

**2123091**  
**UNITED STATES OF AMERICA**  
**BEFORE THE FEDERAL TRADE COMMISSION**

**In the Matter of**

**FACEBOOK, Inc.,**  
*a corporation.*

**Respondent.**

**Docket No. C-4365**

**PRELIMINARY FINDING OF  
FACTS IN SUPPORT OF THE  
ORDER TO SHOW CAUSE**

**RESPONDENT**

1. On October 29, 2021, Respondent notified the Commission that Facebook, Inc. (“Facebook” or the “Company”) had changed its name to Meta Platforms, Inc., and reported that Meta Platforms, Inc. would replace Facebook, Inc. as Respondent in the Commission’s orders.<sup>1</sup>

**RESPONDENT’S PRIVACY PROGRAM**

2. The 2020 Order requires Facebook to establish, implement, and maintain a comprehensive privacy program that “protects the privacy, confidentiality, and integrity<sup>2</sup> of the Covered Information<sup>3</sup> collected, used, or shared” by Facebook.

3. The Order specifies minimum requirements for the program and requires Facebook to obtain initial and biennial assessments of its privacy program from an independent third-party professional.<sup>4</sup>

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<sup>1</sup> Ex. 48 (Oct. 29, 2021, notice).

<sup>2</sup> The Order defines “Integrity” to mean “the protection of information from unauthorized destruction, corruption, or falsification.” Ex. 3 (2020 Order), Definition J.

<sup>3</sup> The Order defines “Covered Information” to mean “information from or about an individual consumer including, but not limited to: (a) a first or last name; (b) geolocation information sufficient to identify a street name and name of city or town; (c) an email address or other online contact information, such as an instant messaging User identifier or a screen name; (d) a mobile or other telephone number; (e) photos and videos; (f) Internet Protocol (‘IP’) address, User ID, or other persistent identifier that can be used to recognize a User over time and across different devices, websites or online services; (g) a Social Security number; (h) a driver’s license or other government issued identification number; (i) financial account number; (j) credit or debit information; (k) date of birth; (l) biometric information; (m) any information combined with any of (a) through (l) above; or (n) Nonpublic User Information.” Ex. 3, Definition D.

<sup>4</sup> Ex. 3, Parts VII & VIII.

## I. Independent Assessor – Qualifications and Methodology

4. On June 10, 2020, Respondent requested the approval of Protiviti Inc. (“Protiviti” or the “Assessor”) as the assessor for assessments required by Part VIII of the Commission’s 2020 Order in *In re Facebook, Inc.*, FTC No. C-4365.<sup>5</sup>

5. On June 18, 2020, Protiviti was approved to conduct the initial assessment pursuant to Part VIII of the Commission’s April 27, 2020, Order (“Order”) and to carry out all other responsibilities assigned to the assessor under the Order.<sup>6</sup>

6. Protiviti’s assessment team included specialists in technology and social media, data analytics, privacy regulation, and compliance program governance.<sup>7</sup>

7. Protiviti’s assessment plan incorporated relevant elements from the National Institute of Standards and Technology (NIST) and Generally Accepted Privacy Principles (GAPP) frameworks and criteria, as well as the assessment team’s collective experience with privacy program standards, and was tailored to Facebook’s unique size and complexity.<sup>8</sup>

8. For the initial six-month assessment, more than [REDACTED] professionals at Protiviti worked over [REDACTED] hours. As part of this work, they submitted more than [REDACTED] requests to independently obtain and review evidence (including more than [REDACTED] policies, procedures, reports, training materials, and other documents). In addition, Protiviti conducted more than [REDACTED] interviews and process walkthroughs to evaluate safeguard design effectiveness and to observe Facebook’s controls in practice. They also conducted independent testing plans tailored to each safeguard, used audit-industry standard sampling methodologies, and performed approximately [REDACTED] sample tests to assess the operating effectiveness of Facebook’s safeguards.<sup>9</sup>

9. Protiviti did not rely primarily on Facebook management assertions or attestations in conducting the Assessment.<sup>10</sup>

10. Among other measures, Protiviti performed a design effectiveness assessment of Facebook’s privacy program to evaluate if the program, as designed, would achieve the program’s objectives and FTC Order requirements, mitigate privacy risk, and allow for implementation of a comprehensive privacy program.<sup>11</sup>

11. Specifically, Protiviti [REDACTED]

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<sup>5</sup> Ex. 67 (June 10, 2020, letter).

<sup>6</sup> Ex. 68 (June 18, 2020, letter).

<sup>7</sup> Ex. 4 (Protiviti’s June 21, 2021, Independent Privacy Program Assessment Report) at 1.

<sup>8</sup> Ex. 4 at 1.

<sup>9</sup> Ex. 4 at 1.

<sup>10</sup> Ex. 4 at 1.

<sup>11</sup> Ex. 4 at 11.

[REDACTED] .<sup>12</sup>

12. Protiviti also conducted operating effectiveness assessments on [REDACTED] safeguards to determine if they achieved their [REDACTED].<sup>13</sup>

13. Specifically, Protiviti developed procedures to determine whether high- and medium-impact safeguards were fully implemented, executed, and operating as intended. Protiviti designed its testing procedures to evaluate whether the safeguards supported an effective mitigation of the respective risk. [REDACTED]

[REDACTED]

14. [REDACTED]

15. Facebook executives acknowledged the value of the Assessor's work.<sup>16</sup>

16. At his deposition, Facebook Chief Executive Officer Mark Zuckerberg testified, [REDACTED]

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<sup>12</sup> Ex. 4 at 11.

<sup>13</sup> Ex. 4 at 11.

<sup>14</sup> Ex. 4 at 11.

<sup>15</sup> Ex. 4 at 13.

