

# FACEBOOK

TO: Chairman, Information and Communication Technologies Authority,  
Mauritius  
Mr. Trilok Dabeesing  
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AND TO: Director of Engineering, Information and Communication Technologies  
Authority, Mauritius  
Mr. Jerome Louis  
Email: [jlouis@icta.mu](mailto:jlouis@icta.mu)

20 May 2021

**Re: Consultation Paper on proposed amendments to the ICT Act for regulating the use and addressing the abuse and misuse of Social Media in Mauritius**

Dear Mr. Trilok Dabeesing

Thank you for providing Facebook with an opportunity to make a submission for the Information & Communication Technologies Authority's (ICTA) "Consultation Paper on the proposed amendments to the ICT Act for regulating the use and addressing the abuse and misuse of Social Media in Mauritius" (Consultation Paper). We appreciate being welcomed to work with your colleagues, and other groups and organisations who work to address abuse and misuse of Social Media. We look forward to having a continuous discussion about what we can collectively do to promote healthy use of Social Media.

In the spirit of collaboration and considering our recent discussions, we herein submit our comments on the Consultation Paper. We hope that our submission will provide insight and information on global good practices and how Facebook works to tackle abuse and misuse of our applications.

In February 2020, Facebook published a white paper<sup>1</sup> on online content regulation that calls for new regulatory frameworks for online content—frameworks that ensure companies are making decisions about online speech in a way that minimizes harm but also respects the fundamental right to free expression. This balance is necessary to protect the open internet, which is increasingly threatened—even walled off—by some regimes. Facebook wants to be a constructive partner to governments as they weigh the most effective, democratic, and workable approaches to address online content governance. As Mark Zuckerberg wrote in an op-ed:

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<sup>1</sup> [https://about.fb.com/wp-content/uploads/2020/02/Charting-A-Way-Forward\\_Online-Content-Regulation-White-Paper-1.pdf](https://about.fb.com/wp-content/uploads/2020/02/Charting-A-Way-Forward_Online-Content-Regulation-White-Paper-1.pdf).

“It’s impossible to remove all harmful content from the Internet, but when people use dozens of different sharing services—all with their own policies and processes—we need a more standardized approach ... Regulation could set baselines for what’s prohibited and require companies to build systems for keeping harmful content to a bare minimum.”<sup>2</sup>

We believe that **platforms should be held accountable** for their systems to address unlawful and harmful content. However, **any legal framework being considered must not mandate specific technical solutions or rigid requirements**, but rather **enable platforms to maintain and develop solutions** suited to their specific service and community. If designed well, **new regulations and frameworks can contribute to the internet’s continued success, including its openness and decentralised structure**, by articulating clear ways for government, companies, and civil society to share responsibilities and work together. Designed poorly, these efforts risk unintended consequences that might make people less safe online, stifle expression, and slow innovation. It is also important to appreciate the context of the Mauritian’s digital life as it stands today and its future potential.

Facebook’s mission is to bring the world closer together and give people the power to build community. Integral to people’s interest in connecting and sharing is that they feel safe to do so. We invest heavily in people, tools, and programs to safeguard our community and devote significant resources to ensure our platforms offer our community a safe and positive experience. We have built relationships with over 500 online safety organizations globally, including specialists in the prevention of bullying and child exploitation and supporting victims of abuse. We also maintain an ongoing committee of advisors with expertise in human rights, health and well-being, counter terrorism, child protection, gender-based violence and mental health.

In Mauritius, we work with government agencies (such as the Department of Technology, Communication and Innovation, the Data Protection Authority, and the National Computer Board), law enforcement agencies (such as the Mauritian Police, Cybercrime Unit), global and local NGOs, academics, and experts to develop the best policies, tools, and resources to foster a positive and safe online experience for Mauritius. We also annually support the Safer Internet Day activities in Mauritius where we shared safety practices for young users on our platform. Additionally, for content moderation, we are in the process of hiring a full-time Mauritian Creole Market Specialist to aid in our ability to moderate content effectively.

We look forward to having a broader discussion with the ICTA about what we can collectively do to reduce the abuse and misuse of our platforms and explore how regulation can help.

