

ONE HUNDRED SEVENTEENTH CONGRESS
Congress of the United States
House of Representatives
COMMITTEE ON THE JUDICIARY
2138 RAYBURN HOUSE OFFICE BUILDING
WASHINGTON, DC 20515-6216
(202) 225-3951
judiciary.house.gov

July 22, 2021

Mr. Mark Zuckerberg
Chief Executive Officer
Facebook, Inc.
1 Hacker Way
Menlo Park, CA 94025

Dear Mr. Zuckerberg:

On July 15, 2021, White House Press Secretary Jen Psaki stated publicly that the White House has been “flagging problematic posts for Facebook that spread misinformation” about COVID-19 vaccines.¹ Psaki further stated that “it’s important to take faster action against harmful posts . . . and Facebook needs to move more quickly to remove harmful violative posts.”² Surgeon General Vivek Murthy similarly admitted that the Biden Administration is asking companies like Facebook to “take action against misinformation super spreaders on their platforms.”³ We write to request additional information about Facebook’s actions to censor certain speech on its platform at the behest of the Biden Administration.

The U.S. Constitution protects the right of Americans to speak freely without fear of government intrusion. While the government is free to encourage citizens to engage in certain favored behavior, the government generally may not proscribe or impede speech because it disagrees with the ideas expressed.⁴ The government also may not use a private party to engage in behavior that it cannot engage in itself.⁵ While a private party is generally not subject to the same restrictions on behavior that the Constitution places on the government, a private party may nonetheless violate an individual’s Constitutional rights when it engages in conduct on behalf of the government.⁶

¹ Steven Nelson, *White House ‘flagging’ posts for Facebook to censor over COVID ‘misinformation’*, N.Y. POST (Jul. 15, 2021).

² *Id.*

³ *Id.*

⁴ See *R. A. V. v. St. Paul*, 505 U.S. 377, 382 (1992) (“The First Amendment generally prevents government from proscribing speech or even expressive conduct because of the disapproval of the ideas expressed.”).

⁵ See *Georgia v. McCollum*, 505 U.S. 42, 50-53 (1992) (discussing the *Luger-Edmonson* framework for ascertaining when a third party is considered a state actor).

⁶ See, generally, *Id.*

Mr. Mark Zuckerberg

July 22, 2021

Page 2

Throughout the COVID-19 pandemic, Facebook has censored certain content on its platform.⁷ Facebook's censorship decisions have not occurred in a vacuum. There is now strong evidence that Facebook may be making content-moderation decisions regarding COVID-19 at the behest of the government or to align with certain government-favored policies and positions.⁸ Facebook also promoted information pushed by government officials that later turned out to be incorrect or unsubstantiated.⁹ Released emails sent and received by Dr. Anthony Fauci show that he and other National Institutes of Health officials had significant contact with Facebook officials—including you—about COVID-19-related content on Facebook during the pandemic.¹⁰ In addition, Ms. Psaki and Surgeon General Murthy's recent statements appear to confirm that Facebook has been engaged in the censoring of content on its platform at the behest or direction of the federal government.

The Judiciary Committee continues to examine the size, scope, and competitiveness of Big Tech, including Big Tech's stifling of free speech online. To assist the Committee in conducting oversight of the censoring of certain disfavored speech and the ramifications of these actions on the Constitutional rights of Americans, please provide the following information:

1. All documents and communications referring or relating to any federal employee encouraging, requesting, or directing Facebook to take any action regarding content on its platform referring or related to COVID-19 and/or vaccines; and
2. All documents and communications referring or relating to any internal deliberations, policies, or plans instituted by Facebook in response to any encouragement, request, or direction from any federal employee regarding content on Facebook's platform referring or related to COVID-19 and/or vaccines.

Please provide the requested documents as soon as possible but not later than 5:00 p.m. on August 5, 2021. If you have any questions about this request, please contact Judiciary Committee staff at (202) 225-6906.

⁷ See, e.g., Letter from Jim Jordan, Ranking Member, H. Comm. on the Judiciary, and James Comer, Ranking Member, H. Comm. on Oversight and Reform, to Mark Zuckerberg, Chief Executive Officer, Facebook, Inc. (Jun. 9, 2021) (on file with the Committee).

⁸ See generally Editorial Board, *Facebook's Lab-Leak About-Face: The company acts in tandem with government on speech control*, WALL ST. J. (May 27, 2021); Lee Brown, *Facebook accused of showing 'true and ugly colors' with Wuhan lab story ban*, N.Y. POST (May 27, 2021).

⁹ See, e.g., Cristiano Lima, *Facebook no longer treating 'man-made' Covid as crackpot idea*, POLITICO (May 26, 2021).

¹⁰ See, e.g., Shawn Fleetwood, *Fauci Colluded With Mark Zuckerberg On Facebook COVID-19 'Information Hub,' Emails Show*, THE FEDERALIST (June 2, 2021).

Mr. Mark Zuckerberg

July 22, 2021

Page 3

Thank you for your prompt attention to this matter.

Sincerely,

Handwritten signature of Jim Jordan in blue ink.

Jim Jordan
Ranking Member

Handwritten signature of Mike Johnson in blue ink.

Mike Johnson
Ranking Member
Subcommittee on the Constitution,
Civil Rights, and Civil Liberties

Handwritten signature of Dan Bishop in blue ink.

Dan Bishop
Member of Congress

cc: The Honorable Jerrold L. Nadler, Chairman

The Honorable Steve Cohen, Chairman
Subcommittee on the Constitution, Civil Rights, and Civil Liberties