<sup>16</sup> Ex. 43 (Mark Zuckerberg Dep. Tr.) at 53:6-11; Ex. 47 (Sheryl Sandberg Dep. Tr.) at 136:14-18.

<sup>17</sup> Ex. 43 at 53:6-11.

17. Sheryl Sandberg was Facebook’s Chief Operating Officer.<sup>18</sup>

18. At her deposition, Sandberg explained, [REDACTED]  
[REDACTED]  
[REDACTED]<sup>19</sup>

**II. Independent Assessor’s Findings Concerning Respondent’s Privacy Program**

19. Protiviti (the “Assessor”) submitted a report of its initial assessment of Facebook’s privacy program for the period from October 25, 2020, through April 22, 2021.<sup>20</sup>

20. The Assessor observed that “the overall scope of the program and structure [REDACTED] [REDACTED] into which the program is organized is logical and appropriately comprehensive. As a result, the key foundational elements necessary for an effective program are now in place, although their maturity and completeness vary [REDACTED].”<sup>21</sup>

21. The Assessor found, however, “the gaps and weaknesses noted within our review demonstrate that substantial additional work is required, and additional investments must be made, in order for the program to mature [REDACTED] [REDACTED].”<sup>22</sup>

22. In total, the Assessor identified [REDACTED] individual gaps and weaknesses [REDACTED]  
[REDACTED]<sup>23</sup>

23. When asked at her deposition [REDACTED] Facebook Chief Operating Officer Sheryl Sandberg responded, [REDACTED]  
[REDACTED]<sup>4</sup>

24. At her deposition, Facebook Chief Operating Officer Sheryl Sandberg stated, [REDACTED]  
[REDACTED]<sup>25</sup>

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<sup>18</sup> Ex. 47 at 9:15-23.

<sup>19</sup> Ex. 47 at 136:14-18.

<sup>20</sup> Ex. 4 at 1.

<sup>21</sup> Ex. 4 at 3.

<sup>22</sup> Ex. 4 at 3.

<sup>23</sup> Ex. 4 at 3.

<sup>24</sup> Ex. 47 at 135:18-136:3.

<sup>25</sup> Ex. 47 at 146:7-12.



b. [REDACTED]

c. [REDACTED]<sup>30</sup>

**A. Risk Assessments & Remediation**

**1. Privacy Risk Assessment 1.0**

**a) Background**

30. Part VII.D of the 2020 Order requires Facebook to “[a]ssess and document, at least once every twelve (12) months, internal and external risks in each area of operation (*e.g.*, employee training and management; developer operations; partnerships with Covered Third Parties; sharing of Covered Information with Covered Third Parties or Facebook-owned affiliates; product research, design, and development; and product marketing and implementation) to the privacy, confidentiality, or integrity of Covered Information that could result in the unauthorized access, collection, use, destruction, or disclosure of such information.”<sup>31</sup>

31. In response to Part VII.D, Facebook established, within its Risk Assessments and Remediation Control Domain, an annual “Privacy Risk Assessment (PRA)” process.<sup>32</sup>

32. Facebook started its first annual Privacy Risk Assessment (“PRA 1.0”) [REDACTED] and completed it in October 2020.<sup>33</sup>

(1) [REDACTED]

33. [REDACTED]<sup>34</sup>

34. [REDACTED]<sup>35</sup>

35. [REDACTED]<sup>36</sup>

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<sup>30</sup> Ex. 4 at 5.

<sup>31</sup> Ex. 3, Part VII.D.

<sup>32</sup> Ex. 4 at 40.

<sup>33</sup> Ex. 6 at 45 (Nov. 19, 2021 resp. to Oct. 1, 2021 request 1).

<sup>34</sup> Ex. 15 ([REDACTED]) at 6.

<sup>35</sup> Ex. 49 ([REDACTED]) at 4.

<sup>36</sup> Ex. 49 at 3.

36. [Redacted] 37

37. [Redacted] 38

38. [Redacted] 39

39. [Redacted] 40

40. [Redacted] 41

41. [Redacted] 42

42. [Redacted] 3

43. [Redacted] 44

44. [Redacted] 45

45. [Redacted] 6

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37 Ex. 13 [Redacted]

38 Ex. 49 at 4.

39 Ex. 49 at 4; Ex. 15 at 7.

40 Ex. 15 at 7-8.

41 Ex. 49 at 6.

42 Ex. 6 at 46 (Nov. 19, 2021 resp. to Oct. 1, 2021 request 1).

43 Ex. 6 at 46 (Nov. 19, 2021 resp. to Oct. 1, 2021 request 1).

44 Ex. 49 at 5.

45 Ex. 6 at 46 (Nov. 19, 2021 resp. to Oct. 1, 2021 request 1).

46 Ex. 6 at 46 (Nov. 19, 2021 resp. to Oct. 1, 2021, request 1).

46. [Redacted]

<sup>47</sup>

47. [Redacted]

<sup>48</sup>

48. [Redacted]

<sup>49</sup>

49. [Redacted]

<sup>50</sup>

[Redacted]

50. [Redacted]

<sup>51</sup>

51. [Redacted]

<sup>52</sup>

52. [Redacted]

<sup>53</sup>

53. [Redacted]

<sup>54</sup>

54. [Redacted]

<sup>55</sup>

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<sup>47</sup> Ex. 15 at 8.

<sup>48</sup> Ex. 13, row 397.

<sup>49</sup> Ex. 6 at 46 (Nov. 19, 2021 resp. to Oct. 1, 2021 request 1).

<sup>50</sup> Ex. 49 at 6.

<sup>51</sup> Ex. 49 at 12-16.

<sup>52</sup> Ex. 15 at 9.

<sup>53</sup> Ex. 15 at 8.

<sup>54</sup> Ex. 15 at 9.

<sup>55</sup> Ex. 49 at 13.