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<sup>2</sup> [https://www.washingtonpost.com/opinions/mark-zuckerberg-the-internet-needs-new-rules-lets-start-in-these-four-areas/2019/03/29/9e6f0504-521a-11e9-a3f7-78b7525a8d5f\\_story.html](https://www.washingtonpost.com/opinions/mark-zuckerberg-the-internet-needs-new-rules-lets-start-in-these-four-areas/2019/03/29/9e6f0504-521a-11e9-a3f7-78b7525a8d5f_story.html).

Again, we thank the ICTA for the opportunity to be involved in this critical and important piece of legislation.

Yours sincerely,

A handwritten signature in black ink, appearing to read 'Nomonde Gongxeka-Seopa', written in a cursive style.

Nomonde Gongxeka-Seopa  
Head of Public Policy, Southern Africa Region

[On behalf of Facebook, Inc.]

## **Comments**

Comments on the Information & Communication Technologies Authority “Consultation Paper on proposed amendments to the ICT Act for regulating the use and addressing the abuse and misuse of Social Media in Mauritius”

Submitted to socialmediaconsultation@icta.mu

## **Introduction**

Facebook is pleased to submit these comments in response to the public stakeholder consultation of the Information & Communication Technologies Authority (ICTA) on its “Consultation Paper on proposed amendments to the ICT Act for regulating the use and addressing the abuse and misuse of Social Media in Mauritius” (Consultation Paper).

Facebook welcomes the opportunity to comment on the Consultation Paper and commends the ICTA for its efforts in setting out a policy framework that aims to protect against the abuse and misuse of social media platforms to protect Mauritians.

Facebook's mission is to give people the power to build community and bring the world closer together. There are hundreds of thousands of Mauritians each month who connect and share on our platform to raise awareness, empower and inspire people to share ideas, promote small businesses, and/or to build relationships and connect families.

Facebook is a technology company that has built a platform for people to connect with each other, and we take our responsibility very seriously in helping people to engage safely, so they can create meaningful interactions. Protecting the safety of our users is one of our most important responsibilities and a top priority for the company.

**Our human rights policy** commits us to respect human rights as set out in the United Nations Guiding Principles on Business and Human Rights (UNGPs).

**We have clear policies** that say what is and is not allowed to share on Facebook, which we call our Community Standards. **We invest heavily in tools** that give people the power to control what they see and what others see about them on Facebook, and to report things to us. These tools also help detect and remove bad content off Facebook to perform enforcement of our policies at scale. For example, between October and December 2020, we took action on 26.9 million pieces of hate speech content, 97.1% of which we found and flagged before users reported it.<sup>3</sup>

**We have a long history of partnerships with a variety of stakeholders** invested in the safety of our community on Facebook and across our family of apps to gain from their expertise and guidance. In Mauritius, we work with government and law enforcement agencies, global and local NGOs, academics, and experts to develop the best policies, build tools, and create safety resources and programs.

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<sup>3</sup> Facebook, Community Standards Enforcement Report (Feb. 2021), <https://transparency.facebook.com/community-standards-enforcement#hate-speech>.

**We offer resources people might need and conduct digital literacy programs** to empower our community on how to better use our services and keep them safe. Perhaps most importantly, **we gather feedback from over 500 safety organizations**, industry partners, and from our community worldwide, to shape our work, continue making progress, and stay ahead in finding ways to better protect the safety of our community.

### **Current Content Moderation and Regulation Practices**

*(Questions 14.1 and 14.2)*

Our products empower around 3 billion people around the world to share ideas, offer support and make a difference. 160 million businesses use our apps to connect with customers and grow, and over 1 billion stories are shared every day to help people express themselves and connect. Every day, people from around the world come to Facebook to share their experiences, see the world through the eyes of others, and connect with friends and causes. We recognise how important it is for Facebook to be a place where people feel empowered to communicate, and we take our role in keeping abuse off our platform seriously.

