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March 25, 2021

The Honorable Michael F. Doyle

Chair

Subcommittee on Communications and Technology

Committee on Energy and Commerce

U. S. House of Representatives

Washington, DC 20515

The Honorable Janice D. Schakowsky

Chair

Subcommittee on Consumer Protection and Commerce

Committee on Energy and Commerce

U.S House of Representatives

Washington, DC 20515

The Honorable Robert E. Latta

Ranking Member

Subcommittee on Communications and Technology

Committee on Energy and Commerce

U. S. House of Representatives

Washington, DC 20515

The Honorable Gus M. Bilirakis

Ranking Member

Subcommittee on Consumer Protection and Commerce

Committee on Energy and Commerce

U.S House of Representatives

Washington, DC 20515

Dear Chair Doyle, Chair Schakowsky, Ranking Member Latta, and Ranking Member Bilirakis,

On behalf of The Leadership Conference on Civil and Human Rights, a coalition charged by its diverse membership of more than 220 national organizations to promote and protect the rights of all persons in the United States, we thank you for the opportunity to submit our views regarding the misinformation and disinformation plaguing online platforms. We ask that this letter be entered into the record of the hearing entitled "Disinformation Nation: Social Media's Role in Promoting Extremism and Misinformation" on March 25, 2021.

The January 6, 2021 deadly attack on the U.S. Capitol by far-right extremists attempting to overturn the free, fair, and secure 2020 presidential election was a catastrophic reminder of the fragility of our democracy. This violent insurrection did not happen in a vacuum. It was

paired with numerous hurdles that voters faced during the election cycle, including a pandemic and relentless efforts by former President Trump and his allies to threaten civil rights, spread hate speech, undermine election integrity, impose barriers to the ballot box, and discount the votes of communities of color.

As stated in the final report of the July 8, 2020 Facebook civil rights audit, when Facebook and the other companies that dominate and control social media do not address content that leads to voter suppression and threatens civil rights, the result is a corrosive effect on our democracy that can lead directly to violence:

If politicians are free to mislead people about official voting methods (by labeling ballots illegal or making other misleading statements that go unchecked, for example) and are allowed to use not-so-subtle dog whistles with impunity to incite violence against groups advocating for racial justice, this does not bode well for the hostile voting environment that can be facilitated by Facebook in the United States.¹

The internet has created immense positive value by connecting people, facilitating civil rights advocacy, and adding new voices to our culture and public debate. However, it can also enable discriminatory conduct, exacerbate existing disparities, and give new tools to those who want to threaten, harass, intimidate, defame, or violently attack people different from themselves. Social media platforms have continually allowed discriminatory conduct and false information to spread wildly even though the content violates their own civic integrity policies and community standards. Voter Fraud 2020, a project from the Jacobs Technion-Cornell Institute at Cornell Tech, found “7.6M tweets and 25.6M retweets from 2.6M users that includes key phrases and hashtags related to voter fraud claims between October 23rd and December 16th.”² The lack of enforcement by the platforms of their own policies resulted in the spread of false information before and after the 2020 election and fueled the flames for the insurrection at the U.S. Capitol on January 6. Congress now needs to fully use its oversight and legislative powers to address disinformation and protect our democracy going forward.

Technological progress should promote equity and justice as it enhances safety, economic opportunity, and convenience for everyone. On October 21, 2020, The Leadership Conference joined dozens of leading civil rights and technology advocacy organizations in releasing updated Civil Rights Principles for the Era of Big Data,³ in response to the current risks to civil rights — including COVID-19, a surge in hate-based violence, private sector and government surveillance, and disinformation on social media platforms designed to manipulate or suppress voter participation — and with an eye toward how technology can meet its promise and affirmatively promote justice and equity. These principles provide important guidelines to aid this committee in ensuring that new technologies — including algorithmic

¹ <https://about.fb.com/wp-content/uploads/2020/07/Civil-Rights-Audit-Final-Report.pdf>

² <https://voterfraud2020.io/>

³ <https://www.civilrightstable.org/principles/>

decision making, artificial intelligence, and machine learning — protect civil rights, prevent unlawful discrimination, and advance equal opportunity.

Congress must press platforms to reduce online activities and disinformation that harm communities of color, religious minorities, and other marginalized communities. For years, we have urged major tech platforms to take responsibility for ensuring that their products and business processes protect civil and human rights and do not result in harm or bias against historically marginalized groups, but they have failed to take sufficient action. And despite years of advocacy urging the companies to rectify the problems, misinformation and content intended to suppress or deter people from voting and spread hate speech continue to proliferate. The failure of tech platforms to address these activities harms people of color and members of other marginalized communities.

The violent insurrection at the Capitol, fueled by white supremacy and anti-Semitism, horrified us all. Sadly, for the members of our coalition and the people we represent, this violence is not new. Nor is the disinformation propagated across multiple social media platforms that inspired the insurrectionists to take action to advance their racist agenda.