55. [Redacted] 56

56. [Redacted] 57

57. [Redacted] 58

58. [Redacted] 59

59. [Redacted] 60

60. [Redacted] 61

61. [Redacted] 62

62. [Redacted] 63

(3) [Redacted]

63. [Redacted] 64

<sup>56</sup> Ex. 15 at 9; Ex. 49 at 12-13.

<sup>57</sup> Ex. 15 at 9; Ex. 49 at 12.

<sup>58</sup> Ex. 49 at 12.

<sup>59</sup> Ex. 49 at 13.

<sup>60</sup> Ex. 14 at 22-23 (Jan. 11, 2022 resp. to Dec. 3, 2021 request 10).

<sup>61</sup> Ex. 4 at 47-48; Ex. 14 at 22-23 (Jan. 11, 2022 resp. to Dec. 3, 2021 request 10).

<sup>62</sup> Ex. 14 at 22-23 (Jan. 11, 2022 resp. to Dec. 3, 2021 request 10).

<sup>63</sup> Ex. 49 at 14.

<sup>64</sup> Ex. 49 at 16.

64. [REDACTED] <sup>65</sup>

65. [REDACTED] <sup>6</sup>

66. [REDACTED] <sup>7</sup>

67. [REDACTED] <sup>68</sup>

68. As described by Facebook's Chief Privacy Officer, testifying on behalf of Facebook, [REDACTED] <sup>9</sup>

69. [REDACTED] <sup>70</sup>

70. [REDACTED] <sup>71</sup>

71. [REDACTED] <sup>72</sup>

72. [REDACTED] <sup>3</sup>

73. Facebook admitted [REDACTED] <sup>74</sup>

74. [REDACTED] <sup>75</sup>

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<sup>65</sup> Ex. 49 at 16.

<sup>66</sup> Ex. 6 at 50 (Nov. 19, 2021 resp. to Oct. 1, 2021 request 5).

<sup>67</sup> Ex. 13, Column E.

<sup>68</sup> Ex. 13, Columns E, G.

<sup>69</sup> Ex. 16 (Jan. 26, 2022 R. 30(b)(6) Michel Protti Dep. Tr.) at 18:4-18.

<sup>70</sup> Ex. 49 at 11.

<sup>71</sup> Ex. 16 at 108:13-109:6.

<sup>72</sup> Ex. 15 at 11.

<sup>73</sup> Ex. 15 at 11.

<sup>74</sup> Ex. 6 at 49 (Nov. 19, 2021 resp. to Oct. 1, 2021 request 5).

<sup>75</sup> Ex. 15 at 11.

75. [REDACTED] <sup>76</sup>

76. [REDACTED] <sup>77</sup>

77. [REDACTED] <sup>78</sup>

78. Facebook admitted that [REDACTED] <sup>79</sup>

79. [REDACTED] <sup>80</sup>

80. The Assessor determined that, [REDACTED] <sup>81</sup>

81. [REDACTED] <sup>82</sup>

82. [REDACTED] <sup>83</sup>

83. [REDACTED] <sup>4</sup>

84. [REDACTED] <sup>85</sup>

85. [REDACTED] <sup>86</sup>

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<sup>76</sup> Ex. 50 (Risk Reduction Analysis Report) at 6; Ex. 15 at 12.

<sup>77</sup> Ex. 50 at 6.

<sup>78</sup> Ex. 50 at 5.

<sup>79</sup> Ex. 6 at 49 (Nov. 19, 2021 resp. to Oct. 1, 2021 request 5).

<sup>80</sup> Ex. 16 at 122:3-12.

<sup>81</sup> Ex. 4 at 48.

<sup>82</sup> Ex. 16 at 122:13-17.

<sup>83</sup> Ex. 50 at 3; Ex. 15 at 12.

<sup>84</sup> Ex. 16 at 117:13-16.

<sup>85</sup> Ex. 50 at 7.

<sup>86</sup> Ex. 50 at 7.

b) [REDACTED]

(1) [REDACTED]

86. The Assessor determined that [REDACTED]  
[REDACTED]<sup>87</sup>

87. The Assessor noted [REDACTED]  
[REDACTED]  
[REDACTED]<sup>88</sup>

88. The Assessor also found that [REDACTED]  
[REDACTED]<sup>89</sup>

89. [REDACTED]  
[REDACTED]<sup>90</sup>

90. [REDACTED]  
[REDACTED]<sup>91</sup>

91. The Assessor found [REDACTED]  
[REDACTED]<sup>92</sup>

92. The Assessor also found [REDACTED]  
[REDACTED]<sup>93</sup>

93. The Assessor [REDACTED]  
[REDACTED]<sup>94</sup>

94. Facebook agreed that [REDACTED]  
[REDACTED]<sup>95</sup>

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<sup>87</sup> Ex. 4 at 43.

<sup>88</sup> Ex. 4 at 44.

<sup>89</sup> Ex. 4 at 44.

<sup>90</sup> Ex. 4 at 44; Ex. 6 at 46 (Nov. 19, 2021 resp. to Oct. 1, 2021 request 1).

<sup>91</sup> Ex. 4 at 44; Ex. 6 at 46 (Nov. 19, 2021 resp. to Oct. 1, 2021 request 1).

<sup>92</sup> Ex. 4 at 44.

<sup>93</sup> Ex. 4 at 44.

<sup>94</sup> Ex. 4 at 44.

<sup>95</sup> Ex. 17 at 19 (Dec. 23, 2021 resp. to Dec. 3, 2021 request 1).