We developed a comprehensive set of **Community Standards**,<sup>4</sup> which govern the content that is and is not allowed on Facebook platforms. These policies cover things such as: bullying, hate speech, harassment, nudity, privacy, and graphic violence. In developing these policies, we consult hundreds of civil society organisations and academics from around the world. When applying these policies, we seek to find a balance between safety and allowing users to have a voice. Below are some details from some of these policies:

- There is no place on Facebook or Instagram for hate speech because it creates an environment of intimidation and exclusion, and, in some cases, may promote real-world violence. We remove this content whenever we become aware of it. In consultation with experts, we have developed a comprehensive set of policies on hate speech.<sup>5</sup> We are constantly evolving our policies based on insight from experts and feedback from our users.
- We do not allow any organisations or individuals that proclaim a violent mission or are engaged in violence to have a presence on Facebook. This includes organisations or individuals involved in terrorist activity, organised hate, or other dangerous organisations. We also remove content that expresses support or praise for groups, leaders or individuals involved in these activities. We remain vigilant in learning about and combatting new ways people may try to abuse our platforms. We work with external partners to get the latest intelligence about adversarial behaviour across the internet, and we commission independent research from academics and experts.
- We do not tolerate bullying and harassment on Facebook because we want the members of our community to feel safe and respected. We have developed a comprehensive set of policies,<sup>6</sup> in consultation with experts, on bullying and harassment. On Facebook and Instagram, we offer tools specifically to help deal with bullying. We proudly work with experts on anti-bullying and online safety

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<sup>4</sup> <https://www.facebook.com/communitystandards/>; On Instagram, these are referred to as our Community Guidelines - <https://help.instagram.com/477434105621119>.

<sup>5</sup> [https://www.facebook.com/communitystandards/hate\\_speech](https://www.facebook.com/communitystandards/hate_speech)

<sup>6</sup> <https://www.facebook.com/communitystandards/bullying>

programmes focused on teacher training, pupil participation and online parental resources.

- Our policies<sup>7</sup> regarding child nudity and sexual exploitation of children have been developed and refined in consultation with global experts in child safety and child protection, including the Facebook Safety Advisory Board.<sup>8</sup> We do not allow content that sexually exploits or endangers children. We do not allow child sexual exploitation, sexualisation of children, child nudity or inappropriate interactions with children on our platform. Our specially trained teams with backgrounds in law enforcement, online safety, analytics, and forensic investigations review potentially violating content and report findings to the National Center for Missing and Exploited Children (NCMEC)<sup>9</sup>. In turn, NCMEC works with law enforcement agencies around the world to find and help victims.
- We have developed a comprehensive set of policies<sup>10</sup> on suicide and self-injury in consultation with experts (self-injury is defined as the intentional and direct injuring of the body, including self-mutilation, and eating disorders). In instances when someone shares distressing content about self-injury, suicide or eating disorders, we want to be sure the person posting, as well as their friends and family members, have access to tools and resources needed for support. We also want to make sure that they can find support from others who have gone through similar experiences and can share their journeys to recovery with one another. We regularly consult with experts in suicide and self-injury to help inform our ever-changing policies and enforcement.
- We recognise how important it is for Facebook to be a place where women feel empowered to communicate. Therefore, we work to reduce the abuse and harassment that can keep women offline while building tools and resources to empower them online. For example, we have policies in place to prevent the non-consensual sharing of intimate images (NCII) and we have developed tools – in consultation and in cooperation with NGOs – to help us achieve a higher rate of enforcement of this important policy.

To enforce the Community Standards at scale, we allow users to report content for our teams to review. Our specially trained reviewers provide 24/7 coverage and support. For example, between October and December 2020, under our Bullying and Harassment policies, on Facebook we removed 6.3 million pieces of content, 48.8% of which was found and flagged by us before users reported it. On Instagram we took action on 5 million pieces of content, 80% of which we found and flagged before users reported it.

Since 2017, we have more than tripled the number of people working on safety and security globally to 35,000, of whom 15,000 are dedicated content reviewers. These content reviewers are based around the world and speak over 50 languages natively. We recognise the challenges raised in the Consultation Paper related to reviewing content in the local language. Currently, Mauritian Creole speakers at Facebook support our teams' efforts to assess content. In addition to these efforts, Facebook is in the process of hiring a full-time Mauritian Creole Market Specialist to aid in our ability to moderate local content effectively. The market Specialist will use market specific knowledge, signals and insights to spot and scope scalable solutions to improve the

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<sup>7</sup> [https://www.facebook.com/communitystandards/child\\_nudity\\_sexual\\_exploitation](https://www.facebook.com/communitystandards/child_nudity_sexual_exploitation)

<sup>8</sup> <https://www.facebook.com/help/222332597793306?ref=ccs>

<sup>9</sup> <https://www.missingkids.org/HOME>

<sup>10</sup> [https://www.facebook.com/communitystandards/suicide\\_self\\_injury\\_violence](https://www.facebook.com/communitystandards/suicide_self_injury_violence)

support of our community of users in Mauritius. We also work with local trusted partners in reporting potentially harmful content to us. If content is reported in a language that we do not support 24/7, we work with translation companies and other experts who can help us understand local context and language to assist in reviewing the content. Despite these efforts we are working to increase resources even further to identify and review potentially harmful content.

