulent.

- That infringes or violates someone else’s rights, including their intellectual property rights.
- You may not upload viruses or malicious code or do anything that could disable, overburden, or impair the proper working or appearance of our Products.
- You may not access or collect data from our Products using automated means (without our prior permission) or attempt to access data you do not have permission to access.

To effectuate its policies, Facebook further explains, “We can remove or restrict access to content that is in violation of these provisions.” And Facebook provides users some recourse for certain moderation decisions:

If we remove content that you have shared in violation of our Community Standards, we’ll let you know and explain any options you have to request another review, unless you seriously or repeatedly violate these Terms or if doing so may expose us or others to legal liability; harm our community of users; compromise or interfere with the integrity or operation of any of our services, systems or Products; where we are restricted due to technical limitations; or where we are prohibited from doing so for legal reasons.

Facebook also allows users to report content: “To help support our community, we encourage you to report content or conduct that you believe violates your rights (including intellectual property rights) or our terms and policies.” In addition to moderating individual user submissions, Facebook terminates and suspends accounts:

We want Facebook to be a place where people feel welcome and safe to express themselves and share their thoughts and ideas.

If we determine that you have clearly, seriously or repeatedly breached our Terms or Policies, including in particular our Community Standards, we may suspend or permanently disable access to your account. We may also suspend or disable your account if you repeatedly infringe other people’s intellectual property rights or where we are required to do so for legal reasons.

When Facebook terminates or suspends an account, it provides notice and explains whether users may seek review: “Where we take such action we’ll let you know and explain any options you have to request a review, unless doing so may expose us or others to legal liability; harm our community of users; compromise or interfere with the integrity or operation of any of our services,



systems or Products; or where we are restricted due to technical limitations; or where we are prohibited from doing so for legal reasons.”

Facebook also makes its Community Standards available at: <https://bit.ly/3mv8Vem>. As described in the Terms, “[t]hese guidelines outline our standards regarding the content you post to Facebook and your activity on Facebook and other Facebook Products.”

Generally, “[t]he goal of our Community Standards is to create a place for expression and give people a voice. The Facebook company wants people to be able to talk openly about the issues that matter to them, even if some may disagree or find them objectionable. In some cases, we allow content—which would otherwise go against our standards—if it’s newsworthy and in the public interest. We do this only after weighing the public interest value against the risk of harm, and we look to international human rights standards to make these judgments.”

Facebook moderates content by “limit[ing] expression,” when doing so is “in service of one or more of the following values”:

- Safety
- Dignity
- Authenticity
- Privacy

Facebook applies its standards platform- and world-wide: “Our Community Standards apply to everyone, all around the world, and to all types of content.” So, Facebook identifies a series of categories of content, for which it (1) provides a “Policy Rationale”; (2) prohibits expressly defined kinds of user submissions; (3) identifies certain kinds of content for which it might require more context to make a moderation decision, or content for which it might provide other users a warning; and (4) provides examples of “user experiences” for certain kinds of moderation decisions (including reporting, post-report communication, takedowns, and warning screens).

These categories and sub-categories include (with links to public postings of the policies):

- **Violence and Criminal Behavior**
  - Violence and Incitement (<https://bit.ly/3pXq3vd>)
  - Dangerous Individuals and Organizations (<https://bit.ly/3nGnMBS>)
  - Coordinating Harm and Publicizing Crime (<https://bit.ly/3EylhZb>)
  - Regulated Goods (<https://bit.ly/3q1Frah>)
  - Fraud and Deception (<https://bit.ly/3pWaOCR>)
- **Safety**
  - Suicide and Self-Injury (<https://bit.ly/3BB1sPh>)
  - Child Sexual Exploitation, Abuse, and Nudity (<https://bit.ly/3CC7yQz>)
  - Sexual Exploitation of Adults (<https://bit.ly/3nJYQcZ>)
  - Bullying and Harassment (<https://bit.ly/3q0cefE>)
  - Human Exploitation (<https://bit.ly/2ZK3iji>)
  - Privacy Violations and Image Privacy Rights (<https://bit.ly/3pXzOcp>)
- **Objectionable Content**
  - Hate Speech (<https://bit.ly/3bsJ8Ny>)
  - Violent and Graphic Content (<https://bit.ly/3o5btQ7>)
  - Adult Nudity and Sexual Activity (<https://bit.ly/3CzPUgr>)
  - Sexual Solicitation (<https://bit.ly/3CMrsIA>)
- **Integrity and Authenticity**
  - Account Integrity and Authentic Identity (<https://bit.ly/3myRmtZ>)
  - Spam (<https://bit.ly/3CE1gQo>)
  - Cybersecurity (<https://bit.ly/3mzMVyZ>)
  - Inauthentic Behavior (<https://bit.ly/3pT4ufu>)
  - False News (<https://bit.ly/3jVtzTi>)
  - Manipulated Media (<https://bit.ly/3w4DI4M>)
  - Memorialization (<https://bit.ly/2ZCDwh4>)
- **Respecting Intellectual Property**
  - Intellectual Property (<https://bit.ly/3jWEJqS>)
- **Content-Related Requests And Decisions**
  - User Requests (<https://bit.ly/3nQOvMc>)
  - Additional Protection of Minors (<https://bit.ly/3nM9hg6>)

## Nextdoor

Nextdoor is not a CCIA member.

## Pinterest

Pinterest makes its terms of service publicly available at: <https://bit.ly/3w3SpVO>.

By using Pinterest, users agree to comply with Pinterest’s Community Guidelines, which are made publicly available at: <https://bit.ly/3CANpKQ>. As Pinterest explains in the Community Guidelines, “Pinterest’s mission is to bring everyone the inspiration to create a life they love. That being said, not all content is inspiring - so we have community guidelines to outline what we do and don’t allow on Pinterest.” Furthermore, “Pinterest isn’t a place for antagonistic, explicit, false or misleading, harmful, hateful, or violent content or behavior. We may remove, limit, or block the distribution of such content and the accounts, individuals, groups and domains that create or spread it based on how much harm it poses.”

As Pinterest explains, Pinterest allows people to report content—“pins,” comments, messages, “someone’s photo on a pin”—that violates Pinterest’s Acceptable Use Policy. *See* Pinterest, Report something on Pinterest, <https://bit.ly/3jQGzcl>. Users may report content anonymously, and then Pinterest will “view [the] report and take action if [Pinterest] find[s] something unacceptable.” Pinterest uses those reports “to learn and evolve [Pinterest’s] standards, and work with subject matter experts to inform and update [Pinterest’s] guidelines.” Pinterest, Community Guidelines, <https://bit.ly/3CANpKQ>.

Pinterest specifically identifies the kinds of content it “may remove, limit, or block the distribution of”:

- **Adult Content** – This includes:
  - Fetish imagery
  - Vivid sexual descriptions
  - Graphic depictions of sexual activity
  - Images of nudity where the poses, camera angles, or props suggest pornographic intent
- **Exploitation** – “Pinterest isn’t a place for exploitation of people or animals. [Pinterest will] remove or limit the distribution of content and accounts involved in practices that risk harm to people or animals, including sexual, physical, or financial exploitation.” Pinterest includes many examples in its policy.
- **Hateful Activities** – “Pinterest isn’t a place for hateful content or the people and groups that promote hateful activities. [Pinterest] limit[s] the distribution of or remove such content and accounts[.]” Pinterest includes many examples in its policy.

- **Misinformation** – “Pinterest isn’t a place for misinformation, disinformation, mal-information or the individuals or groups spreading or creating it. [Pinterest] remove[s] or limit[s] distribution of false or misleading content that may harm Pinners’ or the public’s well-being, safety or trust[.]” Pinterest includes many examples in its policy.
- **Harassment and Criticism** – “Pinterest isn’t a place to insult, hurt or antagonize individuals or groups of people. There are good reasons to express criticism, but [Pinterest] may limit the distribution of or remove insulting content to keep Pinterest a positive, inspiring place[.]” Pinterest includes many examples in its policy.
- **Private Information** – Pinterest does not “allow content that reveals personal or sensitive information[.]” Pinterest includes many examples in its policy.
- **Self-Injury and Harmful Behavior** – “Pinterest isn’t a place for content that displays, rationalizes or encourages suicide, self-injury, eating disorders or substance abuse. [Pinterest will] limit the distribution of or remove such content[.]” Pinterest includes many examples in its policy.
- **Graphic Threats and Violence** – “Pinterest isn’t a place for graphic violence or threatening language. [Pinterest] limit[s] the distribution of or remove such content[.]” Pinterest includes many examples in its policy.
- **Violent Actors** – “Pinterest isn’t a place for violent content, groups or individuals. [Pinterest] limit[s] the distribution of or remove[s] content and accounts that encourage, praise, promote, or provide aid to dangerous actors or groups and their activities. . . . [Pinterest] work[s] with industry, government and security experts to help us identify these groups.” Pinterest includes examples in its policy.
- **Dangerous Goods and Activities** – “Pinterest isn’t a place for trading or selling of certain regulated goods—products or substances that can cause harm when used, altered or manufactured irresponsibly—or for the display or encouragement of dangerous activities. [Pinterest] limit[s] the distribution of or remove such content and accounts[.]” Pinterest includes many examples in its policy.
- **Harmful or Deceptive Products and Practices** – “Pinterest isn’t a place for practices and products that may be harmful or deceptive. [Pinterest] limit[s] the distribution of or remove[s] such content and accounts[.]” Pinterest includes many examples in its policy.
- **Impersonation** – Pinterest does not “allow accounts that impersonate or misrepresent their affiliation with any person or organization. If you [a user] have a fan or commentary account for a public figure or brand, make it clear through your username or Pinterest profile that you aren’t officially affiliated with them.”
- **Comments** – “All of [Pinterest’s] Community Guidelines apply in comments posted on Pins. In addition, comments should be relevant. [Pinterest] may remove comments that violate our guidelines[.]” Pinterest includes many examples in its policy.

As described further therein, these practices can vary based on the context and potential

risk.

## Twitter

Twitter publishes its Terms of Service at: <https://bit.ly/3C77iIx>. Twitter incorporates its Twitter Rules and Policies into the Terms of Service, and requires compliance with those Rules and Policies.