95. Facebook added that [REDACTED]  
[REDACTED]<sup>96</sup>

96. Facebook explained [REDACTED]  
[REDACTED]<sup>97</sup>

97. Facebook’s corporate designee testified that [REDACTED]  
[REDACTED]<sup>98</sup>

98. [REDACTED]  
[REDACTED] Facebook’s Chief Privacy Officer, testifying on behalf of Facebook, agreed that [REDACTED]<sup>99</sup>

99. Facebook’s Chief Privacy Officer, on behalf of Facebook, testified that [REDACTED]  
[REDACTED]<sup>100</sup>

100. Facebook agreed [REDACTED]  
[REDACTED]<sup>101</sup>

101. Facebook’s Chief Privacy Officer, testifying on behalf of Facebook, added that [REDACTED]  
[REDACTED]<sup>102</sup>

102. As part of its second annual risk assessment (“PRA 2021”), [REDACTED]  
[REDACTED]<sup>103</sup>

103. Facebook’s Chief Privacy Officer, on behalf of Facebook, testified [REDACTED]  
[REDACTED]<sup>104</sup>

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<sup>96</sup> Ex. 17 at 19 (Dec. 23, 2021 resp. to Dec. 3, 2021 request 1).  
<sup>97</sup> Ex. 6 at 46-47 (Nov. 19, 2021 resp. to Oct. 1, 2021 request 1).  
<sup>98</sup> Ex. 16 at 50:13-51:9.  
<sup>99</sup> Ex. 16 at 55:20-56:9.  
<sup>100</sup> Ex. 16 at 58:7-14.  
<sup>101</sup> Ex. 17 at 19 (Dec. 23, 2021 resp. to Dec. 3, 2021 request 1).  
<sup>102</sup> Ex. 16 at 49:8-50:12.  
<sup>103</sup> Ex. 17 at 20 (Dec. 23, 2021 resp. to Dec. 3, 2021 request 1).  
<sup>104</sup> Ex. 16 at 73:15-74:5.

104. [REDACTED]  
Facebook's Chief Privacy Officer, testifying on behalf of Facebook, agreed [REDACTED]  
[REDACTED] <sup>105</sup>

105. Facebook's Chief Privacy Officer also agreed that [REDACTED]  
[REDACTED] <sup>106</sup>

106. Facebook's Chief Privacy Officer [REDACTED]  
[REDACTED] <sup>107</sup>

107. The Assessor found that [REDACTED]  
[REDACTED] <sup>108</sup>

108. For example, [REDACTED]  
[REDACTED] <sup>109</sup>

109. Facebook [REDACTED]  
[REDACTED] <sup>10</sup>

(2) [REDACTED]

110. The Assessor also identified [REDACTED]  
[REDACTED] <sup>11</sup>

111. For example, the Assessor found [REDACTED]  
[REDACTED] <sup>12</sup>

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<sup>105</sup> Ex. 16 at 74:6-17.  
<sup>106</sup> Ex. 16 at 80:7-24.  
<sup>107</sup> Ex. 16 at 91:4-21.  
<sup>108</sup> Ex. 4 at 44.  
<sup>109</sup> Ex. 4 at 44.  
<sup>110</sup> Ex. 4 at 44.  
<sup>111</sup> Ex. 4 at 44.  
<sup>112</sup> Ex. 4 at 44.

112. Additionally, the Assessor found [REDACTED]  
[REDACTED] 113

113. The Assessor also noted that [REDACTED]  
[REDACTED] 114

114. Facebook admitted that [REDACTED]  
[REDACTED] 115

115. Facebook added that [REDACTED]  
[REDACTED] 116

(3) [REDACTED]

116. [REDACTED] (*see supra* ¶¶ 50-62), the Assessor  
identified [REDACTED] 117

117. [REDACTED]  
[REDACTED] 118

118. The Assessor determined that [REDACTED]  
[REDACTED] 119

119. The Assessor also found that [REDACTED]  
[REDACTED] 120

120. The Assessor determined [REDACTED]  
[REDACTED] 121

121. The Assessor also determined [REDACTED]  
[REDACTED] 122

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<sup>113</sup> Ex. 4 at 45.

<sup>114</sup> Ex. 4 at 45.

<sup>115</sup> Ex. 14 at 19 (Jan. 11, 2022 resp. to Dec. 3, 2021 request 8).

<sup>116</sup> Ex. 14 at 19 (Jan. 11, 2022 resp. to Dec. 3, 2021 request 8).

<sup>117</sup> Ex. 4 at 45.

<sup>118</sup> Ex. 4 at 45.

<sup>119</sup> Ex. 4 at 45.

<sup>120</sup> Ex. 4 at 45.

<sup>121</sup> Ex. 4 at 45.

<sup>122</sup> Ex. 4 at 45-46.

122. The Assessor found [REDACTED]  
[REDACTED] 124

123. The Assessor also found [REDACTED]  
[REDACTED] 25

124. For example, the Assessor concluded that [REDACTED]  
[REDACTED] 126

125. The Assessor further determined that [REDACTED]  
[REDACTED] 27

126. For example, the Assessor [REDACTED]  
[REDACTED] 128

127. Nevertheless, the Assessor found [REDACTED]  
[REDACTED] 129

128. Facebook admitted that [REDACTED]  
[REDACTED] 130

129. The Assessor also found [REDACTED]  
[REDACTED] 131

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<sup>123</sup> Ex. 4 at 45.

<sup>124</sup> Ex. 4 at 45-46.

<sup>125</sup> Ex. 4 at 46.

<sup>126</sup> Ex. 4 at 46.

<sup>127</sup> Ex. 4 at 46.

<sup>128</sup> Ex. 4 at 46-47.

<sup>129</sup> Ex. 4 at 47.

<sup>130</sup> Ex. 14 at 21 (Jan. 11, 2022 resp. to Dec. 3, 2021 request 9).

<sup>131</sup> Ex. 4 at 47.

