

June 29, 2020

Mark Zuckerberg
Founder, Chairman, and CEO
Facebook
1 Hacker Way
Menlo Park, CA 94025

Dear Mr. Zuckerberg:

I write to express concern with Facebook's development of a feature for Facebook Workplace that allowed administrators or employers to block certain content from being posted or viewed by employees. In addition, I am deeply troubled that in rolling it out to company employees, Facebook leadership specifically pointed to the feature's ability to allow employers to block employees from discussing their federally-protected right to organize. By developing and advertising this feature, even if you have since halted its production, Facebook has exposed its interest in helping corporations bust unions and preventing workers from collectively advocating for better working conditions, pay, and benefits.

Enabling employers to shut down conversations about unions or collective action in the workplace further erodes workers' ability to speak up for themselves in the workplace and undermines their rights under federal law. Specifically, Section 7 of the National Labor Relations Act (NLRA) explicitly protects employees' right to "self-organization, to form, join, or assist labor organizations, to bargain collectively through representatives of their own choosing, and to engage in other concerted activities for the purpose of collective bargaining or other mutual aid or protection."¹ Section 8(a)(1) of the NLRA makes it an unfair labor practice for employers to interfere with, restrain, or coerce employees in the exercise of the rights outlined in Section 7.² The National Labor Relations Board has issued decisions that uphold workers' ability to communicate about organizing on Facebook³ and has also identified corporate policies that prevent workers from using social media tools to exercise their rights under the NLRA as being in violation of that law.⁴ Allowing employers to censor employee discussion about unions on Facebook Workplace at a minimum seems in contravention of the spirit of Section 7 and potentially prohibited employer conduct in violation of Section 8(a)(1).

¹ 29 U.S.C. § 157 (1935).

² 29 U.S.C. § 158(a)(1).

³ See, e.g. *Three D, LLC d/b/a Triple Play Sports Bar and Grill*, 361 NLRB 308 (2014), *enfd.* 629 Fed. Appx. 33 (2d Cir. 2015), and *Butler Medical Transport, LLC*, 365 NLRB No. 112 (2017).

⁴ See, e.g. *Desert Cab, Inc. d/b/a Ods Chauffeured Transportation*, 367 NLRB No. 87 (2019).

Facebook's anti-worker policies and attitudes have long been on display. As a result, it is unsurprising that Facebook would develop a tool whose main selling point according to your company is its effectiveness at blocking workers' ability to exercise their right to organize. Your company contracts out core functions of your business to thousands of workers and deprives those contract workers of the pay and benefits Facebook employees earn.⁵ Just recently, during the COVID-19 pandemic, some contract workers were required to come into the office despite the health risks of doing so.⁶ Earlier this month, other Facebook contract workers claimed to have been retaliated against, and two workers were even fired, for union organizing.⁷

The economic benefits of union membership for workers and the overall economy are well-documented and should be consistent with Facebook's stated mission. Workers in unions earn on average 13.2 percent more in wages than their non-union peers,⁸ and unions reduce income inequality generally.⁹ In addition, union members pay more in taxes and rely less on safety net programs.¹⁰ In other words, unions give workers economic security and dignity. Facebook's mission is "to give people the power to build community to bring the world closer together." You have said that the mission can be achieved "only by empowering people to build communities and bring people together."¹¹ That is exactly what a union does.

You have given speeches in which you claim Facebook and the internet will help to lift individuals out of poverty. Unless you and your company embrace efforts to empower individuals, including workers through unions, you cannot resolve the issues of economic inequality. In fact, if your company continues to pursue union-busting initiatives such as the Facebook Workplace employer censorship tool, you will not only fail to address workers' economic insecurity, you will exacerbate it.

If you are truly committed to bringing people together and alleviating poverty, Facebook should ensure its license and terms of conditions prohibit employers from using its platform to, in any way, interfere with, restrain, or coerce employees in exercising their Section 7 rights and require any employer-user to contractually agree to respect its employees' right to discuss their terms and conditions of employment on Facebook Workplace. In addition, Facebook should use its influence and tools to encourage workers, including Facebook employees and contract workers, to organize and advocate for themselves through a union.

Sincerely,



Sherrod Brown
United States Senator

⁵ The Washington Post, "Inside Facebook, the second-class workers who do the hardest job are waging a quiet battle," Elizabeth Dwoskin, May 8, 2019. Retrieved from: <https://www.washingtonpost.com/technology/2019/05/08/inside-facebook-second-class-workers-who-do-hardest-job-are-waging-quiet-battle/>

⁶ The Intercept, "Facebook Contractors Must Work in Offices During Coronavirus Pandemic – While Staff Stay Home," Sam Biddle, March 12, 2020. Retrieved from: <https://theintercept.com/2020/03/12/coronavirus-facebook-contractors/>

⁷ BuzzFeed News, "Facebook Contractors Wanted Better Working Conditions. They Lost Their Jobs Instead.," Caroline O'Donovan, June 6, 2020. Retrieved from: <https://www.buzzfeednews.com/article/carolineodonovan/facebook-contractors-say-they-were-punished-for-wanting-a>

⁸ Economic Policy Institute, "How today's unions help working people," Josh Bivens, Lora Engdahl, Elise Gould, et al., August 24, 2017. Retrieved from: <https://www.epi.org/publication/how-todays-unions-help-working-people-giving-workers-the-power-to-improve-their-jobs-and-unrig-the-economy/>

⁹ The New York Times, "Fresh Proof That Strong Unions Help Reduce Income Inequality," Susan Dynarski, July 6, 2018. Retrieved from: <https://www.nytimes.com/2018/07/06/business/labor-unions-income-inequality.html>

¹⁰ IZA Institute of Labor Economics, "The Relationship between Union Membership and Net Fiscal Impact," Aaron Sojourner and José Pacas, January 2018. Retrieved from: <http://ftp.iza.org/dp11310.pdf>

¹¹ Mark Zuckerberg, "Bringing the World Closer Together," June 22, 2017. Retrieved from: <https://www.facebook.com/notes/mark-zuckerberg/bringing-the-world-closer-together/10154944663901634/>