Twitter publishes its Rules and Policies at: <https://bit.ly/3CY0RbF>. Twitter further explains, in separate pages for each, its policies in various areas:

- General
  - The Twitter Rules (<https://bit.ly/3BYhKBI>)
  - Deceased individuals (<https://bit.ly/31w1fjR>)
  - Username squatting policy (<https://bit.ly/3ki5oyv>)
- Platform Integrity and Authenticity
  - Platform manipulation and spam policy (<https://bit.ly/3022bfl>)
  - Synthetic and manipulated media policy (<https://bit.ly/3qjL1F4>)
  - Civic integrity policy (<https://bit.ly/2YsoDxz>)
  - Parody, newsfeed, commentary, and fan account policy (<https://bit.ly/3qiiIqh>)
  - Coordinated harmful activity (<https://bit.ly/31BkmJj>)
  - Financial scam policy (<https://bit.ly/3o9cLcF>)
  - Distribution of hacked materials policy (<https://bit.ly/3qr1abw>)
  - Impersonation policy (<https://bit.ly/3mXvhVS>)
  - Ban evasion policy (<https://bit.ly/3ocg7vs>)
- Safety and Cybercrime
  - Abusive behavior (<https://bit.ly/3bQTsyW>)
  - Hateful conduct policy (<https://bit.ly/3CWIG7x>)
  - Violent organizations policy (<https://bit.ly/3wplQBQ>)
  - Violent threats policy (<https://bit.ly/3bRyJer>)
  - Suicide and Self-harm Policy (<https://bit.ly/3bPQR8r>)
  - Glorification of violence policy (<https://bit.ly/3GYOiQ5>)
  - Abusive profile information (<https://bit.ly/3kgyRsy>)
  - Illegal or certain regulated goods or services (<https://bit.ly/3qjcEOk>)
  - Non-consensual nudity policy (<https://bit.ly/3o6hZpH>)
  - Child sexual exploitation policy (<https://bit.ly/3GWoyUp>)
  - Sensitive media policy (<https://bit.ly/3BW0SM6>)
- Intellectual Property
  - Automated copyright claims for live video (<https://bit.ly/3EVz10n>)
  - Counterfeit policy (<https://bit.ly/3GZXrHX>)
  - Trademark policy (<https://bit.ly/3qeReC5>)
  - Copyright policy (<https://bit.ly/3qfc2cJ>)
- Platform Use Guidelines
  - Our range of enforcement options (<https://bit.ly/3o9dGK9>)
  - Content Monetization Standards (<https://bit.ly/3EUg0v1>)

- Our use of cookies and similar technologies (<https://bit.ly/3CWCgUV>)
- Notices on Twitter and what they mean (<https://bit.ly/3EZVaLg>)
- Guidelines for Promotions on Twitter (<https://bit.ly/3ENAUaA>)
- About search rules and restrictions (<https://bit.ly/3HcP8sy>)
- Twitter, our services, and corporate affiliates (<https://bit.ly/3bS0aoI>)
- How to report security vulnerabilities (<https://bit.ly/3H4kD84>)
- About Twitter limits (<https://bit.ly/3CVP3Ha>)
- Defending and respecting the rights of people using our service (<https://bit.ly/3kgA8Qm>)
- About rules and best practices with account behaviors (<https://bit.ly/3bQUJWK>)
- Fair use policy (<https://bit.ly/3khrIbC>)
- About Twitter’s APIs (<https://bit.ly/3o6iYGp>)
- Vine Camera Terms of Service and privacy policy (<https://bit.ly/3kjRJH7>)
- About government and state-affiliated media account labels on Twitter (<https://bit.ly/3CWD0tb>)
- Twitter Moments guidelines and principles (<https://bit.ly/3GYPy5L>)
- Automation rules (<https://bit.ly/3CYXUrp>)
- Report violations (<https://bit.ly/3mUU0KD>)
- Inactive account policy (<https://bit.ly/3o3MCvQ>)
- About country withheld content (<https://bit.ly/3CSIuF8>)
- Curation style guide (<https://bit.ly/3wpgfLK>)
- Super Follows policy (<https://bit.ly/3ock3fB>)
- Ticketed Spaces policy (<https://bit.ly/3H599Rs>)
- Updates to our Terms of Service and Privacy Policy (<https://bit.ly/3obne7j>)
- About public-interest exceptions on Twitter (<https://bit.ly/3qkUiwu>)
- Additional information about data processing (<https://bit.ly/3CZ74nJ>)
- Our approach to policy development and enforcement philosophy (<https://bit.ly/30b2K6H>)
- About specific instances when a Tweet’s reach may be limited (<https://bit.ly/3wtYETe>)

## Vimeo

Vimeo publishes its Acceptable Use Policy as part of its Terms of Service, available at:

<https://bit.ly/3q0HgnF>.

The policy provides that its users “may not submit any content that”:

- Infringes any third party’s copyrights or other rights (e.g., trademark, privacy rights, etc.);
- Is sexually explicit or promotes a sexual service;
- Is defamatory;
- Is harassing or abusive;
- Contains hateful or discriminatory speech;
- Promotes or supports terror or hate groups;

- Contains instructions on how to assemble explosive/incendiary devices or homemade/improvised firearms;
- Exploits or endangers minors;
- Depicts or encourages self-harm or suicide;
- Depicts (1) unlawful real-world acts of extreme violence, (2) vivid, realistic, or particularly graphic acts of violence and brutality, (3) sexualized violence, including rape, torture, abuse, and humiliation, or (4) animal cruelty or extreme violence towards animals;
- Promotes fraudulent or dubious money-making schemes, proposes an unlawful transaction, or uses deceptive marketing practices;
- Contains false or misleading claims about (1) vaccination safety, or (2) health-related information that has a serious potential to cause public harm;
- Contains false or misleading information about voting;
- Contains conspiracy-related content where the underlying conspiracy theory makes claims that (1) suggest that a real-world tragedy did not occur, or (2) violate other content restrictions; or
- Violates any applicable law.

The Acceptable Use Policy directs users to the Vimeo Guidelines (available at <https://bit.ly/3pWkpnN>) “for guidance on how we [Vimeo] interpret these terms.” These Guidelines provide detailed information for each category of content identified above. And Vimeo makes clear that it will make content moderation decisions based on a holistic evaluation of context:

In making decisions, we consider the entire context of the content to determine whether there may be a valid reason for including certain types of speech, such as newsworthiness, discussion of a religious text, criticism, or dramatic or narrative purposes (for fictional works). Such purposes may not be used, however, as mere devices to justify problematic speech (i.e., Restricted Content under our Acceptable Use Policy, as detailed in Section 1.3 above). We may also consider related content (like title, description, and tags) and information outside of Vimeo, such as the user’s activities elsewhere, materials linked from Vimeo, and the intended audience.

Vimeo’s Terms of Service also regulate conduct on Vimeo’s platform, and provide that users “may not”:

- Use an offensive screen name (e.g., explicit language) or avatar (e.g., containing nudity);
- Act in a deceptive manner or impersonate any person or organization;
- Harass or stalk any person;
- Harm or exploit minors;
- Distribute “spam” in any form or use misleading metadata;

- Collect personal information about others;
- Access another’s account without permission;
- Use or export any of our services in violation of any U.S. export control laws;
- Engage in any unlawful activity;
- Embed our video player on or provide links to sites that contain content prohibited by Section 5.2; or
- Cause or encourage others to do any of the above.

## **YouTube**

YouTube publishes its Terms of Service at: <https://bit.ly/3wpnymN>. YouTube states that “use of the Service is subject to these terms, the YouTube Community Guidelines and the Policy, Safety and Copyright Policies which may be updated from time to time.”

YouTube makes clear that “YouTube is under no obligation to host or serve Content. If you see any Content you believe does not comply with this Agreement, including by violating the Community Guidelines or the law, you can report it to us.” Further, “If you choose to upload Content, you must not submit to the Service any Content that does not comply with this Agreement (including the YouTube Community Guidelines) or the law.”

YouTube explains when it may remove content and take actions against users:

- “If we reasonably believe that any Content is in breach of this Agreement or may cause harm to YouTube, our users, or third parties, we may remove or take down that Content in our discretion. We will notify you with the reason for our action unless we reasonably believe that to do so: (a) would breach the law or the direction of a legal enforcement authority or would otherwise risk legal liability for YouTube or our Affiliates; (b) would compromise an investigation or the integrity or operation of the Service; or (c) would cause harm to any user, other third party, YouTube or our Affiliates. You can learn more about reporting and enforcement, including how to appeal on the Troubleshooting page of our Help Center.”
- “YouTube may suspend or terminate your access, your Google account, or your Google account’s access to all or part of the Service if (a) you materially or repeatedly breach this Agreement; (b) we are required to do so to comply with a legal requirement or a court order; or (c) we believe there has been conduct that creates (or could create) liability or harm to any user, other third party, YouTube or our Affiliates.”



YouTube publishes its Community Guidelines at: <https://bit.ly/3pWkkpN>. YouTube details the following categories and subcategories of expression YouTube may restrict according to its policies:

- **Spam & deceptive practices**
  - Fake engagement (<https://bit.ly/3EVGqg7>)
  - Impersonation (<https://bit.ly/31xBTSl>)
  - External links (<https://bit.ly/3mTC6I3>)
  - Spam, deceptive practices & scams (<https://bit.ly/31HqVu6>)
  - Playlists (<https://bit.ly/3o2HA2w>)
  - Additional policies (<https://bit.ly/3khR2hC>)
- **Violent or dangerous content**
  - Harassment and cyberbullying (<https://bit.ly/3kiKYW6>)
  - Harmful or dangerous content (<https://bit.ly/2ZYTan8>)
  - Hate speech (<https://bit.ly/3q7zN6r>)
  - Violent criminal organizations (<https://bit.ly/3BWNMhx>)
  - Violent or graphic content (<https://bit.ly/3wolWK4>)
- **Misinformation**
  - Misinformation (<https://bit.ly/3o6K1kR>)
  - Elections misinformation (<https://bit.ly/3EXqlqw>)
  - COVID-19 medical misinformation (<https://bit.ly/3BXkkbo>)
  - Vaccine misinformation (<https://bit.ly/3CROcal>)
- **Sensitive content**
  - Child safety (<https://bit.ly/3D0pRPY>)
  - Thumbnails (<https://bit.ly/2ZYTxec>)
  - Nudity and sexual content (<https://bit.ly/3bRVnU5>)
  - Suicide and self-harm (<https://bit.ly/3CWPCR5>)
  - Vulgar language (<https://bit.ly/3BVVI2G>)
- **Regulated goods**
  - Firearms (<https://bit.ly/3CYRMiT>)
  - Sale of illegal or regulated goods or services (<https://bit.ly/3EQSSO8>)

**INTERROGATORY NO. 2:** Identify all the specific policies or content moderation practices of each of your members for which you contend H.B. 20 contains no exception.

**Objections:**

Plaintiff objects to this interrogatory on grounds that it is unduly burdensome and seeks information equally available to Defendant from a plain reading of its own statute, or that is publicly available to Defendant.

Furthermore, this interrogatory impermissibly calls for multiple legal conclusions. This interrogatory requires Plaintiff to construe House Bill 20 (“H.B. 20”) and its purported exceptions. Those exceptions refer to other sources of law, including: (1) expression that “the social media platform is specifically authorized to censor by federal law”; and (2) “unlawful expression,” defined as “expression that is unlawful under the United States Constitution, federal law, the Texas Constitution, or the laws of this state, including expression that constitutes a tort under the laws of this state or the United States.” Tex. Civ. Prac. & Rem. Code §§ 143A.006(a)(1), (4); 143A.001(5). Key terms are undefined, and thus require construction.

Relatedly, this interrogatory is vague. H.B. 20’s purported exceptions are individually vague, and collectively make H.B. 20’s scope unclear. By asking Plaintiff to explain H.B. 20’s scope, Defendant is demonstrating the law’s unconstitutional vagueness: If Defendant—who is statutorily entrusted with enforcing H.B. 20—cannot make sense of H.B. 20, neither can the targets of the law. *See FCC v. Fox Television Stations, Inc.*, 567 U.S. 239, 253 (2012) (“A fundamental principle in our legal system is that laws which regulate persons or entities must give fair notice of conduct that is forbidden or required.”).

**General Response:**

H.B. 20 includes no effective exceptions for any of Plaintiff’s members’ “specific policies or content moderation practices” (which are described above). Plaintiff’s members have policies that apply across their respective platforms, and they rely on being able to engage in broad, programmatic content moderation to effectuate those policies. For instance, YouTube has a policy against hate speech, which it defines as “promoting violence or hatred against individuals or groups based on” a list of many characteristics, including age, disability, ethnicity, gender identity and expression, race, immigration status, sexual orientation, and veteran status. *See* YouTube, Hate Speech Policy, <https://bit.ly/3q7zN6r>. YouTube will “remove” any content violating this policy, and may assess various penalties against the user who submits such content—including “terminat[ing]” user accounts for “repeated violations.” *Id.*

But H.B. 20 broadly prohibits *all* content moderation decisions based on “viewpoint,” authorizes the Texas Attorney General to investigate and sue for any “potential violation[s]” of this broad rule, and then offers a few ill-defined exceptions that *could* (depending on how they are interpreted) defeat liability at the end of litigation. *See* Tex. Civ. Prac. & Rem Code §§ 143A.002; 143A.008. The threat of myriad lawsuits based on individual examples of content moderation threaten and chill the broad application of those policies, and thus H.B. 20’s anti-moderation provisions interfere with Plaintiff’s members’ policies and practices—regardless of any purported exceptions. Using YouTube as an example, hate speech is necessarily “viewpoint”-based, as abhorrent as those viewpoints may be. And removing such hate speech and assessing penalties against users for submitting that content is “censor[ship]” as defined by H.B. 20. *Id.* §§ 143A.001(1); 143A.002.