130. The Assessor determined [REDACTED]  
[REDACTED] <sup>132</sup>

131. Additionally, Facebook [REDACTED]  
[REDACTED] <sup>133</sup>

132. [REDACTED]  
[REDACTED] <sup>134</sup>

133. The Assessor concluded [REDACTED]  
[REDACTED] <sup>35</sup>

134. Facebook admitted [REDACTED]  
[REDACTED] <sup>136</sup>

(4) [REDACTED]  
[REDACTED]

135. As the Assessor concluded, [REDACTED]  
[REDACTED] [see supra ¶¶ 71-81],  
[REDACTED] <sup>137</sup>

136. The Assessor added [REDACTED]  
[REDACTED] <sup>138</sup>

137. As a practical matter, the Assessor determined [REDACTED]  
[REDACTED] <sup>139</sup>

138. For example, the Assessor noted [REDACTED]  
[REDACTED] <sup>40</sup>

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<sup>132</sup> Ex. 4 at 47.

<sup>133</sup> Ex. 4 at 48; Ex. 14 at 22-23 (Jan. 11, 2022 resp. to Dec. 3, 2021 request 10).

<sup>134</sup> Ex. 4 at 48; *see also* Ex. 14 at 22-23 (Jan. 11, 2022 resp. to Dec. 3, 2021 request 10).

<sup>135</sup> Ex. 4 at 48.

<sup>136</sup> Ex. 14 at 22 (Jan. 11, 2022 resp. to Dec. 3, 2021 request 10).

<sup>137</sup> Ex. 4 at 48 (emphasis added).

<sup>138</sup> Ex. 4 at 48.

<sup>139</sup> Ex. 4 at 48-49.

<sup>140</sup> Ex. 4 at 48-49.

(5) [REDACTED]

139. The Assessor determined [REDACTED] *see supra* ¶¶ 64-68) [REDACTED].<sup>141</sup>

140. As a result, the Assessor found that [REDACTED].<sup>142</sup>

141. The Assessor determined [REDACTED].<sup>143</sup>

142. Additionally, [REDACTED].<sup>144</sup>

143. Facebook’s Chief Privacy Officer admitted, on behalf of Facebook, that [REDACTED].<sup>145</sup>

2. [REDACTED]

144. Part VII.E of the Order requires Facebook’s privacy program safeguards to “control for the material internal and external risks” it identified in its annual risk assessment.<sup>146</sup>

145. The Order further requires each safeguard to be “based on the volume and sensitivity of the Covered Information that is at risk, and the likelihood that the risk could be realized and result in the unauthorized access, collection, use, destruction, or disclosure of the Covered Information.”<sup>147</sup>

146. Facebook, however, admitted [REDACTED].<sup>148</sup>

147. Facebook also admitted that [REDACTED].

<sup>141</sup> Ex. 4 at 50.

<sup>142</sup> Ex. 4 at 50.

<sup>143</sup> Ex. 4 at 50.

<sup>144</sup> Ex. 20 (Aug. 17, 2020 email fr. M. Protti re Privacy HPM) at 1 (emphasis added).

<sup>145</sup> Ex. 16 at 33:17-25.

<sup>146</sup> Ex. 3, Part VII.E.

<sup>147</sup> Ex. 3, Part VII.E.

<sup>148</sup> Ex. 6 at 50 (Nov. 19, 2021 resp. to Oct. 1, 2021 request 5).

[REDACTED]  
149

148. Facebook further admitted that [REDACTED]  
[REDACTED] 150

149. The Assessor observed that [REDACTED]  
[REDACTED] 151

150. [REDACTED]  
[REDACTED] 152

151. Facebook, however, agreed to the Order’s six-month timeframe within which to conduct the risks analysis and safeguard build.

152. Additionally, because of the nine-month delay between the parties’ agreement to the Order and its ultimate entry by the Commission, Facebook had 15 months, not six, to complete the PRA and Safeguard build.

153. [REDACTED]  
[REDACTED]

154. [REDACTED]  
[REDACTED] 53

155. [REDACTED]  
[REDACTED] 55

156. A PRA 1.0 “Kickoff Meeting” slide deck [REDACTED]  
[REDACTED] 156 [REDACTED] 157

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<sup>149</sup> Ex. 16 at 109:20-111:14.

<sup>150</sup> Ex. 16 at 106:19-108:7.

<sup>151</sup> Ex. 4 at 43.

<sup>152</sup> Ex. 14 at 19 (Jan. 11, 2022 resp. to Dec. 3, 2021 request 8).

<sup>153</sup> Ex. 69 (FBCO-ASSESS-XV-00014622) at 2.

<sup>154</sup> Ex. 19 (Oct. 25, 2019 email fr. M. Protti re Privacy HPM) at 2.

<sup>155</sup> Ex. 19 at 2.

<sup>156</sup> Ex. 74 (Privacy Risk Assessment: Introduction and Kickoff Meeting for Business Leads) at 9.

<sup>157</sup> Ex. 74 at 12-13.

157. [REDACTED]  
[REDACTED]  
[REDACTED]  
158

158. Facebook’s Chief Privacy Officer testified, on behalf of Facebook, that [REDACTED]  
[REDACTED]  
[REDACTED]  
159

3. [REDACTED]

a) Background

159. Part VII.J of the Order requires Facebook to “[e]valuate and adjust the Privacy Program” in response to “material changes to Respondent’s operations or business arrangements, a Covered Incident,<sup>160</sup> [and] new or more efficient technological or operational methods to control for risks.”<sup>161</sup>

160. At a minimum, Facebook must evaluate the Privacy Program once annually and modify it as necessary based on the evaluation.<sup>162</sup>

161. [REDACTED]  
[REDACTED]  
163

b) [REDACTED]  
[REDACTED]

162. [REDACTED]  
[REDACTED]  
164

163. Facebook’s Chief Privacy Officer, testifying on behalf of Facebook, agreed [REDACTED]  
[REDACTED]  
[REDACTED]  
65

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<sup>158</sup> Ex. 75 ([REDACTED]) at 1.