Just as they have been doing throughout the pandemic, white supremacists online are continuing to weaponize the collective pain and fear of this pandemic by encouraging violence against the AAPI community. Moreover, despite new policies that ostensibly forbid white supremacy, white supremacists continue to use multiple platforms to incite racist violence against Asian Americans, African Americans, Jews, Muslims, people with disabilities, and members of the LGBTQ community.

Platforms have the tools and the ability to respond effectively to these concerns if they only had the will. Congress should press tech companies on the actions they are taking to improve and enforce their own policies and stop the weaponization of their platforms to spread hate and undermine our democracy.

Congress should not be distracted by baseless claims of “anti-conservative” bias and should instead focus on platforms’ efforts to respond to online voter suppression and other threats to our democracy. A commitment to civil and human rights is not a ‘right’ or ‘left’ issue — it is about right versus wrong. Baseless allegations of so-called anti-conservative bias should not distract tech companies. Research shows that anti-conservative bias is a phantom problem; a number of studies, articles, and reports show that the voices of marginalized communities are more likely to be regarded as “toxic” by content moderators and content moderation artificial intelligence. In addition, misinformation about voting and elections is more pervasive from far right-wing voices. The Election Integrity Partnership’s report on misinformation in the 2020 election found that there are far more influential Twitter accounts aligned with the right wing. The report stated that these accounts, led by repeat spreaders such as Trump and his allies, were responsible for the most widely spread incidents of false and misleading information about the election.⁴ A recent report from New York University found that misinformation sources significantly outperform non-misinformation sources on the far-right.⁵

⁴ <https://stacks.stanford.edu/file/druid:tr171zs0069/EIP-Final-Report-v2.pdf>, p. 180-201.

⁵ <https://medium.com/cybersecurity-for-democracy/far-right-news-sources-on-facebook-more-engaging-e04a01efae90>

Trump and his allies repeatedly posted false information about voting by mail and the voting process before the election, and continually posted false information about the counting of ballots and lies about “fraud” that took place after the election, clearly violating the platforms’ voter interference and civil integrity policies. This disinformation laid the groundwork for the statements and videos that Trump and his allies posted on the day of the insurrection that led to the violence and loss of life that was predicted in the civil rights audit. Had the platforms enforced their own policies consistently before and after the election, the disinformation could have been curbed and addressed in a proper manner before it escalated. We are pleased that the platforms permanently or temporarily suspended Trump’s account and made some policy changes before and after the election. In a recent study, Zignal Labs found after Trump’s suspension from Twitter and other platforms the week of January 6, misinformation and disinformation on multiple platforms about the election dropped 73 percent, from “from 2.5 million mentions to 688,000 mentions across several social media sites in the week after Trump was suspended.”⁶ But most of the changes were reactive after the damage had already occurred.

Congress should focus on some of the more significant challenges facing social media platforms, such as safeguarding our election from manipulation and disinformation, as well as fighting hate and harassment online. Going forward, Congress must press platforms to take stronger steps to stem the tide on false, misleading, and harmful content on the companies’ platforms that could lead to voter suppression and the spread of hate speech.

Specifically, Congress should push platforms to set clear, unambiguous, and consistently enforceable voter inference and civic integrity policies. Platforms should combine all their policies and interpretations in one place and consistently enforce those policies to remove or limit the ability to share disinformation and voter suppression content. Congress should also press platforms to preserve and provide transparency data on content moderation, voter suppression content, and advertising targeting. Vetted users and researchers should have access to this data so they can understand forces that enable misinformation and disinformation on voting and civil rights to proliferate, identify where these content and advertising moderation policies and practices fell short, and make recommendations on how they can be improved.

Congress must push platforms to stop the spread of disinformation on COVID-19 targeted at communities of color, particularly from the same actors responsible for the spread of other false information. The Leadership Conference is pleased to see leading social media entities implement policies and take new steps aimed at reducing the spread of misinformation about the COVID-19 pandemic on their channels.⁷ However, despite these efforts, we continue to be concerned about the spread of false claims and inaccurate information concerning the COVID-19 vaccines on social media platforms and the potential impact of this misinformation, especially on communities of color that have been hit hardest by the pandemic.⁸

⁶ <https://www.washingtonpost.com/technology/2021/01/16/misinformation-trump-twitter/>

⁷ <https://www.forbes.com/sites/siladityaray/2021/03/15/facebook-will-add-labels-to-all-posts-about-covid-19-vaccines-that-will-promote-authoritative-information/?sh=562a57f27cb8>

⁸ <https://www.usatoday.com/story/tech/2021/03/10/covid-vaccine-facebook-youtube-instagram-black-misinformation-fight/6943180002/>

Most troubling from the perspective of the civil rights community is that many of the same actors who spread white supremacist, anti-Semitic, and anti-immigrant disinformation are spreading COVID-19 disinformation and misinformation. For example, roughly a quarter of former President Trump's posts from 2020 were connected to COVID-19 misinformation, election lies, or what could be considered extremist rhetoric.⁹ Facebook's own research shows that there is overlap between vaccine skeptics and groups associated with QAnon and that just 111 people are behind the worst comments.¹⁰ Recent reports of a foreign-backed online disinformation campaign conducted through social media platforms in the United States to erode confidence in certain COVID-19 vaccines is also deeply troubling, especially at this critical time when our nation is continuing to battle the COVID-19 pandemic while simultaneously embarking on a widespread vaccine distribution effort.¹¹