Broadly, H.B. 20 is both vague and overbroad and thus will chill Plaintiff's members' content moderation. By prohibiting all content moderation based on "viewpoint," H.B. 20 impermissibly "set[s] a net large enough to catch all possible offenders, and leave[s] it to the courts to step inside and say" which moderation is permissible and which moderation is not. *Reno v. ACLU*, 521 U.S. 844, 884 n.49 (1997) (citation and quotation marks omitted). Courts have therefore recognized that the effects of imposing a broad unlawful rule cannot be mitigated by purported exceptions to that rule. *E.g.*, *City & Cnty. of San Francisco v. Trump*, 897 F.3d 1225, 1240 (9th Cir. 2018) ("If 'consistent with law' precludes a court from examining whether the Executive Order is consistent with law, judicial review is a meaningless exercise, precluding resolution of the critical legal issues."); *HIAS, Inc. v. Trump*, 985 F.3d 309, 325 (4th Cir. 2021) ("a purely theoretical savings clause" cannot immunize an order from "scrutiny").

Defendant himself—relying on the same cases above—has recognized that purported saving clauses cannot save a law or regulation from being unlawful, as those clauses "do[] not immunize [law] from judicial review" and the existence of such clauses "suggests that the [law] is unenforceable." Plfs. Memo. in Opp. to Mtn. to Transfer Venue n.3, No. 2:21-cv-00778, *Louisiana v. Biden* (W.D. La. May 4, 2021), 2021 WL 2644609 (citing *HIAS*, 985 F.3d at 325; *San Francisco*, 897 F.3d at 1240). The Western District of Louisiana agreed, and concluded that a purported saving clause stating that an executive order that purported to extend only "[t]o the extent consistent with applicable law" was still unlawful because "it offer[ed] no mechanism for the [government] to implement the order in a manner consistent with law other than simply refusing to implement the order outright." *Louisiana v. Biden*, 2021 WL 4312502, at \*8 (W.D. La. Aug. 23, 2021), *report and recommendation adopted*, 2021 WL 4314795 (W.D. La. Sept. 22, 2021).

Accordingly, as Plaintiffs explained in their motion for preliminary injunction, H.B. 20's purported exceptions do not affect the First Amendment analysis because "a series of adjudications, and the chilling effect of the resolution on protected speech in the meantime would make such a case-by-case adjudication intolerable." *Board of Airport Comm'rs v. Jews for Jesus, Inc.*, 482 U.S. 569, 576 (1987).

This concern is especially acute here, where the Texas Attorney General has the authority to bring a civil action for injunctive relief for any violation and any "potential violation," along with fee-shifting and compensation for the Attorney General's "reasonable investigative costs." Tex. Civ. Prac. & Rem Code § 143A.008(b). Thus, even assuming for the sake of argument that H.B. 20's exceptions will preclude liability in some cases, those exceptions will not preclude investigations and litigation into any "potential violation"—which, given the statute's broad applicability to all content moderation allegedly based on "viewpoint," is almost every moderation decision the platforms make.

Furthermore, even viewed in isolation, H.B. 20's purported exceptions do not meaningfully allow for content moderation according to Plaintiff's members' respective policies.

*First*, the exception for content moderation of expression "the social media platform is specifically authorized to censor by federal law" is too vague to limit H.B. 20's prohibition on content moderation. *Cf.* Tex. Civ. Prac. & Rem Code § 143A.006(a)(1). It is not clear what categories of expression federal law "specifically authorize[s]" Plaintiff's members to "censor," as H.B. 20 neither defines "specifically authorize[]" nor cross-references any particular federal law. Myriad sources of federal law protect platforms' content moderation decisions, including the First Amendment and 47 U.S.C. § 230. If Defendant interprets H.B. 20 to effectively incorporate

these constitutional and statutory protections, H.B. 20's anti-moderation provisions would be a nullity as those sources of federal law fully protect all of the platforms' policies as described above.

In all events, unless Defendant disavows enforcement of H.B. 20, Plaintiff's members face a credible threat of enforcement and are entitled to an injunction precluding enforcement and a declaration that H.B. 20's anti-moderation provisions are unlawful and unenforceable. 28 U.S.C. § 2201(a); *Freedom from Religion Found. v. Abbott*, 955 F.3d 417, 424 (5th Cir. 2020).<sup>1</sup>

*Second*, the exception for moderation decisions made because of referrals from certain kinds of organizations is vague, and it seems to apply only to particular moderation decisions and not moderation *policies*. Specifically, the statute provides an exception for content moderation decisions for expression that "is the subject of a referral or request from an organization with the purpose of preventing the sexual exploitation of children and protecting survivors of sexual abuse from ongoing harassment." Tex. Civ. Prac. & Rem Code § 143A.006(a)(2). Ostensibly, as long as an organization meeting these requirements makes a "referral" or "request," they can "refer" or "request" any piece of content.<sup>2</sup> Thus, because this exception relies on third-party organizations identifying certain pieces of content on an ad hoc basis, the exception does not provide a meaningful safe harbor for Plaintiff's members' ongoing and broadly applicable policies.

*Third*, the exception for expression that "directly incites criminal activity or consists of specific threats of violence targeted against" people or groups based on protected characteristics is not coextensive with Plaintiff's members' policies against threats, harassment, and hate speech.

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<sup>1</sup> Additionally, Plaintiff's members are entitled to an injunction and declaration regarding H.B. 20's disclosure and operational requirements—which are not subject to this exception.

<sup>2</sup> H.B. 20 may assume that these organizations will only make requests or referrals in line with their organizational goals ("preventing the sexual exploitation of children and protecting survivors of sexual abuse from on-going harassment"), but the law is not so limited. Such organizations could ostensibly make referrals about any kind of expression.

*Cf.* Tex. Civ. Prac. & Rem Code § 143A.006(a)(3). For instance, this exception only applies to expression based on “race, color, disability, religion, national origin or ancestry, age, sex, or status as a peace officer or judge.” *Id.* As described above, Plaintiff’s members protect a broader range of groups from hate speech (and other kinds of targeted harassment).

Likewise, Plaintiff’s members do more than moderate “direct incitement” and “specific threats of violence.” Although H.B. 20 does not define these terms, they seem narrower than the forms of incitement and threats that platforms moderate. In all events, the requirement for case-by-case adjudication of whether (for example) a threat is a “specific threat of violence” will stymie and chill moderation of threats platform-wide.

Finally, the exception allowing for moderation of “unlawful expression” is vague because it does not make clear what standard speech must meet to qualify as “unlawful.” *Cf. id.* § 143A.006(a)(4). To be sure, H.B. 20 defines “unlawful expression” as “expression that is unlawful under the United States Constitution, federal law, the Texas Constitution, or the laws of this state, including expression that constitutes a tort under the laws of this state or the United States.” *Id.* § 143A.001(5). Notably, this exception is under-inclusive of Plaintiff’s members’ current moderation efforts, because it does not include the laws of any other States or the laws of other countries, with which Plaintiff’s members attempt to comply.

As described above, Plaintiff’s members have various policies in place to moderate speech *they consider* (potentially) unlawful or in furtherance of something (potentially) unlawful. But—as with the purported exceptions outlined above—an exception that requires case-by-case adjudication of whether a piece of moderated content meets the statutory definition (as further articulated by caselaw in many cases) of a crime/tort in limited jurisdictions is not a meaningful exception.

Notwithstanding its objections and its conclusion that H.B. 20 provides no effective exceptions, Plaintiff responds as follows:

**Specific Responses:**

Policies and practices that Defendant defines as “content moderation” generally fall within an important business function generally referred to as “trust & safety,” and may pertain not only to user content, but also behavior. The policies of CCIA member companies address various categories of illegal, dangerous, or otherwise harmful content or behavior for which H.B. 20 facially contains no exception, or only a partial exception.

**eBay**

H.B. 20 contains either no exception or inadequate exception for those policies and practices outlined above pertaining to content or behavior that falls without Sec. 143A.006, including but not limited to:

- listings that imply or promote support of, membership in, or funding of a terrorist organization;
- sexually explicit adult films, video games, anime, comics, books, and magazines; and
- modeling photos of minors, even when the subject is fully clothed.

**Facebook**

H.B. 20 contains no exception or inadequate exception for those policies and practices outlined above pertaining to content or behavior that falls without Sec. 143A.006, including but not limited to:

- Dangerous Individuals and Organizations
- Suicide and Self-Injury
- Child Sexual Exploitation, Abuse, and Nudity
- Sexual Exploitation of Adults
- Bullying and Harassment
- Human Exploitation
- Hate Speech
- Violent and Graphic Content
- Adult Nudity and Sexual Activity
- Sexual Solicitation



- Account Integrity and Authentic Identity
- Inauthentic Behavior
- False News
- Manipulated Media

### **Nextdoor**

Nextdoor is not a CCIA member.

### **Pinterest**

H.B. 20 contains no exception or inadequate exception for those policies and practices outlined above pertaining to content or behavior that falls without Sec. 143A.006, including but not limited to:

- Adult content
- Exploitation
- Hateful activities
- Misinformation
- Harassment and criticism
- Self-injury and harmful behavior
- Private information
- Graphic threats and violence
- Violent actors
- Dangerous goods and activities

### **Twitter**

H.B. 20 contains no exception or inadequate exception for those policies and practices outlined above pertaining to content or behavior that falls without Sec. 143A.006, including but not limited to:

- Glorification of violence policy
- Hateful conduct policy
- Violent organizations policy
- Child sexual exploitation policy
- Abusive behavior policy
- Suicide and self-harm policy
- Sensitive media policy
- Illegal or certain regulated goods or services policy

## **Vimeo**

H.B. 20 contains either no exception or inadequate exception for those policies and practices outlined above pertaining to content or behavior that falls without Sec. 143A.006, including but not limited to:

- content that promotes or supports terror or hate groups;
- content that harms or endangers minors;
- content that is sexually explicit or promotes a sexual service; and
- content that depicts or encourages self-harm or suicide.

## **YouTube**

H.B. 20 contains no exception or inadequate exception for those policies and practices outlined above pertaining to content or behavior that falls without Sec. 143A.006, including but not limited to:

- Harassment and cyberbullying
- Harmful or dangerous content
- Hate speech
- Violent criminal organizations
- Violent or graphic content
- Misinformation
- Elections misinformation
- COVID-19 medical misinformation
- Vaccine misinformation
- Child safety
- Thumbnails
- Nudity and sexual content
- Suicide and self-harm
- Vulgar language

I, Matthew Schruers, verify that the factual answers contained in the foregoing responses and objections are true and correct to the best of my information, knowledge, and belief.