<sup>159</sup> Ex. 16 at 33:3-16.

<sup>160</sup> A “Covered Incident” is “any instance in which Respondent has verified or otherwise confirmed that the Covered Information of 500 or more Users was or was likely to have been accessed, collected, used, or shared by a Covered Third Party in violation of Respondent’s Platform Terms.” Ex. 3, Definition C.

<sup>161</sup> Ex. 3, Part VII.J.

<sup>162</sup> Ex. 3, Part VII.J.

<sup>163</sup> Ex. 4 at 49.

<sup>164</sup> Ex. 4 at 49.

<sup>165</sup> Ex. 16 at 140:1-17.

164. [REDACTED] <sup>166</sup>

165. [REDACTED] <sup>167</sup>

166. Consequently, the Assessor found that [REDACTED] <sup>168</sup>

167. The Assessor concluded: [REDACTED] <sup>69</sup>

4. [REDACTED]

168. [REDACTED] <sup>170</sup>

169. The Assessor, however, found [REDACTED] <sup>171</sup>

170. Facebook admitted that [REDACTED] <sup>172</sup>

**B. Privacy Review**

171. The Order requires, specifically with respect to Facebook’s collection, use, or sharing of Covered Information in any new or modified product, service, or practice, that Facebook must, prior to implementing each new or modified product, service, or practice: (i) conduct a privacy review that assess the risks to the privacy, confidentiality, and integrity of the Covered Information, the safeguards in place to control such risks, and the sufficiency of the user notice and, if necessary, consent; and (ii) document a description of each reviewed product, service, or practice that was ultimately implemented; any safeguards implemented to control for the identified risk; and the decision or recommendation made as a result of the review (e.g., whether the practice was approved, approved contingent upon safeguards or other recommendations being implemented, or rejected).<sup>173</sup>

<sup>166</sup> Ex. 6 at 52 (Nov. 19, 2021 resp. to Oct. 1, 2021 request 7).

<sup>167</sup> Ex. 73 at 17 (Apr. 29, 2022 resp. to Mar. 24, 2022 request 6).

<sup>168</sup> Ex. 4 at 49.

<sup>169</sup> Ex. 4 at 49.

<sup>170</sup> Ex. 4 at 50; Ex. 14 at 25 (Jan. 11, 2022 resp. to Dec. 3, 2021 request 11).

<sup>171</sup> Ex. 4 at 50.

<sup>172</sup> Ex. 14 at 25 (Jan. 11, 2022 resp. to Dec. 3, 2021 request 11).

<sup>173</sup> Ex. 3, Part VII.E.2.a.

172. The Order further requires that, for each new or modified product, service, or practice that presents a material risk to the privacy, confidentiality, or integrity of Covered Information,<sup>174</sup> Facebook must prepare a written report (Privacy Review Statement) describing (i) the types of Covered Information it will collect, and how it will use, retain, and share that information; (ii) the notice it will send to users and any mechanisms by which the users will consent; (iii) any risks to the privacy, confidentiality, and integrity of Covered Information; (iv) existing safeguards that control for the identified risks, and whether any new safeguards must be implemented; and (v) any other known safeguards or other procedures that would mitigate the risks but were not implemented (e.g., minimizing the amount of types of information collected, used, or shared) and each reason those alternatives were not implemented.<sup>175</sup>

173. Facebook stated that [REDACTED]

76

174. Facebook stated that [REDACTED]

177

175. Moreover, Facebook stated that [REDACTED]

178

176. At his deposition, Chief Executive Officer Mark Zuckerberg acknowledged [REDACTED]

79

### **1. Facebook's Privacy Review Safeguards**

177. [REDACTED]

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<sup>174</sup> For example, a completely new product, service, or practice that has not been previously subject to a privacy review; a material change in the sharing of Covered Information with a Facebook-owned affiliate; a modified product, service, or practice that includes a material change in the collection, use, or sharing of Covered Information; a product, service, or practice directed to minors; or a product, service, or practice involving health, financial, biometric, or other similarly sensitive information. Ex. 3, Part VII.E.2.b.

<sup>175</sup> Ex. 3, Part VII.E.2.b.

<sup>176</sup> Ex. 11 (Oct. 24, 2020 Compliance Report) at 15.

<sup>177</sup> Ex. 11 at 15.

<sup>178</sup> Ex. 11 at 15.

<sup>179</sup> Ex. 43 at 75:5-16.

[REDACTED] <sup>180</sup>

178. [REDACTED] <sup>181</sup>

179. [REDACTED] <sup>182</sup>

180. According to Facebook, [REDACTED] <sup>83</sup>

181. To accomplish this objective and satisfy the Order requirements, Facebook [REDACTED] <sup>184</sup>

182. [REDACTED] <sup>85</sup>

2. [REDACTED]

183. The Assessor found, [REDACTED] <sup>186</sup>

184. However, the Assessor concluded that [REDACTED] <sup>187</sup>

<sup>180</sup> Ex. 11 at 15; Ex. 79 (Dec. 17, 2021 R. 30(b)(6) Michel Protti Dep. Tr.) at 15:10-14.

<sup>181</sup> Ex. 79 at 12:10-13:1.

<sup>182</sup> Ex. 79 at 13:2-6.

<sup>183</sup> Ex. 11 at 15.

<sup>184</sup> Ex. 5 at 13, 18, 20 (Oct. 29, 2021 resp. to Aug. 27, 2021 requests 1, 12, and 19); Ex. 6 at 9-11 (Nov. 19, 2021 resp. to Aug. 27, 2021 request 2).

<sup>185</sup> Ex. 5 at 13, 18, 20 (Oct. 29, 2021 resp. to Aug. 27, 2021 requests 1, 12, and 19); Ex. 6 at 9-11 (Nov. 19, 2021 resp. to Aug. 27, 2021 request 2).

