

InternetLab's comment on Oversight Board case 2021-008-FB-FBR

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In its [recently published Corporate Human Rights Policy](#), Facebook pledges to “identify and prioritize the main human rights issues in each context”, recognizing that “the potential human rights impact of Facebook’s family of apps varies significantly across time, location, content, and affected communities”. In its referral of this case to the Oversight Board, however, Facebook does not demonstrate having met this public commitment. Despite the gravity of the pandemic situation in Brazil, Facebook merely mentions having counseled with the “World Health Organization and other health experts”; nothing suggests that Facebook has made proper consultations to comprehend the particularities of the Brazilian health-related reality.

The statement from the Regional Medical Council that was reposted on Facebook is based on misleading affirmations to conclude the absolute rejection of lockdowns. Brazilian fact-checkers have pointed out the [distortion of a statement from David Nabarro \(WHO\)](#), as to imply that he is against lockdowns in any situation. In fact, his position was that lockdowns shouldn't be “the primary means of control of this virus”. Although he mentioned the social and health-related adverse effects of the measure, Nabarro was express in affirming that “a lockdown is justified [when necessary] to buy you time to reorganize, regroup, rebalance your resources; protect your health workers who are exhausted”.

It is also false that the increase in the number of hospitalizations and deaths by Covid-19 after the lockdown decree in Manaus is evidence of its failure. Because of the evolution time of the illness and the overcharge of the regional hospital system, it would be incorrect to expect the number of infected people to fall before at least 15 days following the end of a lockdown period (considering [the minimal time for the measure to be effective](#)); therefore, decreases in the number of hospitalizations and deaths would not be expected for at least a month after this moment. In addition, the measure in Manaus, estimated to last for fifteen days, was interrupted before this period, in response to political pressures. (The city went through [a healthcare collapse](#) thereafter.) In short, the increase in those numbers cannot be attributed to lockdowns.

Those distortions are serious because they rely on the credibility that people attribute to medicine councils. The potential negative impact of this misinformation-based content is considerably stronger. Although there is no imminent risk of physical harm to justify the exclusion or limitation of its visibility on the newsfeed, it would be appropriate for Facebook to label the content as misinformation and to provide adequate information to users (according to [case 2020-006-FB-FBR](#), paragraph 9.2, II(b)). **Considering that Facebook adopts [policies against health-related misinformation](#) “that could lead to negative outcomes”, even when imminent risk is absent, like those related to the origin of the virus¹, that labeling would be expected.** Especially in a moment in which, unlike the United States and other countries

¹ Facebook, [COVID-19 and Vaccine Policy Updates & Protections](#): “For the duration of the COVID public health emergency, we also remove additional COVID-19 misinformation that public health authorities say could lead to negative outcomes. The claims we have applied this to include: *COVID-19 is or has been patented, including by any specific person or entity. Ex: “Did you know COVID-19 was actually patented many years ago?”*”.

of the Global North, Brazil undergoes an aggravation of the pandemic, according to the [Covid-19 Observatory of Oswaldo Cruz Foundation \(Fiocruz\)](#).

Instead, Facebook affirmed they did not adopt any measure because they hadn't received advice specifically related to lockdowns from the "World Health Organization and other public health experts". **Facebook does not clarify who those experts would be, but nothing suggests that those are people connected to the Brazilian reality.** What brings concern about the content is not the statement of an opinion against lockdowns, but, as previously said, the dissemination of misinformation by a public health entity. The misleading affirmation about David Nabarro's statement has already been clarified on numerous occasions. The healthcare system collapse in Manaus had considerable repercussions in Brazil. It has even motivated the setting of a [Parliamentary Committee of Inquiry in the Senate](#), to investigate the responses and responsibilities of public health authorities on handling the pandemic crisis. Both these misinformation elements within the Regional Medical Council content would be quite familiar to Brazilian experts.

That points out a possible reason for Facebook not having consulted Brazilian experts: the institutional crisis within the Ministry of Health itself and the political polarization that affects public health organizations, as this case shows. It is in fact necessary to prevent content moderation practices from being contaminated by the dispute among political parties. Although this is undermined by the country's political scenario, responsibility for the quality of information about the pandemic should not be demanded only from companies as Facebook, but also from public authorities and from people with ethical and professional duties, as doctors and other healthcare professionals. (In fact, [part of the medical community](#) has been [aligning to fill that role](#), some within medical councils.)

That is not, however, a reason for Facebook to evade the matter. Principle 23, of the [UN's Guiding Principles on Businesses and Human Rights](#), to which Facebook has publicly committed, states that even when facing an adverse local context, business enterprises should "engage in prevention and mitigation strategies that respect principles of internationally recognized human rights to the greatest extent possible" ([A/HCR/38/35 paragraph 11 \(d\)](#)). In the Brazilian context, that could be translated in Facebook creating a health-related advisory group composed of independent experts – which could include, for example, specialists from the Brazilian Society of Infectology, a medical organization that promotes professional standards in this area.

Brazil goes through a difficult moment in the pandemic and faces a crisis that has affected many of its institutions. We do not expect nor wish that Facebook should replace those institutions to solve Brazilian problems. However, if Facebook **intends to honor its promise** "to make sure that [their] policies help to protect people from harmful content and new types of abuse related to COVID-19", **it is not enough for Facebook to rely on international experts disconnected from Brazil; Facebook must adopt strategies appropriate to the Brazilian reality, with transparency as to their choices.**