Dated: November 12, 2021

/s/ Matthew Schruers  
Matthew Schruers  
President  
Computer & Communications  
Industry Association

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\*Admitted *pro hac vice*

# Appendix 10

IN THE UNITED STATES DISTRICT COURT  
FOR THE WESTERN DISTRICT OF TEXAS  
AUSTIN DIVISION

NETCHOICE, LLC d/b/a NetChoice, )  
a 501(c)(6) District of Columbia organization, )  
 )  
and )  
 )  
COMPUTER & COMMUNICATIONS )  
INDUSTRY ASSOCIATION d/b/a CCIA, a )  
501(c)(6) non-stock Virginia Corporation, )  
 )  
*Plaintiffs,* )  
 )  
v. )  
 )  
KEN PAXTON, in his official capacity as )  
Attorney General of Texas )  
 )  
*Defendant.* )  
\_\_\_\_\_ )

Civil Action No. 1:21-cv-00840-RP

**Exhibit I –  
NetChoice’s  
Interrogatory Responses**

**IN THE UNITED STATES DISTRICT COURT  
FOR THE WESTERN DISTRICT OF TEXAS  
AUSTIN DIVISION**

NETCHOICE, LLC d/b/a NetChoice, )  
a 501(c)(6) District of Columbia organization, )  
) )  
and )  
) )  
COMPUTER & COMMUNICATIONS )  
INDUSTRY ASSOCIATION d/b/a CCIA, a )  
501(c)(6) non-stock Virginia Corporation, )  
) )  
*Plaintiffs,* )  
) )  
v. )  
) )  
KEN PAXTON, in his official capacity as )  
Attorney General of Texas, )  
) )  
*Defendant.* )  
\_\_\_\_\_ )

Civil Action No. 1:21-cv-00840-RP

**PLAINTIFF NETCHOICE’S RESPONSE TO DEFENDANT’S  
FIRST SET OF INTERROGATORIES**

Pursuant to the Federal Rules of Civil Procedure, Plaintiff NetChoice hereby responds to Defendant’s First Set of Interrogatories and states as follows:

**RESPONSES AND OBJECTIONS**

**INTERROGATORY NO. 1:** Identify all steps in the process of each of your members’ content moderation policies and practices on its platform. If content moderation occurs in differing ways based on the type of content, the purpose in displaying that content, or the viewpoint expressed in the content, describe each process therein.

**Objections:**

Plaintiff objects to this interrogatory on grounds that it is unduly burdensome and seeks information equally available to Defendant from a plain reading of its own statute, or that is

publicly available to Defendant. Plaintiff also objects to this interrogatory to the extent it calls for legal conclusions.

**Responses:**

Notwithstanding these objections, NetChoice answers as follows:

Below, NetChoice points to where its members have made their policies publicly available and has provided summaries of the members' respective policies. These summaries are not exhaustive, as the policies speak for themselves and are the best source of information responsive to this interrogatory.

**Etsy**

Etsy publishes its Terms of Use at: <https://etsy.me/3HcZAJR>.

The Terms require users to comply with Etsy's Anti-Discrimination and Hate Speech Policy (<https://etsy.me/3Dc8SKx>), Etsy's House Rules for Sellers (<https://etsy.me/30epEtX>), House Rules for Buyers (<https://etsy.me/3mSnjxs>), and House Rules for Third Parties (<https://etsy.me/3bSehKt>).

Under its Anti-Discrimination and Hate Speech Policy, Etsy "prohibits the use of [its] Services to discriminate against people based on the following personal attributes":

- Race
- Color
- Ethnicity
- National origin
- Religion
- Gender
- Gender identity
- Sexual orientation
- Disability
- Any other characteristic protected under applicable law

Etsy's rules apply across the website and application:

Whether you're engaging with public features on Etsy, such as listing items, using community spaces, and writing reviews, or having direct communication with other members of the Etsy community, such as via Messages, discrimination and hate speech are not allowed. As a seller on Etsy, your shop content, including shop announcements and shop policies, cannot display discriminatory behavior toward protected groups. Examples of prohibited behavior include, but are not limited to:

- Refusal of service based on membership in one or more protected group
- Expressing intolerance or a lack of respect for another member on the basis of protected group attributes
- Having a shop policy that excludes sales to members of one or more protected groups listed above
- Directly or indirectly making derogatory or demeaning remarks against protected groups listed above
- Racial slurs
- Posts that support or glorify hate groups and their members.

Similarly, under the House Rules for Sellers' Hate Items Policy (<https://etsy.me/31BIVpv>),

Etsy reiterates its Anti-Discrimination policy:

Etsy does not allow items or listings that promote, support or glorify hatred toward people or otherwise demean people based upon: race, ethnicity, national origin, religion, gender, gender identity, disability, or sexual orientation (collectively, "protected groups"). We also prohibit items or content that promote organizations or people with such views.

The following items are not allowed on Etsy:

Items that support or commemorate current or historical hate groups, including propaganda or collectibles. Examples of hate groups include Nazi or Neo-Nazi groups, Ku Klux Klan (KKK) groups, white supremacist groups, misogynist groups, or groups that advocate anti-gay, anti-immigrant, or Holocaust denial agendas.

Items that contain racial slurs or derogatory terms in reference to protected groups.

Furthermore, the policy for sellers also regulates:

- Alcohol, Tobacco, Drugs, Drug Paraphernalia, and Medical Drugs
- Animal Products and Human Remains
- Dangerous Items: Hazardous Materials, Recalled Items, and Weapons
- Hate Items: Items that Promote, Support, or Glorify Hatred
- Illegal Items, Items Promoting Illegal Activity, and Highly Regulated Items
- Internationally Regulated Items



- Pornography and Mature Content
- Violent Items: Items that Promote, Support, or Glorify Violence

## Facebook

Facebook publishes its Terms and Policies under a page entitled “Everything you need to know, all in one place,” at: <https://bit.ly/3GJDZzg>.

In the Terms, Facebook explains many facets of its content moderation.

- Facebook Safeguards Against Harmful Conduct
- Facebook provides a personalized experience
- Facebook provides recommendations
- Facebook enables you to discover things
- Use of Automated systems

Facebook limits who may use Facebook, and prohibits any (1) users under 13 years old; (2) convicted sex offenders; (3) people whose account has been disabled for violations of terms and policies; and (4) anyone not allowed to use the service under law.

Facebook explains, “We want people to use Facebook to express themselves and to share content that is important to them, but not at the expense of the safety and well-being of others or the integrity of our community. You therefore agree not to engage in the conduct described below (or to facilitate or support others in doing so)”:

- You may not use our Products to do or share anything:
  - That violates these Terms, our Community Standards, and other terms and policies that apply to your use of Facebook.
  - That is unlawful, misleading, discriminatory or fraudulent.
  - That infringes or violates someone else’s rights, including their intellectual property rights.
- You may not upload viruses or malicious code or do anything that could disable, overburden, or impair the proper working or appearance of our Products.
- You may not access or collect data from our Products using automated means (without our prior permission) or attempt to access data you do not have permission to access.

To effectuate its policies, Facebook further explains, “We can remove or restrict access to content that is in violation of these provisions.” And Facebook provides users some recourse for certain moderation decisions:

If we remove content that you have shared in violation of our Community Standards, we'll let you know and explain any options you have to request another review, unless you seriously or repeatedly violate these Terms or if doing so may expose us or others to legal liability; harm our community of users; compromise or interfere with the integrity or operation of any of our services, systems or Products; where we are restricted due to technical limitations; or where we are prohibited from doing so for legal reasons.

Facebook also allows users to report content: "To help support our community, we encourage you to report content or conduct that you believe violates your rights (including intellectual property rights) or our terms and policies." In addition to moderating individual user submissions, Facebook terminates and suspends accounts:

We want Facebook to be a place where people feel welcome and safe to express themselves and share their thoughts and ideas.

If we determine that you have clearly, seriously or repeatedly breached our Terms or Policies, including in particular our Community Standards, we may suspend or permanently disable access to your account. We may also suspend or disable your account if you repeatedly infringe other people's intellectual property rights or where we are required to do so for legal reasons.

When Facebook terminates or suspends an account, it provides notice and explains whether users may seek review: "Where we take such action we'll let you know and explain any options you have to request a review, unless doing so may expose us or others to legal liability; harm our community of users; compromise or interfere with the integrity or operation of any of our services, systems or Products; or where we are restricted due to technical limitations; or where we are prohibited from doing so for legal reasons."

Facebook also makes its Community Standards available at: <https://bit.ly/3mv8Vem>. As described in the Terms, "[t]hese guidelines outline our standards regarding the content you post to Facebook and your activity on Facebook and other Facebook Products."

Generally, "[t]he goal of our Community Standards is to create a place for expression and give people a voice. The Facebook company wants people to be able to talk openly about the issues

that matter to them, even if some may disagree or find them objectionable. In some cases, we allow content—which would otherwise go against our standards—if it’s newsworthy and in the public interest. We do this only after weighing the public interest value against the risk of harm, and we look to international human rights standards to make these judgments.”

Facebook moderates content by “limit[ing] expression,” when doing so is “in service of one or more of the following values”:

- Safety
- Dignity
- Authenticity
- Privacy

Facebook applies its standards platform- and world-wide: “Our Community Standards apply to everyone, all around the world, and to all types of content.” So, Facebook identifies a series of categories of content, for which it (1) provides a “Policy Rationale”; (2) prohibits expressly defined kinds of user submissions; (3) identifies certain kinds of content for which it might require more context to make a moderation decision, or content for which it might provide other users a warning; and (4) provides examples of “user experiences” for certain kinds of moderation decisions (including reporting, post-report communication, takedowns, and warning screens).

These categories and sub-categories include (with links to public postings of the policies):

- **Violence and Criminal Behavior**
  - Violence and Incitement (<https://bit.ly/3pXq3vd>)
  - Dangerous Individuals and Organizations (<https://bit.ly/3nGnMBS>)
  - Coordinating Harm and Publicizing Crime (<https://bit.ly/3EylhZb>)
  - Regulated Goods (<https://bit.ly/3q1Frah>)
  - Fraud and Deception (<https://bit.ly/3pWaOCR>)
- **Safety**
  - Suicide and Self-Injury (<https://bit.ly/3BB1sPh>)
  - Child Sexual Exploitation, Abuse, and Nudity (<https://bit.ly/3CC7yQz>)
  - Sexual Exploitation of Adults (<https://bit.ly/3nJYQcZ>)
  - Bullying and Harassment (<https://bit.ly/3q0cefE>)
  - Human Exploitation (<https://bit.ly/2ZK3iji>)
  - Privacy Violations and Image Privacy Rights (<https://bit.ly/3pXzOcP>)

- **Objectionable Content**
  - Hate Speech (<https://bit.ly/3bsJ8Ny>)
  - Violent and Graphic Content (<https://bit.ly/3o5btQ7>)
  - Adult Nudity and Sexual Activity (<https://bit.ly/3CzPUgr>)
  - Sexual Solicitation (<https://bit.ly/3CMrsIA>)
- **Integrity and Authenticity**
  - Account Integrity and Authentic Identity (<https://bit.ly/3myRmtZ>)
  - Spam (<https://bit.ly/3CE1gQo>)
  - Cybersecurity (<https://bit.ly/3mzMVyZ>)
  - Inauthentic Behavior (<https://bit.ly/3pT4ufu>)
  - False News (<https://bit.ly/3jVtzTi>)
  - Manipulated Media (<https://bit.ly/3w4DI4M>)
  - Memorialization (<https://bit.ly/2ZCDwh4>)
- **Respecting Intellectual Property**
  - Intellectual Property (<https://bit.ly/3jWEJqS>)
- **Content-Related Requests And Decisions**
  - User Requests (<https://bit.ly/3nQOvMc>)
  - Additional Protection of Minors (<https://bit.ly/3nM9hg6>)

## **Pinterest**

Pinterest makes its terms of service publicly available at: <https://bit.ly/3w3SpVO>.

By using Pinterest, users agree to comply with Pinterest’s Community Guidelines, which are made publicly available at: <https://bit.ly/3CANpKQ>. As Pinterest explains in the Community Guidelines, “Pinterest’s mission is to bring everyone the inspiration to create a life they love. That being said, not all content is inspiring - so we have community guidelines to outline what we do and don’t allow on Pinterest.” Furthermore, “Pinterest isn’t a place for antagonistic, explicit, false or misleading, harmful, hateful, or violent content or behavior. We may remove, limit, or block the distribution of such content and the accounts, individuals, groups and domains that create or spread it based on how much harm it poses.”