<sup>186</sup> Ex. 4 at 73.

<sup>187</sup> Ex. 4 at 73.

a) Privacy Review [REDACTED]

185. [REDACTED]

186. Specifically, [REDACTED]  
[REDACTED] 188

187. Facebook [REDACTED]  
[REDACTED] 189

188. The Assessor found [REDACTED]  
[REDACTED] 190

189. In fact, the Assessor identified [REDACTED] 191

190. Facebook conceded [REDACTED]  
[REDACTED] 192

191. [REDACTED]  
[REDACTED] the Assessor observed [REDACTED] 193

192. [REDACTED]  
[REDACTED] 194

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<sup>188</sup> Ex. 5 at 13 (Oct. 29, 2021 resp. to Aug. 27, 2021 request 13); Ex. 6 at 9-11 (Nov. 19, 2021 resp. to Aug. 27, 2021 request 2); Ex. 79 at 15:15-16:7.

<sup>189</sup> Ex. 4 at 4, 73; Ex. 79 at 16:8-17:4.

<sup>190</sup> Ex. 4 at 4, 73.

<sup>191</sup> Ex. 4 at 4, 73.

<sup>192</sup> Ex. 4 at 74; Ex. 5 at 13 (Oct. 29, 2021 resp. to Aug. 27, 2021 request 1).

<sup>193</sup> Ex. 4 at 74.

<sup>194</sup> Ex. 79 at 17:13-25.

193. [REDACTED] .195

194. [REDACTED] .196

195. The project owner is often a product manager, typically embedded in a product team responsible for the given product or project.<sup>197</sup>

196. [REDACTED] .198

197. [REDACTED] .199

198. [REDACTED] .200

199. [REDACTED] .201

200. [REDACTED] .202

201. The Assessor found [REDACTED] .203

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<sup>195</sup> Ex. 79 at 17:6-12.

<sup>196</sup> Ex. 79 at 13:7-15.

<sup>197</sup> Product teams are the first-line teams that develop, deploy and update Facebook’s products and services. Ex. 79 at 18:1-11.

<sup>198</sup> Ex. 4 at 74.

<sup>199</sup> Ex. 4 at 74.

<sup>200</sup> Ex. 79 at 20:2-21:19.

<sup>201</sup> Ex. 79 at 21:20-24:5.

<sup>202</sup> Ex. 4 at 75.

<sup>203</sup> Ex. 4 at 75.

202. The Assessor found [REDACTED] .204

203. During the assessment, Facebook [REDACTED] 205

204. [REDACTED] .206

205. Facebook acknowledged [REDACTED] 207

206. [REDACTED] .208

207. The Assessor identified [REDACTED] 09

208. [REDACTED] .210

209. [REDACTED] 211

210. [REDACTED] 212

211. The Assessor concluded that, [REDACTED]

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<sup>204</sup> Ex. 4 at 74.  
<sup>205</sup> Ex. 4 at 74.  
<sup>206</sup> Ex. 4 at 74.  
<sup>207</sup> Ex. 6 at 9-11 (Nov. 19, 2021 resp. to Aug. 27, 2021 request 2).  
<sup>208</sup> Ex. 6 at 9-11 (Nov. 19, 2021 resp. to Aug. 27, 2021 request 2).  
<sup>209</sup> Ex. 4 at 75.  
<sup>210</sup> Ex. 4 at 75.  
<sup>211</sup> Ex. 79 at 61:14-62:11.  
<sup>212</sup> Ex. 4 at 75.

[REDACTED] .213

212. Facebook acknowledged [REDACTED]  
[REDACTED]  
[REDACTED] .214

213. [REDACTED] .215  
[REDACTED] .216

214. The Assessor found [REDACTED]  
[REDACTED] .217

215. [REDACTED]  
[REDACTED] .218

216. [REDACTED] .219

217. [REDACTED] .220

218. [REDACTED] .221

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<sup>213</sup> Ex. 4 at 75-76.

<sup>214</sup> Ex. 4 at 75-76.

<sup>215</sup> [REDACTED]

<sup>216</sup> Ex. 79 at 59:23-60:3.

<sup>217</sup> Ex. 4 at 88; Ex. 5 at 22 (Oct. 29, 2021 resp. to Aug. 27, 2021 request 22).

<sup>218</sup> Ex. 4 at 88; Ex. 5 at 13, 22 (Oct. 29, 2021 resp. to Aug. 27, 2021 requests 1, 22).

<sup>219</sup> Ex. 79 at 27:19-28:13.

<sup>220</sup> Ex. 79 at 29:5-20, 30:13-17, 32:6-11.

<sup>221</sup> Ex. 79 at 29:21-30:4.

219. [REDACTED] <sup>222</sup>

220. [REDACTED] <sup>223</sup>

221. [REDACTED] <sup>224</sup>

222. [REDACTED] <sup>225</sup>

223. [REDACTED] <sup>226</sup>

224. [REDACTED] <sup>227</sup>

225. The Assessor reported that [REDACTED] <sup>228</sup>

226. [REDACTED] <sup>229</sup>

227. [REDACTED] <sup>230</sup>

228. [REDACTED] <sup>231</sup>

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<sup>222</sup> Ex. 79 at 33:19-34:4.  
<sup>223</sup> Ex. 79 at 30:18-31:8, 31:19-32:11.  
<sup>224</sup> Ex. 79 at 30:18-31:8, 31:19-32:11.  
<sup>225</sup> Ex. 79 at 33:9-34:4.  
<sup>226</sup> Ex. 79 at 34:5-19.  
<sup>227</sup> Ex. 79 at 34:5-19.  
<sup>228</sup> Ex. 4 at 5; Ex. 79 at 28:14-25.  
<sup>229</sup> Ex. 4 at 76-77.  
<sup>230</sup> Ex. 4 at 76-77.  
<sup>231</sup> Ex. 4 at 76.

