



## **2020-005-FB-UA**

### *Facts*

A user in the US was prompted by Facebook’s “On This Day” function to reshare a “Memory” in the form of a post the user made two years ago. The user reshared the content. The post (in English) is an alleged quote from Joseph Goebbels, the Reich Minister of Propaganda in Nazi Germany, on the need to appeal to emotions and instincts, instead of intellect and on the unimportance of truth. Facebook removed the content for violating its policy on [Dangerous Individuals and Organizations](#). The user indicated in their appeal to the Oversight Board that the quote is important as the user considers the current US presidency to be following a fascist model.

### *Contextual Issues*

The user reshared content (that had not previously been removed probably due to higher thresholds of protections to free speech) quoting Goebbels. Facebook’s policy on Dangerous Individuals and Organisations prohibits the proclamation of a violent mission or engagement in violence. However, there was no indication that the user was advocating or disseminating violence or a violent mission. The user did not explicitly adhere to the position of Goebbels. Instead, he quoted the Nazi Minister of Propaganda with no other caption or sentence adhering or supporting violence, terrorism, organised hate, mass murder, trafficking or organised violence as set out in the policy. In light of his comments made to the Oversight Board and the potential temporal framework that this ‘memory’ was shared (during the run-up to the 2020 U.S. elections), it is reasonable that the user was juxtaposing the quote of the propaganda minister of Nazi Germany to the reality of the (at the material time) US presidency. The user was thus wanting to contribute, albeit polemically and controversially to a debate of public interest. Facebook simply removed the content (which it had not previously done so) as it was a quote from an authoritative person during Nazi Germany with no consideration to the aim/context/purpose/effect of the post within the Dangerous Individuals Organisations policy context. Hyperbole is a manner of political speech. To illustrate, one can turn to, for example, the comparison of a Danish Prime Minister to Nazis in a [Guardian Cartoon](#) and the depiction of Trump giving a Nazi salute in a [German newspaper](#).

### *Relevant Rules*

As noted above, the post was not violating the Dangerous Individuals and Organizations Policy as the user was not promoting real-world harm. Instead, the user was contributing to a debate on an issue of public interest (namely the US presidency) albeit through a polemical/vivacious/controversial tone. To this end, the Oversight Board, should view this case within the sphere of public speech/contribution to political debate by juxtaposing a quote of a Nazi minister to the US presidency (at the material time). The effect of this removal was nothing more than silencing/censorship of such debate muting criticism of powerful States, in this case, the USA. Interpreting this policy so broadly and within such contexts functions as a de facto anti-defamation protection of powerful politicians. In this ambit, it must be underlined that defamation and libel laws concerning politicians must be narrowly interpreted. As noted in General Comment 34 of the Human Rights Committee, [‘all public figures, including those exercising the highest political authority such as heads of state and government are legitimately subject to criticism and political opposition.’](#) As noted by the US Supreme Court in *New York Times Co. v. Sullivan*, ‘debate on public issues should be uninhibited, robust, and wide-open, and that it may well include vehement, caustic, and sometimes unpleasantly sharp attacks on government and public officials’. The European Court of Human Rights (ECtHR) has held that politicians are required to tolerate more criticism because of the public interest in an open debate. For example, in *Lingens v Austria*, the ECtHR noted that ‘the limits of acceptable criticism are...wider as regards a politicians as such than as regards a private individual. Unlike the latter, the former inevitably and knowingly lays himself open to close scrutiny of his every word and deed by both journalists and the public at large and must consequently display a greater degree of tolerance.’ Going along this route, Facebook should have allowed the post to remain only, not only for the reasons stated above in relation to not reaching the thresholds of dangerous individuals or organisations but also due to the fact that the user was trying to make a political point against the (then) US presidency, albeit in a hyperbolic or polemical manner.

### *Conclusion*

In sum, it is evident that the post is not reflective of terrorist activity or organised hate and does not seek to cause real-world harm. The user is not proclaiming a violent mission but rather using the statement of the Nazi propaganda minister to reflect his/her outlook on the (then) US presidency. Such content should be considered a core part of political debate. Removing posts of ordinary citizens for hyperbolic criticism of powerful politicians and public officials would undermine the ideal of free expression and serve to protect the powerful against the powerless.