As Pinterest explains, Pinterest allows people to report content—“pins,” comments, messages, “someone’s photo on a pin”—that violates Pinterest’s Acceptable Use Policy. *See* Pinterest, Report something on Pinterest, <https://bit.ly/3jQGzcl>. Users may report content anonymously, and

then Pinterest will “view [the] report and take action if [Pinterest] find[s] something unacceptable.”

Pinterest uses those reports “to learn and evolve [Pinterest’s] standards, and work with subject matter experts to inform and update [Pinterest’s] guidelines.” Pinterest, Community Guidelines, <https://bit.ly/3CANpKQ>.

Pinterest specifically identifies the kinds of content it “may remove, limit, or block the distribution of”:

- **Adult Content** – This includes:
  - Fetish imagery
  - Vivid sexual descriptions
  - Graphic depictions of sexual activity
  - Images of nudity where the poses, camera angles, or props suggest pornographic intent
- **Exploitation** – “Pinterest isn’t a place for exploitation of people or animals. [Pinterest will] remove or limit the distribution of content and accounts involved in practices that risk harm to people or animals, including sexual, physical, or financial exploitation.” Pinterest includes many examples in its policy.
- **Hateful Activities** – “Pinterest isn’t a place for hateful content or the people and groups that promote hateful activities. [Pinterest] limit[s] the distribution of or remove such content and accounts[.]” Pinterest includes many examples in its policy.
- **Misinformation** – “Pinterest isn’t a place for misinformation, disinformation, mal-information or the individuals or groups spreading or creating it. [Pinterest] remove[s] or limit[s] distribution of false or misleading content that may harm Pinners’ or the public’s well-being, safety or trust[.]” Pinterest includes many examples in its policy.
  - **Harassment and Criticism** – “Pinterest isn’t a place to insult, hurt or antagonize individuals or groups of people. There are good reasons to express criticism, but [Pinterest] may limit the distribution of or remove insulting content to keep Pinterest a positive, inspiring place[.]” Pinterest includes many examples in its policy.
  - **Private Information** – Pinterest does not “allow content that reveals personal or sensitive information[.]” Pinterest includes many examples in its policy.
  - **Self-Injury and Harmful Behavior** – “Pinterest isn’t a place for content that displays, rationalizes or encourages suicide, self-injury, eating disorders or substance abuse. [Pinterest will] limit the distribution of or remove such content[.]” Pinterest includes many examples in its policy.
  - **Graphic Threats and Violence** – “Pinterest isn’t a place for graphic violence or threatening language. [Pinterest] limit[s] the distribution of or remove such content[.]” Pinterest includes many examples in its policy.
  - **Violent Actors** – “Pinterest isn’t a place for violent content, groups or individuals. [Pinterest] limit[s] the distribution of or remove[s] content and accounts that encourage, praise, promote, or provide aid to dangerous actors or groups and their activities. . . . [Pinterest] work[s] with industry, government and security experts to help us identify these groups.” Pinterest includes examples in its policy.

- **Dangerous Goods and Activities** – “Pinterest isn’t a place for trading or selling of certain regulated goods—products or substances that can cause harm when used, altered or manufactured irresponsibly—or for the display or encouragement of dangerous activities. [Pinterest] limit[s] the distribution of or remove such content and accounts[.]” Pinterest includes many examples in its policy.
- **Harmful or Deceptive Products and Practices** – “Pinterest isn’t a place for practices and products that may be harmful or deceptive. [Pinterest] limit[s] the distribution of or remove[s] such content and accounts[.]” Pinterest includes many examples in its policy.
- **Impersonation** – Pinterest does not “allow accounts that impersonate or misrepresent their affiliation with any person or organization. If you [a user] have a fan or commentary account for a public figure or brand, make it clear through your username or Pinterest profile that you aren’t officially affiliated with them.”
- **Comments** – “All of [Pinterest’s] Community Guidelines apply in comments posted on Pins. In addition, comments should be relevant. [Pinterest] may remove comments that violate our guidelines[.]” Pinterest includes many examples in its policy.

As described further therein, these practices can vary based on the context and potential risk.

### **Nextdoor**

Nextdoor publishes its Community Guidelines (<https://bit.ly/3ETuBXV>) and Member Agreement online (<https://bit.ly/2YoS7fi>). Members of Nextdoor can report content that they believe violates Nextdoor’s rules and members of Nextdoor’s Leads and Review Team will review and vote whether to remove the content. Members of the Leads and Review Team do not have the power to limit a user’s posting ability or the power to restrict their access to the platform. Instead, only Nextdoor’s staff can take such enforcement actions.

Nextdoor encourages users to work directly with Leads and Review Team members (through private message) to resolve their concerns about reported or removed posts, or about closed discussions. Users can also appeal Leads’ decisions or report problems directly to Nextdoor Support.

Under Nextdoor’s Community Guidelines, Nextdoor identifies the “values of the community [Nextdoor] want[s] to build”:

1. Be respectful to your neighbors – You’re speaking to your real neighbors. Strong communities are built on strong relationships. (<https://bit.ly/3o94gyr>)
2. Do not discriminate – We do not tolerate racism, hateful language, or discrimination of any kind. (<https://bit.ly/3C0TP4K>)
3. Discuss important topics in the right way – We have policies and dedicated spaces for important non-local topics, such as national politics. (<https://bit.ly/3mVhQWD>)
4. Promote local commerce the right way – We have created designated spaces for neighbors and local businesses to sell products and services. (<https://bit.ly/3mTc33Y>)
5. Use your true identity – Nextdoor is built on trust — we want everyone to know they’re communicating with their real neighbor, and therefore require you to use your true identity. (<https://bit.ly/3mUgHP2>)
6. Do not engage in harmful activity – We prohibit any activity that could hurt someone, from physical harm to scams. (<https://bit.ly/3bSO8LF>)

For instance, Nextdoor identifies the following prohibited kinds of discriminatory expression not allowed on the site:

- Discriminate against, threaten, or insult individuals or groups based on race, color, ethnicity, immigration status, national origin, religion or faith, sex or gender identity, sexual orientation, housing status, disability, or medical condition.
- Assume that someone is engaged in suspicious activity or criminal behavior because of their race or ethnicity. (Learn more about preventing racial profiling.)
- Use negative stereotypes, caricatures, or generalizations about a group of individuals. This includes the use of insulting imagery or memes.
- Use slurs, profanity, derogatory racial terms, or other language that reduces an individual’s humanity. This includes the use of the dehumanizing terms, “illegals,” “illegal aliens,” or “aliens” to refer to non-citizens, the use of racial code words (e.g., “Thug” or “Oriental”), as well as the use of derogatory language to refer to people who have a criminal history (e.g., “scum” or “animals”).
- Deny an individual’s gender identity or sexual orientation, or promote support for conversion therapy and related programs.
- Show or elicit support for hate groups or people promoting hateful activities.
- Promote hate-based conspiracy theories and misinformation (e.g., Holocaust denial or “Antifa is invading the suburbs”)
- Suggest, show, threaten, or glorify the use of violence — even jokingly — against an individual or a group of individuals. See our policy on Threats to the safety of others.
- Attempt to condone or trivialize violence against others — even inadvertently (e.g., “Yeah, but that person is a criminal”).
- Attack individuals, including public figures, based on their membership in a marginalized or protected group.
- Mock or attack the beliefs, sacred symbols, movements, or institutions of marginalized or protected groups.

Next door also has policies outlining its support for equality, including racial and LGBTQIA+ equality. And Nextdoor has its own policy regarding acceptable expression about COVID-19.

### **TikTok**

TikTok makes its terms of service publicly available at: <https://bit.ly/3wcyYu8>. These Terms provide that “access to and use of [TikTok’s] Services is [] subject to our Privacy Policy and Community Guidelines[.]”

TikTok also publicly posts its Community Guidelines at: <https://bit.ly/3pWx8MA>. As TikTok explains:

TikTok’s mission is to inspire creativity and bring joy. We are building a global community where people can create and share, discover the world around them, and connect with others across the globe. As we grow, we are committed to maintaining a supportive environment for our community. Our Community Guidelines define a set of norms and common code of conduct for TikTok; they provide guidance on what is and is not allowed to make a welcoming space for everyone.

TikTok “prioritize[s] safety, diversity, inclusion, and authenticity. We encourage creators to celebrate what makes them unique and viewers to engage in what inspires them; and we believe that a safe environment helps everyone express themselves openly.”

TikTok makes clear that its “Community Guidelines apply to everyone and to everything on TikTok. We proactively enforce them using a mix of technology and human moderation before content gets reported to us. We also encourage our community members to use the tools we provide on TikTok to report any content they believe violates our Community Guidelines.”

Consequently, TikTok “will remove any content – including video, audio, livestream, images, comments, and text – that violates our Community Guidelines. Individuals are notified of our decisions and can appeal if they believe no violation has occurred. We will suspend or ban accounts and/or devices that are involved in severe or repeated violations; we will consider



information available on other platforms and offline in these decisions. When warranted, we will report the accounts to relevant legal authorities.”

Furthermore, TikTok’s “algorithms are designed with trust and safety in mind. For some content – such as spam, videos under review, or videos that could be considered upsetting or depict things that may be shocking to a general audience – we may reduce discoverability, including by redirecting search results or limiting distribution in the For You feed.”

But, “some content that would normally be removed per our Community Guidelines could be in the public interest. Therefore, we may allow exceptions under certain circumstances, such as educational, documentary, scientific, or artistic content, satirical content, content in fictional settings, counterspeech, and content in the public interest that is newsworthy or otherwise enables individual expression on topics of social importance.”

TikTok identifies the following kinds of content:

**Violent Extremism**

*Threats and Incitement to Violence.* TikTok Prohibits:

- Statements of intent to inflict physical injuries on an individual or a group;
- Statements or imagery that encourage others to commit or that advocate for physical violence;
- Conditional or aspirational statements that encourage other people to commit violence;
- Calls to bring weapons to a location with the intent to intimidate or threaten an individual or group with violence; and
- Instructions on how to make or use weapons with an intent to incite violence.

*Dangerous Individuals and Organizations.* TikTok prohibits:

- Content that praises, promotes, glorifies, or supports dangerous individuals and/or organizations;
- Content that encourages participation in, or intends to recruit individuals to, dangerous organizations; and
- Content with names, symbols, logos, flags, slogans, uniforms, gestures, salutes, illustrations, portraits, songs, music, lyrics, or other objects meant to represent dangerous individuals and/or organizations.

## **Hateful Behavior**

*Attacks on the Basis of Protected Attributes.* TikTok “define[s] hate speech or behavior as content that attacks, threatens, incites violence against, or otherwise dehumanizes an individual or a group on the basis of the following protected attributes”: race; ethnicity; national origin; religion; caste; sexual orientation; sex; gender; gender identity; serious disease; disability; and immigration status.

TikTok prohibits:

- Hateful content related to an individual or group, including:
  - claiming that they are physically, mentally, or morally inferior;
  - calling for or justifying violence against them;
  - claiming that they are criminals;
  - referring to them as animals, inanimate objects, or other non-human entities;
  - promoting or justifying exclusion, segregation, or discrimination against them; and
- Content that depicts harm inflicted upon an individual or a group on the basis of a protected attribute.

*Slurs.* TikTok prohibits “[c]ontent that uses or includes slurs.”

*Hateful Ideology.* TikTok prohibits:

- Content that praises, promotes, glorifies, or supports any hateful ideology;
- Content that contains names, symbols, logos, flags, slogans, uniforms, gestures, salutes, illustrations, portraits, songs, music, lyrics, or other objects related to a hateful ideology;
- Content that denies well-documented and violent events have taken place affecting groups with protected attributes;
- Claims of supremacy over a group of people with reference to other protected attributes; and
- Conspiracy theories used to justify hateful ideologies.