For more information on the scale and effectiveness of our enforcement efforts, please see our latest Community Standards Enforcement Report<sup>11</sup> which covers enforcement activity across the Facebook and Instagram platforms for the previous quarter.

While we strongly believe Facebook is already taking a range of measures to deal with harmful content online, we acknowledge that this is an ongoing process that will continue to adapt and evolve over time to respond to emerging trends and issues. We recognize that self-regulation may not be the sole resolution to solve this challenge in governance.

With our size comes a great deal of responsibility, and while we have always taken advice from experts on how to best keep our platforms safe, until now, we have made the final decisions about what should be allowed on our platforms and what should be removed. These decisions often are not easy to make – most judgments do not have obvious, or uncontroversial, outcomes and yet many of them have significant implications for free expression. That is why we have created and empowered a new group, the Oversight Board, to exercise independent judgment over some of the most difficult and significant content decisions. In doing so, we have sought input from both critics and supporters of Facebook. The Oversight Board represents a new model of content moderation for Facebook and Instagram with the board reviewing whether content is consistent with Facebook and Instagram policies and values, as well as a commitment to upholding freedom of expression within the framework of international norms of human rights. They are making decisions based on these principles, and the impact on users and society, without regard to Facebook’s economic, political, or reputational interests. Facebook must implement the Board’s decisions unless implementation could violate the law.

We are also engaging with regulators around the world, including in Mauritius, to discuss what a good regulation on content moderation may look like. We also published our White Paper<sup>12</sup> on Content Regulation, which was launched in February 2020 in Dublin at the Institute of International & European Affairs by Monika Bickert, our Vice President of Content.<sup>13</sup>

We believe that ensuring that companies are making decisions about online speech in a way that minimizes harm but also respects the fundamental right to free expression should be the right approach. This balance is necessary to protect the open internet, which is increasingly threatened—even walled off—by some regimes. Facebook wants to be a constructive partner to governments as they weigh the most effective, democratic, and workable approaches to address online content governance.

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<sup>11</sup> <https://about.fb.com/news/2021/02/community-standards-enforcement-report-q4-2020/>

<sup>12</sup> <https://about.fb.com/wp-content/uploads/2020/02/Charting-A-Way-Forward-Online-Content-Regulation-White-Paper-1.pdf>

<sup>13</sup> <https://www.iiea.com/past-events/charting-the-way-forward-online-content-regulation/>

## **Proposed Regulatory and Operational Framework**

*(Questions 14.3, 14.4, 14.5 and 14.6)*

We understand that in some countries, a regulatory system for online content may require a new type of regulator/institution. Addressing online communication goes beyond simply adopting the core capabilities of traditional regulators and channeling them towards the task of effective oversight. Instead, any regulator in this space will need proficiency in data, operations, and online content. Governments will also need to ensure that regulatory authorities pay due regard to innovation and protect users' rights online, including consideration of the following:

- **INCENTIVES.** Ensuring accountability in companies' content moderation systems and procedures will be the best way to create the incentives for companies to responsibly balance values like safety, privacy, and freedom of expression.
- **THE GLOBAL NATURE OF THE INTERNET.** Any national regulatory approach to addressing harmful content should respect the global scale of the internet and the value of cross-border data flows and international communications. It should aim to increase interoperability among regulators and regulations. However, governments should not impose their standards onto other countries' citizens through the courts or any other means.
- **FREEDOM OF EXPRESSION.** In addition to complying with Article 19 of the International Covenant on Civil and Political Rights (ICCPR) (and related guidance), regulators should consider the impacts of their decisions on freedom of expression.
- **TECHNOLOGY.** Regulators should develop an understanding of the capabilities and limitations of technology in content moderation but avoid promulgating prescriptive measures for what tools should be used, and in what manner and context. Instead, regulators should allow internet companies the flexibility to innovate. An approach that works for one platform or type of content may be less effective (or even counterproductive) when applied elsewhere.
- **PROPORTIONALITY AND NECESSITY.** Regulators should consider the severity and prevalence of the harmful content in question, its status in law, and the efforts already underway to address the content.

