

2021-001-FB-FBR

Case referred by Facebook

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On January 6, 2021, Congress was gathered at the US Capitol Building in Washington D.C. to certify the results of the 2020 presidential election. Earlier that day, then US President Donald Trump attended a rally near the White House in Washington D.C., where he spoke of the need to “fight like hell” and stated, “we’re going to the Capitol.” Many of those attending the rally then marched on the US Capitol Building. In the ensuing riots, which led to five deaths, two pieces of content were posted on President Trump’s Facebook Page, which has 35 million followers. The first of these was also posted on his Instagram account, which has 24 million followers.

Post 1: As rioters were still present in the Capitol and backup law enforcement personnel were en route, President Trump posted a one-minute video to Facebook and Instagram with the following content: “I know your pain, I know you’re hurt. We had an election that was stolen from us. It was a landslide election and everyone knows it, especially the other side. But you have to go home now. We have to have peace. We have to have law and order. We have to respect our great people in law and order. We don’t want anybody hurt. It’s a very tough period of time. There’s never been a time like this, where such a thing happened, where they could take it away from all of us – from me, from you, from our country. This was a fraudulent election, but we can’t play into the hands of these people. We have to have peace. So go home. We love you. You’re very special. You’ve seen what happens. You see the way others are treated that are so bad and so evil. I know how you feel. But go home and go home in peace.”

Post 2: As police were securing the Capitol, President Trump posted a written statement on Facebook: “These are the things and events that happen when a sacred landslide election victory is so unceremoniously viciously stripped away from great patriots who have been badly unfairly treated for so long. Go home with love in peace. Remember this day forever!”

Facebook removed the first post for violating its Community Standard on Dangerous Individuals and Organizations under its policy prohibiting praise, support, and representation of events that Facebook designates as “violating.” Facebook removed the second post under the same Standard, but has not yet clarified the specific aspect of the policy that it applied. Facebook has not indicated whether any of its other Community Standards such as Violence and Incitement or Coordinating Harm were also violated. Additionally, Facebook put in place a 24-hour ban on President Trump’s ability to post on Facebook or Instagram when it removed the second post.

On January 7, 2021, after further review of President Trump's posts, his recent communications outside of Facebook, and additional information about the severity of the violence at the Capitol, Facebook "extend[ed] the block" it placed on his accounts "indefinitely and for at least the next two weeks until the peaceful transition of power is complete," publicly citing President Trump's "use of our platform to incite violent insurrection against a democratically elected government." However, Facebook has not yet clarified the nature of these restrictions. The pages remain publicly accessible on Facebook and Instagram, without indication of the recent enforcement actions that Facebook has taken.

Facebook stated in its referral to the Board that the decision to suspend then-President Trump was taken in extraordinary circumstances. Facebook believes that it made the correct decision in removing President Trump's posts on January 6 and later imposing indefinite restrictions on his access to its platforms. Facebook argues that an indefinite ban does not provide certainty to Mr. Trump or the public as to the future treatment of his speech, but prioritizes safety in a period of civil unrest in the US with no set end date. Facebook believes the decision, when weighted against Facebook's values that serve as the basis for the Community Standards: "Voice," "Authenticity," "Safety," "Privacy," and "Dignity," was "necessary and right."

Facebook has raised the following issues in relation to this case:

- Considering Facebook's values, specifically its commitment to "Voice" and "Safety," did it correctly decide on January 7, 2021, to prohibit Donald J. Trump's access to posting content on Facebook and Instagram for an indefinite amount of time?*
- Facebook also requested the Board's observations or recommendations on suspensions when the user is a political leader.*