## **Illegal Activities and Regulated Goods**

*Criminal Activities.* TikTok prohibits:

- Content that depicts or promotes acts of physical harm, such as assault or kidnapping;
- Content that risks the safety of others, including swatting;

- Content that depicts or promotes human exploitation, including human smuggling, bonded labor, domestic servitude, sex trafficking, or prostitution;
- Content that depicts or promotes the poaching or illegal trade of wildlife;
- Content that offers the purchase, sale, trade, or solicitation of unlawfully acquired or counterfeit goods; and
- Content that provides instructions on how to conduct criminal activities.

*Weapons.* TikTok prohibits:

- Content that displays firearms, firearm accessories, ammunition, or explosive weapons; and
- Content that offers the purchase, sale, trade, or solicitation of firearms, accessories, ammunition, explosive weapons, or instructions on how to manufacture them.

*Drugs, Controlled Substances, Alcohol, and Tobacco.* TikTok prohibits:

- Content that depicts or promotes drugs, drug consumption, or encourages others to make, use, or trade drugs or other controlled substances;
- Content that offers the purchase, sale, trade, or solicitation of drugs or other controlled substances, alcohol or tobacco products (including vaping products);
- Content that provides information on how to buy illegal or controlled substances;
- Content that depicts or promotes the making of illicit alcohol products;
- Content that depicts or promotes the misuse of legal substances, or instruction on how to make homemade substances, in an effort to become intoxicated.

*Frauds and Scams.* TikTok prohibits:

- Content that depicts or promotes phishing;
- Content that depicts or promotes Ponzi, multi-level marketing, or pyramid schemes;
- Content that depicts or promotes investment schemes with promise of high returns, fixed betting, or any other types of scams.

*Gambling.* TikTok prohibits “[c]ontent that promotes casinos, sports betting, poker, lotter-ies, gambling-related software and apps, or other gambling services.”

*Privacy, Personal Data, and Personally Identifiable Information (PII).* TikTok prohibits “[c]ontent that contains personal data or personally identifiable information (PII).”

**Violent and Graphic Content.** TikTok prohibits:

- Content of humans that depicts:
  - violent or graphic deaths or accidents;
  - dismembered, mutilated, charred, or burned human remains;

- gore in which an open wound or injury is the core focus;
  - real-world physical violence, fighting, or torture;
- Content of animals that depicts:
  - the slaughter or other non-natural death of animals;
  - dismembered, mutilated, charred, or burned animal remains; or
  - animal cruelty and gore.

### **Suicide, Self-Harm, and Dangerous Acts**

*Suicide.* TikTok prohibits:

- Content that provides instructions for suicide;
- Content that depicts, promotes, normalizes, or glorifies suicide; and
- Suicide games, dares, pacts, or hoaxes.

*Self-Harm and Eating Disorders.* TikTok prohibits:

- Content that depicts, promotes, normalizes, or glorifies self-harm or eating disorders;
- Content that provides instructions on how to engage in self-harm or eating disorders;
- Self-harm or eating disorder games, dares, pacts, or hoaxes; and
- Content that depicts, promotes, normalizes, or glorifies eating disorders or other dangerous weight loss behaviors associated with eating disorders.

*Dangerous Acts.* TikTok prohibits:

- Content that shows the potentially inappropriate use of dangerous tools, vehicles, or objects;
- Content that depicts or promotes ingesting substances that are not meant for consumption or could lead to severe harm;
- Dangerous games, dares, or stunts that might lead to injury; and
- Harassment and bullying.

### **Harassment and Bullying**

*Abusive Behavior.* TikTok prohibits:

- Content that insults another individual, or disparages an individual on the basis of attributes such as intellect, appearance, personality traits, or hygiene;
- Content that encourages coordinated harassment;
- Content that disparages victims of violent tragedies;
- Content that uses TikTok interactive features (e.g., duet) to degrade others;
- Content that depicts willful harm or intimidation, such as cyberstalking or trolling; and
- Content that wishes death, serious disease, or other serious harm on an individual or public figure.

*Sexual Harassment.* TikTok prohibits:

- Content that attempts to make unwanted sexual contact;
- Content that simulates sexual activity with another user, either verbally, in text (including emojis), or through the use of any in-app features;
- Content that disparages another person's sexual activity;
- Content that alters or morphs an image of another individual to portray or imply sexual suggestiveness or engagement in sexual activity;
- Content that reveals, or threatens to reveal a person's private sexual life, including threats to publicize digital content, sexual history, and names of previous sexual partners; and
- Content that exposes, or threatens to expose, a person's sexual orientation without their consent or knowledge.

*Threats of Hacking, Doxxing, and Blackmail.* TikTok prohibits:

- Content that threatens to reveal personal data or personally identifiable information (PII), including residential address, private email address, private phone number, bank statement, social security number, or passport number;
- Threats of blackmail or hacking another individual's account;
- Content that incites or encourages others to hack or reveal another person's account, personal data, or personally identifiable information (PII); and
- An individual's account, personal data, or personally identifiable information for others to abuse, troll, or harass.

### **Adult Nudity and Sexual Activities**

*Sexual Exploitation.* TikTok prohibits:

- Content that depicts, solicits, promotes, normalizes, or glorifies non-consensual sexual acts or non-consensual touching, including rape and sexual assault;
- Content that depicts, solicits, promotes, normalizes, or glorifies the sharing of non-consensual intimate imagery, including sexual images that are taken, created, or shared without consent;
- Content that depicts, promotes, normalizes, or glorifies sexual violence; and
- Content that depicts, promotes, or glorifies sexual solicitation, including offering or asking for sexual partners, sexual chats or imagery, sexual services, premium sexual content, or sexcamming.

*Nudity and Sexual Activity Involving Adults.* TikTok prohibits:

- Content that explicitly or implicitly depicts sexual activities including penetrative and non-penetrative sex, oral sex, or erotic kissing;
- Content that depicts sexual arousal or sexual stimulation;

- Content that depicts a sexual fetish;
- Content that depicts exposed human genitalia, female nipples or areola, pubic regions, or buttocks; and
- Content that contains sexually explicit language for sexual gratification.

### **Minor Safety**

*Sexual Exploitation of Minors.* TikTok prohibits:

- Content that shares, reshares, offers to trade or sell, or directs users off platform to obtain or distribute CSAM;
- Content that engages with minors in a sexualized way, or otherwise sexualizes a minor (e.g., via product features like duets);
- Content that depicts, solicits, glorifies, or encourages child abuse imagery including nudity, sexualized minors, or sexual activity with minors;
- Content that depicts, promotes, normalizes, or glorifies pedophilia or the sexual assault of a minor; and
- Content that revictimizes or capitalizes on minor victims of abuse by third party re-shares or reenactments of assault or confessions.

*Grooming Behavior.* TikTok prohibits:

- Grooming advances;
- Content that depicts, promotes, normalizes, or glorifies grooming behaviors;
- Content that solicits real-world sexual contact between a minor and an adult or between minors with a significant age difference;
- Content that displays or offers nudity to minors; and
- Any solicitation of nude imagery or sexual contact, through blackmail or other means of coercion.

*Nudity and Sexual Activity Involving Minors.* TikTok prohibits:

- Content that depicts or implies minor sexual activities including penetrative and non-penetrative sex, oral sex, or intimate kissing;
- Content that depicts sexual arousal or sexual stimulation involving a minor
- Content that depicts a sexual fetish involving a minor;
- Content that depicts exposed human genitalia, female nipples or areola, pubic regions, or buttocks of a minor;
- Content that contains sexually explicit language depicting or describing a minor;
- Content depicting a minor that contains sexually explicit song lyrics;
- Content with sexually explicit dancing of a minor, including twerking, breast shaking, pelvic thrusting, or fondling the groin or breasts of oneself or another;
- Content depicting a minor undressing;

- Content depicting a minor in minimal clothing that is not situationally relevant to the location; and
- Sexualized comments, emojis, text, or other graphics used to veil or imply nudity or sexual activity of a minor.

*Harmful Activity by Minors.* TikTok prohibits:

- Content that suggests, depicts, imitates, or promotes the possession or consumption of alcoholic beverages, tobacco, or drugs by a minor;
- Content that offers instruction targeting minors on how to buy, sell, or trade alcohol, tobacco, or controlled substances; and
- Content that depicts or promotes activities that may jeopardize youth well-being, including physical challenges, dares, or stunts.

*Physical and Psychological Harm of Minors.* TikTok prohibits:

- Content that depicts or promotes physical abuse, neglect, endangerment, or psychological disparagement of minors; and
- Content that depicts or promotes survivalist techniques without a warning asserting the hazards of replication.

*Crimes Against Children.* “We do not allow users who have been convicted of crimes against children to have an account on our platform. These crimes include: sexual assault, molestation, murder, physical abuse or neglect, abduction, international parental kidnapping, trafficking, exploitation of minors for prostitution, live online sexual abuse of a minor, sexual exploitation of minors in the context of travel and tourism, attempts to obtain or distribute child sexual abuse material (CSAM), and the production, possession, or distribution of child sexual abuse material (CSAM). If we discover any such users, we ban the account. Any self-disclosed user information that states the account holder is a pedophile or minor sex offender will be taken at face value and the account may be deleted.”

### **Integrity and Authenticity**

*Spam and Fake Engagement.* TikTok tells its users not to:

- Share instructions on how to artificially increase views, likes, followers, shares, or comments
- Attempt to or engage in selling or buying views, likes, followers, shares, or comments

- Promote artificial traffic generation services
- Operate multiple TikTok accounts under false or fraudulent pretenses to distribute commercial spam

*Impersonation.* TikTok tells its users not to “[p]ose as another person or entity by using someone else’s name, biographical details, or profile picture in a misleading manner.”

*Misinformation.* TikTok prohibits:

- Misinformation that incites hate or prejudice
- Misinformation related to emergencies that induces panic
- Medical misinformation that can cause harm to an individual’s physical health
- Content that misleads community members about elections or other civic processes
- Conspiratorial content that attacks a specific protected group or includes a violent call to action, or denies a violent or tragic event occurred
- Digital Forgeries (Synthetic Media or Manipulated Media) that mislead users by distorting the truth of events and cause harm to the subject of the video, other persons, or society

TikTok further tells its users not to “[e]ngage in coordinated inauthentic behaviors (such as the creation of accounts) to exert influence and sway public opinion while misleading individuals and our community about the account’s identity, location, or purpose.”

*Intellectual Property Violations.* TikTok prohibits “[c]ontent that violates or infringes someone else’s copyrights, trademarks, or other intellectual property rights”

## **Twitter**

Twitter publishes its Terms of Service at: <https://bit.ly/3C77iIx>. Twitter incorporates its Twitter Rules and Policies into the Terms of Service, and requires compliance with those Rules and Policies.