Congress must press the platforms to address these issues immediately and provide additional data on the content and the actors behind COVID-19 disinformation. These false claims take advantage of and play upon distrust that certain communities may have in the health care system, given a history of medical racism and exploitation to create fear and steer people away from scientifically informed recommendations, especially as vaccine distribution is ramping up. Moreover, as platforms continue to work toward addressing COVID-19 disinformation, Congress must urge them to share lessons learned from addressing false information on COVID-19 and apply similar solutions to reduce the spread of online mis- and disinformation on voting, hate speech, and other issues that are directed at targeted communities.

Congress should press tech companies to conduct independent civil rights audits as well as improve their civil rights infrastructure. Structural changes within the platforms will also help better protect civil rights by ensuring platforms can hold themselves accountable to their commitment to civil rights, diversity, and inclusion. Among the companies appearing at the committee hearing, only Facebook has undertaken a civil rights audit with outside auditors, though civil rights groups have urged all the major platforms to do so. But Facebook's example demonstrates that without institutional commitment and outside pressure, the impact of an audit will be limited and short-lived.

That is why, in addition to pushing for civil rights audits, Congress must also urge tech companies to adopt structural reforms that comply with federal civil rights law and demonstrate that the companies understand that civil rights are not a partisan issue, but instead are fundamental to protecting the constitutional rights of all people and thus should be part of the organic structure and operations of these companies. This means that tech companies must hire staff with civil rights expertise in senior leadership. The civil rights infrastructure within the companies must be well-resourced, empowered, and consulted on the companies' major decisions. New and clarified policies should be subject to vetting and review by

⁹ <https://www.mediamatters.org/facebook/roughly-quarter-trumps-posts-facebook-2020-contained-covid-19-misinformation-election-lies>

¹⁰ <https://www.washingtonpost.com/technology/2021/03/14/facebook-vaccine-hesitancy-qanon/>

¹¹ https://www.wsj.com/articles/russian-disinformation-campaign-aims-to-undermine-confidence-in-pfizer-other-covid-19-vaccines-u-s-officials-say-11615129200?reflink=desktopwebshare_twitter

internal teams with real civil rights expertise and experience, prior to their implementation. Finally, tech companies should provide a process and format through which civil rights advocates and the public can engage with the companies and monitor their progress.

Congress must also press tech companies to do more to address meaningful diversity and inclusion at their workplaces and the lack of people of color in senior executive, engineering, and technical positions. People of color who are working at the companies often face discrimination and unequal pay, as well as a culture where they are devalued. Tech companies must ensure that this does not happen in their workplaces and must address the inequities that may have already occurred. They also must build on strategies to attract and retain talent in diverse communities to expand access to jobs and opportunities.

Prevention of harm, not damage and after-the-fact repair, must be the goal. This goal cannot be fully accomplished if those with civil rights expertise are not part of decision-making processes. Congress must continue to review and scrutinize tech companies to make sure that they are taking the necessary steps to accomplish this goal.

Congress should consider other meaningful ways to protect civil and human rights. Congress should also focus on other means to protect civil and human rights. For example, invasive data collection and use practices can lead to civil rights violations. Congress should pass comprehensive federal consumer privacy legislation that protects consumers by requiring companies to minimize the data they collect; define permissible and impermissible purposes for collecting, sharing, and using personal data; prohibit discriminatory uses of personal data; and provide for algorithmic transparency and fairness in automated decisions. In addition, Congress should ensure federal agencies are focusing on identifying and ending data processing and algorithmic practices that discriminate on the basis of protected characteristics with respect to access to credit, housing, education, public accommodations, and elsewhere.

Conclusion

The spread of discriminatory conduct and false information, especially when content is concentrated in a limited number of platforms, is a threat to civil rights and the integrity of our democracy. The threat to safe and fair elections, civil rights, and health care can have a corrosive effect on the fabric of our country and the safety and voting rights of people of color and other targeted communities. After largely ignoring these issues, social media platforms and tech companies have taken steps in recent months to address the problems. But far more needs to be done and the companies need to be more engaged on solutions to address the proliferation of false, misleading, and harmful content.

The Leadership Conference urges Congress to press the companies to institute the reforms outlined in this letter. We also stand ready to work with Congress and elected officials to find solutions that will keep our democracy safe, limit the concentration of content, and stop the suppressive effect that disinformation is having on civil rights and racial justice. Should you require further information or have any questions regarding this issue, please contact David Toomey, Voting Rights and Technology Fellow, at toomey@civilrights.org.

March 25, 2021
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Sincerely,

A handwritten signature in black ink that reads "Wade Henderson". The signature is fluid and cursive, with a long horizontal line extending from the end.

Wade Henderson
Interim President and CEO

A handwritten signature in black ink that reads "LaShawn J. Warren". The signature is cursive and elegant.

LaShawn Warren
Executive Vice President for Government Affairs