Considering the above-mentioned principles, we believe that it is necessary for regulation in this domain to find the right balance which will protect free expression while promoting safety.

We appreciate the problem the ICTA is attempting to solve in proposing that the National Digital Ethics Committee (NDEC) serve as the decision-making body on content. However, there is a large degree of ambiguity around the intended modus operandi of the NDEC, and this makes it difficult to provide an accurate assessment of the proposal. Nevertheless, we think the drafted mandate of NDEC can be deemed problematic for the following reasons:

- **Risks to Freedom of Expression:** Our understanding suggests that the drafted mandate gives a wide range of powers to an administrative body, NDEC, to limit a fundamental right, freedom of expression. This power is granted devoid of the due process protections (e.g., prior notification to rights holder, right to object, right to appeal), generally expected where such significant limitations are placed on fundamental rights.



- **Insufficient Due Process Protections and Judicial Oversight:** The current proposal seems to empower the NDEC to make a final determination as to the legality of content, and to exercise potentially extensive blocking powers. It is unclear how cases will be chosen, what level of due process or judicial oversight will exist in the NDEC decision making process, and what appeal options, if any, will exist. Furthermore, it is unclear why such determinations on the legality of content should not properly be made in the Courts of Mauritius, which already have due process protections built in. These proposals would also reduce the current protections users in Mauritius have to expect that their transmissions will be protected by their internet provider unless access is granted by court order.
- **Overbroad NDEC Authority:** The scope of NDEC's authority is not clearly defined, but it appears to be extremely broad. Our understanding is that NDEC may be empowered to consider more than just whether content violates any law, but may also assess, and block, content for violations of vague, non-legal concepts such as whether content is "harmful" or "indecent." The application of such ambiguous and subjective standards is open to abuse and has the potential to create significant risks for the unbiased protection of the freedom of expression. These concerns are shared by organizations who have responded to ICTA's proposal. In a joint statement, over 50 civil organisations state that

*The broad discretion and power conferred to the National Digital Ethics Committee poses significant threats to freedom of expression, privacy, and security. For instance, the new National Digital Ethics Committee would be tasked with identifying "illegal and harmful contents." However, this phrase is not further defined, leaving the Committee with an unacceptable degree of discretion. Although the consultation paper points to French and German policies as examples, the proposed framework is nothing like them: the German NetzDG law is only applicable to speech that violates an enumerated list of Criminal Code provisions, and the French Avia law is similarly specific to ten or so categories of speech, all of them commonly recognized as harmful speech around the world. Moreover, human rights and press freedom organisations in France and Germany have criticized the two laws for not being consistent with international standards. We are concerned that the proposed provision fails to meet the level of clarity and precision required by Article 19(3) of the ICCPR for restrictions on freedom of expression.<sup>14</sup>*

- **Lack of Detail on NDEC's Enforcement Powers:** The proposal provides little on the rules, principles or processes which will guide NDEC's enforcement powers. It is unclear if, as part of its investigations, NDEC will be empowered to compel either users or social media companies to provide user data. It is unclear what limitations, if any, will exist on its powers to block entire pages and profiles.

For the above-mentioned reasons, we respectfully request the ICTA reconsider the NDEC framework.

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<sup>14</sup> <https://www.accessnow.org/cms/assets/uploads/2021/05/Mauritius-ICT-Act-consultation.pdf>

## **Proposed Technical Toolset**

*(Questions 14.7 and 14.8)*

The technical toolset in Section 11 of the draft proposal raises significant concerns. If implemented as proposed, the draft toolkit threatens the open, secure and global internet, and it would severely undermine fundamental rights.

Authorizing the government to intercept, decrypt, and store all social media traffic would necessarily expose Mauritanian internet users—and those with whom they are communicating, including individuals abroad—to blanket surveillance. The government would essentially be creating a database of internet traffic data that it could then search and use at its discretion, for enforcement purposes as envisioned under this proposal, but also potentially for other unrelated purposes.