Twitter publishes its Rules and Policies at: <https://bit.ly/3CY0RbF>. Twitter further explains, in separate pages for each, its policies in various areas:

- General
  - The Twitter Rules (<https://bit.ly/3BYhKBI>)
  - Deceased individuals (<https://bit.ly/31w1fjR>)
  - Username squatting policy (<https://bit.ly/3ki5oyv>)



- Platform Integrity and Authenticity
  - Platform manipulation and spam policy (<https://bit.ly/3022bfl>)
  - Synthetic and manipulated media policy (<https://bit.ly/3qjL1F4>)
  - Civic integrity policy (<https://bit.ly/2YsoDxz>)
  - Parody, newsfeed, commentary, and fan account policy (<https://bit.ly/3qiiIqh>)
  - Coordinated harmful activity (<https://bit.ly/31BkmJj>)
  - Financial scam policy (<https://bit.ly/3o9cLcF>)
  - Distribution of hacked materials policy (<https://bit.ly/3qr1abw>)
  - Impersonation policy (<https://bit.ly/3mXvhVS>)
  - Ban evasion policy (<https://bit.ly/3ocg7vs>)
- Safety and Cybercrime
  - Abusive behavior (<https://bit.ly/3bQTsyW>)
  - Hateful conduct policy (<https://bit.ly/3CWlG7x>)
  - Violent organizations policy (<https://bit.ly/3wplQBQ>)
  - Violent threats policy (<https://bit.ly/3bRyJer>)
  - Suicide and Self-harm Policy (<https://bit.ly/3bPQR8r>)
  - Glorification of violence policy (<https://bit.ly/3GYOiQ5>)
  - Abusive profile information (<https://bit.ly/3kgyRsy>)
  - Illegal or certain regulated goods or services (<https://bit.ly/3qjcEOk>)
  - Non-consensual nudity policy (<https://bit.ly/3o6hZpH>)
  - Child sexual exploitation policy (<https://bit.ly/3GWoyUp>)
  - Sensitive media policy (<https://bit.ly/3BW0SM6>)
- Intellectual Property
  - Automated copyright claims for live video (<https://bit.ly/3EVz10n>)
  - Counterfeit policy (<https://bit.ly/3GZXrHX>)
  - Trademark policy (<https://bit.ly/3qeReC5>)
  - Copyright policy (<https://bit.ly/3qfc2cJ>)
- Platform Use Guidelines
  - Our range of enforcement options (<https://bit.ly/3o9dGK9>)
  - Content Monetization Standards (<https://bit.ly/3EUg0vl>)
  - Our use of cookies and similar technologies (<https://bit.ly/3CWCgUV>)
  - Notices on Twitter and what they mean (<https://bit.ly/3EZVaLg>)
  - Guidelines for Promotions on Twitter (<https://bit.ly/3ENaUpA>)
  - About search rules and restrictions (<https://bit.ly/3HeP8sy>)
  - Twitter, our services, and corporate affiliates (<https://bit.ly/3bS0aoI>)
  - How to report security vulnerabilities (<https://bit.ly/3H4kD84>)
  - About Twitter limits (<https://bit.ly/3CVP3Ha>)
  - Defending and respecting the rights of people using our service (<https://bit.ly/3kgA8Qm>)
  - About rules and best practices with account behaviors (<https://bit.ly/3bQUJWK>)
  - Fair use policy (<https://bit.ly/3khrIbC>)
  - About Twitter's APIs (<https://bit.ly/3o6iYGp>)
  - Vine Camera Terms of Service and privacy policy (<https://bit.ly/3kjRJH7>)
  - About government and state-affiliated media account labels on Twitter (<https://bit.ly/3CWD0tb>)
  - Twitter Moments guidelines and principles (<https://bit.ly/3GYPy5L>)

- Automation rules (<https://bit.ly/3CYXUrp>)
- Report violations (<https://bit.ly/3mUU0KD>)
- Inactive account policy (<https://bit.ly/3o3MCvQ>)
- About country withheld content (<https://bit.ly/3CSluF8>)
- Curation style guide (<https://bit.ly/3wpgfLK>)
- Super Follows policy (<https://bit.ly/3ock3fB>)
- Ticketed Spaces policy (<https://bit.ly/3H599Rs>)
- Updates to our Terms of Service and Privacy Policy (<https://bit.ly/3obne7j>)
- About public-interest exceptions on Twitter (<https://bit.ly/3qkUiwu>)
- Additional information about data processing (<https://bit.ly/3CZ74nJ>)
- Our approach to policy development and enforcement philosophy (<https://bit.ly/30b2K6H>)
- About specific instances when a Tweet's reach may be limited (<https://bit.ly/3wtYETe>)

## **YouTube**

YouTube publishes its Terms of Service at: <https://bit.ly/3wpnymN>. YouTube states that “use of the Service is subject to these terms, the YouTube Community Guidelines and the Policy, Safety and Copyright Policies which may be updated from time to time.”

YouTube makes clear that “YouTube is under no obligation to host or serve Content. If you see any Content you believe does not comply with this Agreement, including by violating the Community Guidelines or the law, you can report it to us.” Further, “If you choose to upload Content, you must not submit to the Service any Content that does not comply with this Agreement (including the YouTube Community Guidelines) or the law.”

YouTube explains when it may remove content and take actions against users:

- “If we reasonably believe that any Content is in breach of this Agreement or may cause harm to YouTube, our users, or third parties, we may remove or take down that Content in our discretion. We will notify you with the reason for our action unless we reasonably believe that to do so: (a) would breach the law or the direction of a legal enforcement authority or would otherwise risk legal liability for YouTube or our Affiliates; (b) would compromise an investigation or the integrity or operation of the Service; or (c) would cause harm to any user, other third party, YouTube or our Affiliates. You can learn more about reporting and enforcement, including how to appeal on the Troubleshooting page of our Help Center.”
- “YouTube may suspend or terminate your access, your Google account, or your Google account’s access to all or part of the Service if (a) you materially or repeatedly breach this Agreement; (b) we are required to do so to comply with a legal requirement or a court

order; or (c) we believe there has been conduct that creates (or could create) liability or harm to any user, other third party, YouTube or our Affiliates.”

YouTube publishes its Community Guidelines at: <https://bit.ly/3pWkqpN>. YouTube details the following categories and subcategories of expression YouTube may restrict according to its policies:

- **Spam & deceptive practices**
  - Fake engagement (<https://bit.ly/3EVGqg7>)
  - Impersonation (<https://bit.ly/31xBTSl>)
  - External links (<https://bit.ly/3mTC6I3>)
  - Spam, deceptive practices & scams (<https://bit.ly/31HqVu6>)
  - Playlists (<https://bit.ly/3o2HA2w>)
  - Additional policies (<https://bit.ly/3khR2hC>)
- **Violent or dangerous content**
  - Harassment and cyberbullying (<https://bit.ly/3kiKYW6>)
  - Harmful or dangerous content (<https://bit.ly/2ZYTan8>)
  - Hate speech (<https://bit.ly/3q7zN6r>)
  - Violent criminal organizations (<https://bit.ly/3BWNMhx>)
  - Violent or graphic content (<https://bit.ly/3wolWK4>)
- **Misinformation**
  - Misinformation (<https://bit.ly/3o6K1kR>)
  - Elections misinformation (<https://bit.ly/3EXqlqw>)
  - COVID-19 medical misinformation (<https://bit.ly/3BXkkbo>)
  - Vaccine misinformation (<https://bit.ly/3CROcal>)
- **Sensitive content**
  - Child safety (<https://bit.ly/3D0pRPY>)
  - Thumbnails (<https://bit.ly/2ZYTXEC>)
  - Nudity and sexual content (<https://bit.ly/3bRVnU5>)
  - Suicide and self-harm (<https://bit.ly/3CWPCR5>)
  - Vulgar language (<https://bit.ly/3BVVI2G>)
- **Regulated goods**
  - Firearms (<https://bit.ly/3CYRMiT>)
  - Sale of illegal or regulated goods or services (<https://bit.ly/3EQSSO8>)

**INTERROGATORY NO. 2:** Identify all the specific policies or content moderation practices of each of your members for which you contend H.B. 20 contains no exception.

**Objections:**

Plaintiff objects to this interrogatory on grounds that it is unduly burdensome and seeks information equally available to Defendant from a plain reading of its own statute, or that is publicly available to Defendant.

Furthermore, this interrogatory impermissibly calls for multiple legal conclusions. This interrogatory requires Plaintiff to construe House Bill 20 (“H.B. 20”) and its purported exceptions. Those exceptions refer to other sources of law, including: (1) expression that “the social media platform is specifically authorized to censor by federal law”; and (2) “unlawful expression,” defined as “expression that is unlawful under the United States Constitution, federal law, the Texas Constitution, or the laws of this state, including expression that constitutes a tort under the laws of this state or the United States.” Tex. Civ. Prac. & Rem. Code §§ 143A.006(a)(1), (4); 143A.001(5). Key terms are undefined, and thus require construction.

Relatedly, this interrogatory is vague. H.B. 20’s purported exceptions are individually vague, and collectively make H.B. 20’s scope unclear. By asking Plaintiff to explain H.B. 20’s scope, Defendant is demonstrating the law’s unconstitutional vagueness: If Defendant—who is statutorily entrusted with enforcing H.B. 20—cannot make sense of H.B. 20, neither can the targets of the law. *See FCC v. Fox Television Stations, Inc.*, 567 U.S. 239, 253 (2012) (“A fundamental principle in our legal system is that laws which regulate persons or entities must give fair notice of conduct that is forbidden or required.”).

**General Response:**

H.B. 20 includes no effective exceptions for any of Plaintiff’s members’ “specific policies or content moderation practices” (which are described above). Plaintiff’s members have policies that apply across their respective platforms, and they rely on being able to engage in broad, programmatic content moderation to effectuate those policies. For instance, YouTube has a policy against hate speech, which it defines as “promoting violence or hatred against individuals or groups based on” a list of many characteristics, including age, disability, ethnicity, gender identity and expression, race, immigration status, sexual orientation, and veteran status. *See* YouTube, Hate Speech Policy, <https://bit.ly/3q7zN6r>. YouTube will “remove” any content violating this policy, and may assess various penalties against the user who submits such content—including “terminat[ing]” user accounts for “repeated violations.” *Id.*

But H.B. 20 broadly prohibits *all* content moderation decisions based on “viewpoint,” authorizes the Texas Attorney General to investigate and sue for any “potential violation[s]” of this broad rule, and then offers a few ill-defined exceptions that *could* (depending on how they are interpreted) defeat liability at the end of litigation. *See* Tex. Civ. Prac. & Rem Code §§ 143A.002; 143A.008. The threat of myriad lawsuits based on individual examples of content moderation threaten and chill the broad application of those policies, and thus H.B. 20’s anti-moderation provisions interfere with Plaintiff’s members’ policies and practices—regardless of any purported exceptions. Using YouTube as an example, hate speech is necessarily “viewpoint”-based, as abhorrent as those viewpoints may be. And removing such hate speech and assessing penalties against users for submitting that content is “censor[ship]” as defined by H.B. 20. *Id.* §§ 143A.001(1); 143A.002.

Broadly, H.B. 20 is both vague and overbroad and thus will chill Plaintiff's members' content moderation. By prohibiting all content moderation based on "viewpoint," H.B. 20 impermissibly "set[s] a net large enough to catch all possible offenders, and leave[s] it to the courts to step inside and say" which moderation is permissible and which moderation is not. *Reno v. ACLU*, 521 U.S. 844, 884 n.49 (1997) (citation and quotation marks omitted). Courts have therefore recognized that the effects of imposing a broad unlawful rule cannot be mitigated by purported exceptions to that rule. *E.g.*, *City & Cnty. of San Francisco v. Trump*, 897 F.3d 1225, 1240 (9th Cir. 2018) ("If 'consistent with law' precludes a court from examining whether the Executive Order is consistent with law, judicial review is a meaningless exercise, precluding resolution of the critical legal issues."); *HIAS, Inc. v. Trump*, 985 F.3d 309, 325 (4th Cir. 2021) ("a purely theoretical savings clause" cannot immunize an order from "scrutiny").

Defendant himself—relying on the same cases above—has recognized that purported saving clauses cannot save a law or regulation from being unlawful, as those clauses "do[] not immunize [law] from judicial review" and the existence of such clauses "suggests that the [law] is unenforceable." Plfs. Memo. in Opp. to Mtn. to Transfer Venue n.3, No. 2:21-cv-00778, *Louisiana v. Biden* (W.D. La. May 4, 2021), 2021 WL 2644609 (citing *HIAS*, 985 F.3d at 325; *San Francisco*, 897 F.3d at 1240). The Western District of Louisiana agreed, and concluded that a purported saving clause stating that an executive order that purported to extend only "[t]o the extent consistent with applicable law" was still unlawful because "it offer[ed] no mechanism for the [government] to implement the order in a manner consistent with law other than simply refusing to implement the order outright." *Louisiana v. Biden*, 2021 WL 4312502, at \*8 (W.D. La. Aug. 23, 2021), *report and recommendation adopted*, 2021 WL 4314795 (W.D. La. Sept. 22, 2021).

Accordingly, as Plaintiffs explained in their motion for preliminary injunction, H.B. 20's purported exceptions do not affect the First Amendment analysis because "a series of adjudications, and the chilling effect of the resolution on protected speech in the meantime would make such a case-by-case adjudication intolerable." *Board of Airport Comm'rs v. Jews for Jesus, Inc.*, 482 U.S. 569, 576 (1987).

This concern is especially acute here, where the Texas Attorney General has the authority to bring a civil action for injunctive relief for any violation and any "potential violation," along with fee-shifting and compensation for the Attorney General's "reasonable investigative costs." Tex. Civ. Prac. & Rem Code § 143A.008(b). Thus, even assuming for the sake of argument that H.B. 20's exceptions will preclude liability in some cases, those exceptions will not preclude investigations and litigation into any "potential violation"—which, given the statute's broad applicability to all content moderation allegedly based on "viewpoint," is almost every moderation decision the platforms make.

Furthermore, even viewed in isolation, H.B. 20's purported exceptions do not meaningfully allow for content moderation according to Plaintiff's members' respective policies.

*First*, the exception for content moderation of expression "the social media platform is specifically authorized to censor by federal law" is too vague to limit H.B. 20's prohibition on content moderation. *Cf.* Tex. Civ. Prac. & Rem Code § 143A.006(a)(1). It is not clear what categories of expression federal law "specifically authorize[s]" Plaintiff's members to "censor," as H.B. 20 neither defines "specifically authorize[]" nor cross-references any particular federal law. Myriad sources of federal law protect platforms' content moderation decisions, including the First Amendment and 47 U.S.C. § 230. If Defendant interprets H.B. 20 to effectively incorporate these

constitutional and statutory protections, H.B. 20’s anti-moderation provisions would be a nullity as those sources of federal law fully protect all of the platforms’ policies as described above.

In all events, unless Defendant disavows enforcement of H.B. 20, Plaintiff’s members face a credible threat of enforcement and are entitled to an injunction precluding enforcement and a declaration that H.B. 20’s anti-moderation provisions are unlawful and unenforceable. 28 U.S.C. § 2201(a); *Freedom from Religion Found. v. Abbott*, 955 F.3d 417, 424 (5th Cir. 2020).<sup>1</sup>

*Second*, the exception for moderation decisions made because of referrals from certain kinds of organizations is vague, and it seems to apply only to particular moderation decisions and not moderation *policies*. Specifically, the statute provides an exception for content moderation decisions for expression that “is the subject of a referral or request from an organization with the purpose of preventing the sexual exploitation of children and protecting survivors of sexual abuse from ongoing harassment.” Tex. Civ. Prac. & Rem Code § 143A.006(a)(2). Ostensibly, as long as an organization meeting these requirements makes a “referral” or “request,” they can “refer” or “request” any piece of content.<sup>2</sup> Thus, because this exception relies on third-party organizations identifying certain pieces of content on an ad hoc basis, the exception does not provide a meaningful safe harbor for Plaintiff’s members’ ongoing and broadly applicable policies.

*Third*, the exception for expression that “directly incites criminal activity or consists of specific threats of violence targeted against” people or groups based on protected characteristics is not coextensive with Plaintiff’s members’ policies against threats, harassment, and hate speech.

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<sup>1</sup> Additionally, Plaintiff’s members are entitled to an injunction and declaration regarding H.B. 20’s disclosure and operational requirements—which are not subject to this exception.

<sup>2</sup> H.B. 20 may assume that these organizations will only make requests or referrals in line with their organizational goals (“preventing the sexual exploitation of children and protecting survivors of sexual abuse from on-going harassment”), but the law is not so limited. Such organizations could ostensibly make referrals about any kind of expression.



*Cf.* Tex. Civ. Prac. & Rem Code § 143A.006(a)(3). For instance, this exception only applies to expression based on “race, color, disability, religion, national origin or ancestry, age, sex, or status as a peace officer or judge.” *Id.* As described above, Plaintiff’s members protect a broader range of groups from hate speech (and other kinds of targeted harassment).

Likewise, Plaintiff’s members do more than moderate “direct incitement” and “specific threats of violence.” Although H.B. 20 does not define these terms, they seem narrower than the forms of incitement and threats that platforms moderate. In all events, the requirement for case-by-case adjudication of whether (for example) a threat is a “specific threat of violence” will stymie and chill moderation of threats platform-wide.

Finally, the exception allowing for moderation of “unlawful expression” is vague because it does not make clear what standard speech must meet to qualify as “unlawful.” *Cf. id.* § 143A.006(a)(4). To be sure, H.B. 20 defines “unlawful expression” as “expression that is unlawful under the United States Constitution, federal law, the Texas Constitution, or the laws of this state, including expression that constitutes a tort under the laws of this state or the United States.” *Id.* § 143A.001(5). Notably, this exception is under-inclusive of Plaintiff’s members’ current moderation efforts, because it does not include the laws of any other States or the laws of other countries, with which Plaintiff’s members attempt to comply.

As described above, Plaintiff’s members have various policies in place to moderate speech *they consider* (potentially) unlawful or in furtherance of something (potentially) unlawful. But—as with the purported exceptions outlined above—an exception that requires case-by-case adjudication of whether a piece of moderated content meets the statutory definition (as further articulated by caselaw in many cases) of a crime/tort in limited jurisdictions is not a meaningful exception.

Notwithstanding its objections and its conclusion that H.B. 20 provides no effective exceptions, Plaintiff responds as follows.

**Specific Responses:**

Notwithstanding its objections and its conclusion that H.B. 20 provides no effective exceptions, Plaintiff responds as follows:

**Etsy**

H.B. 20 contains no exception or inadequate exception for those policies and practices outlined above pertaining to content or behavior that falls without Sec. 143A.006, including but not limited to:

- Anti-Discrimination and Hate Speech Policy
- Prohibited Items Policy
- Pornography and Mature Content Policy
- Violent Items: Items that Promote, Support, or Glorify Violence

**Facebook**

H.B. 20 contains no exception or inadequate exception for those policies and practices outlined above pertaining to content or behavior that falls without Sec. 143A.006, including but not limited to:

- Dangerous Individuals and Organizations
- Suicide and Self-Injury
- Child Sexual Exploitation, Abuse, and Nudity
- Sexual Exploitation of Adults
- Bullying and Harassment
- Human Exploitation
- Hate Speech
- Violent and Graphic Content
- Adult Nudity and Sexual Activity
- Sexual Solicitation
- Account Integrity and Authentic Identity
- Inauthentic Behavior
- False News
- Manipulated Media

### **Nextdoor**

H.B. 20 contains no exception or inadequate exception for those policies and practices outlined above pertaining to content or behavior that falls without Sec. 143A.006, including but not limited to:

- “Do not discriminate”
- “Bes respectful to your neighbors”
- “Discuss important topics in the right way”
- “Do not engage in harmful activity”

### **Pinterest**

H.B. 20 contains no exception or inadequate exception for those policies and practices outlined above pertaining to content or behavior that falls without Sec. 143A.006, including but not limited to:

- Adult content
- Exploitation
- Hateful activities
- Misinformation
- Harassment and criticism
- Self-injury and harmful behavior
- Private information
- Graphic threats and violence
- Violent actors
- Dangerous goods and activities

### **TikTok**

H.B. 20 contains no exception or inadequate exception for those policies and practices outlined above pertaining to content or behavior that falls without Sec. 143A.006, including but not limited to:

- Violent Extremism Policy
- Hateful Behavior Policy
- Illegal Activities & Regulated Goods Policy
- Violent & Graphic Content Policy
- Suicide, Self-Harm, & Dangerous Act Policy
- Harassment & Bullying Policy

- Adult Nudity & Sexual Activities Policy
- Minor Safety Policy
- Integrity & Authenticity Policy
- Platform Security Policy

### **Twitter**

H.B. 20 contains no exception or inadequate exception for those policies and practices outlined above pertaining to content or behavior that falls without Sec. 143A.006, including but not limited to:

- Glorification of violence policy
- Hateful conduct policy
- Violent organizations policy
- Child sexual exploitation policy
- Abusive behavior policy
- Suicide and self-harm policy
- Sensitive media policy
- Illegal or certain regulated goods or services policy

### **YouTube**

H.B. 20 contains no exception or inadequate exception for those policies and practices outlined above pertaining to content or behavior that falls without Sec. 143A.006, including but not limited to:

- Harassment and cyberbullying
- Harmful or dangerous content
- Hate speech
- Violent criminal organizations
- Violent or graphic content
- Misinformation
- Elections misinformation
- COVID-19 medical misinformation
- Vaccine misinformation
- Child safety
- Thumbnails
- Nudity and sexual content
- Suicide and self-harm
- Vulgar language

I, Carl Szabo, verify that the factual answers contained in the foregoing responses and objections are true and correct to the best of my information, knowledge, and belief.

Dated: November 12, 2021

/s/ Carl Szabo  
Carl Szabo  
Vice President & General Counsel  
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\*Admitted *pro hac vice*

# Appendix 11

No. 21-51178

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**In the United States Court of Appeals  
for the Fifth Circuit**

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NETCHOICE, LLC D/B/A NETCHOICE, AND COMPUTER &  
COMMUNICATIONS INDUSTRY ASSOCIATION D/B/A/ CCIA

*Plaintiffs-Appellees,*

v.

KENNETH PAXTON, IN HIS OFFICIAL CAPACITY AS ATTORNEY  
GENERAL OF TEXAS,

*Defendant-Appellant.*

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On Appeal from the United States District Court  
for the Western District of Texas, Austin Division

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**APPELLANT'S MOTION TO STAY PRELIMINARY  
INJUNCTION PENDING APPEAL**

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transparency); *cf. Biden*, 141 S. Ct. at 1224 (Thomas, J., concurring) (recognizing YouTube’s parent Google generated “40.3 billion in net income” in 2020). So it is not apparent how compliance with the disclosure requirements would inflict any meaningful burden.

Finally, a stay is demonstrably in the public interest. To begin, where a State is a party, this factor merges with the irreparable harm factor—which, as shown *supra*, favors Texas. *See E.T. v. Paxton*, 2021 WL 5629045, at \*7 (5th Cir. Dec. 1, 2021). Moreover, adopting Plaintiffs’ views would accomplish the precise opposite of what the First Amendment and Section 230 were designed to do—namely, to promote free speech. For half a century, the Supreme Court has recognized that “[i]t is the purpose of the First Amendment to preserve an uninhibited marketplace of ideas in which truth will ultimately prevail, rather than to countenance monopolization of that market, whether it be by the Government itself or a private licensee.” *Red Lion Broad. Co. v. FCC*, 395 U.S. 367, 390 (1969). Yet, the Platforms’ champions have argued that the Platforms’ attempts to censor speech “should be celebrated” *because* the First Amendment itself “presents a problem from its inception.” Mary Anne Franks, *The Free Speech Black Hole: Can the Internet Escape the Gravitational Pull of the First Amendment?*, KNIGHT FIRST AMEND. INST. COLUMBIA UNIV. (Aug. 21, 2019), <https://perma.cc/HAX8-3RZN>. The district court erred in endorsing those views to hold that Texas must sit idly by while corporate Goliaths subvert one of our founding document’s most sacred values. And it is a public interest of the “highest order” to stay that decision so that Texans continue to have access to a “multiplicity



of information sources,” *Turner II*, 520 U.S. at 190, and to truthful disclosures, *see CTIA*, 928 F.3d at 852, while this Court considers that appeal.

### CONCLUSION

The Court should stay the district court’s preliminary injunction pending appeal.

Respectfully submitted.

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