Additionally, the proposed technical toolset opens backdoors to encryption and has the potential to expose users to attacks from hackers and other bad actors as encryption is critical to keeping communications safe.

As drafted, this proposal does not satisfy international human rights standards articulated in Article 17 of the ICCPR that any infringements of privacy be necessary and proportionate; it would severely infringe on citizens' rights to privacy, and by extension, would facilitate increased censorship, and chill freedom of expression and access to information.

Our concerns are shared by leading technology policy and human rights organizations. The Electronic Frontier Foundation, describes this technical toolset as the most concerning part of the draft and underlines the importance of keeping user data from potential data breaches.<sup>15</sup> Similarly, a joint statement issued by several civil organizations, states that “the proposed amendments to the ICT law are radically disproportionate to their stated aims of countering offensive speech on social media, and would set a dangerous precedent, allowing state surveillance of the lawful conduct of private citizens, and undermine the digital security of the internet as a whole by attacking encryption.”<sup>16</sup>

As briefly explained above, Facebook's primary focus is on preventing harm and abuse of our services in the first place. We use a combination of techniques to do this, relying on available unencrypted information - including information on Facebook.

We make it easy to report content on Facebook. Any piece of content on Facebook—a profile, Page, Group, post, image, video, or comment—can be reported, and we encourage communities to use our reporting tools to let us know when they see something they think violates our rules.

More than 35,000 people work on security and safety at Facebook, including specially trained teams with backgrounds in law enforcement, online safety, analytics, and forensic investigations and capacity to understand over 50 languages. Our teams review the report, and if it violates our community standards, we will take the content down.

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<sup>15</sup> <https://www.eff.org/deeplinks/2021/04/proposed-new-internet-law-mauritius-raises-serious-human-rights-concerns>.

<sup>16</sup> <https://www.accessnow.org/cms/assets/uploads/2021/05/Mauritius-ICT-Act-consultation.pdf>.

Keeping people safe online is not a challenge for just one company or government, it requires the government, entire industry and experts from the safety and law enforcement communities to work together, towards the same shared goal and create solutions / tools that do not stymie basic freedoms and rights. And indeed, meaningful progress in recent years has been a group effort—solutions like Microsoft’s PhotoDNA used to identify child exploitation imagery; our partnership with the Tech Coalition and NCMEC on child safety; the Global Internet Forum to Counter Terrorism, which helps coordinate the fight against terrorism online; and our partnership with more than 100 global partners on our suicide prevention work. This is truly a cross-industry, private, and public-sector team effort.

For the above-mentioned reasons, we respectfully request the ICTA reconsider its proposed technical toolset

## **Conclusion**

As set out in the introduction, Facebook welcomes regulation and fully supports the ICTA’s stated aim of keeping harmful content offline and enabling a safer online environment.

Facebook believes that frameworks for regulation of online content should ensure that companies are making decisions about online speech in a way that minimizes harm but also respects the fundamental right to free expression. We also believe that any national regulatory approach to addressing harmful content should consider the global scale of the internet and the value of cross-border communications. Content regulation that is too prescriptive will inevitably infringe on the right to freedom of expression and privacy, and content regulation that is too permissive will fail to protect online users from harm. Facebook supports the call for new regulatory frameworks for online content, namely frameworks that minimize harm but also respect the fundamental right to free expression. This balance is necessary to allow users to continue to benefit from the varied service offerings made available online and to protect the open internet, which is increasingly threatened—even walled off in some instances.

Facebook thanks the ICTA for affording it this opportunity to make written submissions on the Consultation Paper. Facebook would very much like to engage with the ICTA as a constructive partner to weigh the most effective, democratic, and workable approaches to address online content governance.

Should any opportunity arise for oral presentations, please note that Facebook will avail itself accordingly.

Yours sincerely,

A handwritten signature in black ink, appearing to read "Nomonde Gongxeka-Seopa". The signature is fluid and cursive, with the first name "Nomonde" being the most prominent.

Nomonde Gongxeka-Seopa  
Head of Public Policy, Southern Africa Region

[On behalf of Facebook, Inc.]