229. [REDACTED]  
[REDACTED] <sup>232</sup>

230. [REDACTED]  
[REDACTED] <sup>233</sup>

231. [REDACTED]  
[REDACTED] <sup>234</sup>

232. [REDACTED]  
[REDACTED] <sup>235</sup>

233. [REDACTED] the Assessor found [REDACTED]  
[REDACTED] <sup>236</sup>

234. Facebook conceded that [REDACTED]  
[REDACTED] <sup>237</sup>

235. [REDACTED]  
[REDACTED] <sup>239</sup>

236. [REDACTED]  
[REDACTED] <sup>240</sup>

237. [REDACTED]  
[REDACTED] <sup>241</sup>

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<sup>232</sup> Ex. 4 at 76.

<sup>233</sup> Ex. 4 at 81-82.

<sup>234</sup> Ex. 4 at 81-82; Ex. 79 at 49:1-22.

<sup>235</sup> Ex. 4 at 81-82.

<sup>236</sup> Ex. 4 at 81-82.

<sup>237</sup> Ex. 6 at 9-11 (Nov. 19, 2021 resp. to Aug. 27, 2021 request 2); Ex. 79 at 49:18-50:1.

<sup>238</sup> [REDACTED] Ex. 79 at 53:22-54:9.

<sup>239</sup> Ex. 79 at 50:2-52:7.

<sup>240</sup> Ex. 6 at 9-13 (Nov. 19, 2021 resp. to Aug. 27, 2021 requests 2, 4).

<sup>241</sup> Ex. 79 at 35:8-18.

238. Facebook [REDACTED] 242

239. [REDACTED] 243

240. [REDACTED] 244

241. [REDACTED] 245

242. Facebook [REDACTED] 246

243. Facebook [REDACTED] 247

244. [REDACTED] 248

245. For example, [REDACTED] 249f

246. [REDACTED] 250

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<sup>242</sup> Ex. 6 at 9-13 (Nov. 19, 2021 resp. to Aug. 27, 2021 requests 2, 4).  
<sup>243</sup> Ex. 6 at 9-13 (Nov. 19, 2021 resp. to Aug. 27, 2021 requests 2, 4).  
<sup>244</sup> Ex. 79 at 43:12-44:24.  
<sup>245</sup> Ex. 79 at 44:25-45:12.  
<sup>246</sup> Ex. 79 at 47:12-19.  
<sup>247</sup> Ex. 79 at 35:19-22.  
<sup>248</sup> Ex. 79 at 36:3-8, 36:9-15.  
<sup>249</sup> Ex. 79 at 46:12-47:11.  
<sup>250</sup> Ex. 79 at 35:23-36:2.

247. [REDACTED] <sup>251</sup>

248. [REDACTED] <sup>252</sup>

249. [REDACTED] <sup>253</sup>

250. Part VII.E.2.a. of the Order requires Facebook to conduct a privacy review “[p]rior to implementing each new or modified product, service, or practice.”<sup>254</sup>

251. At his deposition, Chief Executive Officer Mark Zuckerberg was asked [REDACTED]  
[REDACTED] Zuckerberg responded, [REDACTED] <sup>255</sup>

**b) Privacy Review [REDACTED]**

252. The Assessor found that [REDACTED] <sup>256</sup>

(1) [REDACTED]

253. [REDACTED] <sup>257</sup>

254. [REDACTED]

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<sup>251</sup> Ex. 79 at 36:16-37:9.  
<sup>252</sup> Ex. 6 at 19-20 (Nov. 19, 2021 resp. to Aug. 27, 2021 request 23).  
<sup>253</sup> Ex. 6 at 19-20 (Nov. 19, 2021 resp. to Aug. 27, 2021 request 23).  
<sup>254</sup> Ex. 3, Part VII.E.2.a.  
<sup>255</sup> Ex. 43 at 220:4-18.  
<sup>256</sup> Ex. 4 at 73, 78.  
<sup>257</sup> Ex. 4 at 78-79.

[REDACTED] 258

255. [REDACTED] 259

256. The Assessor noted that [REDACTED] 60

257. Specifically, [REDACTED] 261

258. Rather, [REDACTED] 262

259. At the December 2021 Rule 30(b)(6) deposition regarding Privacy Review, Facebook's corporate designee described [REDACTED] according to Facebook's witness, [REDACTED] 263

260. The Assessor noted that [REDACTED] 264

261. The Assessor found that [REDACTED] 265

262. For example, in some cases, the Assessor [REDACTED]

258 Ex. 4 at 78-79; Ex. 79 at 64:21-65:10.

259 Ex. 79 at 65:12-66:16.

260 Ex. 4 at 78.

261 Ex. 4 at 78-79.

262 Ex. 79 at 66:17-67:10.

263 Ex. 79 at 68:5-69:11.

264 Ex. 4 at 78-79.

265 Ex. 4 at 78-79.

[REDACTED] <sup>266</sup>

**(2) Key Risk Areas**

263. The 2020 Order identifies several key risk areas that included: collection or use of security phone numbers; changes to facial recognition practices; sharing nonpublic user information beyond privacy settings; third-party password requests; affiliate data-sharing; and password encryption.<sup>267</sup>

264. Facebook’s guidelines [REDACTED] <sup>268</sup>

265. [REDACTED] <sup>269</sup>

266. [REDACTED] the Assessor could not [REDACTED] <sup>70</sup>

267. For example, [REDACTED] <sup>271</sup>

268. The Order requires that, specifically with respect to Facebook’s sharing of Covered Information with any other Facebook-owned affiliate, Facebook must design, implement, maintain, and document safeguards that control for risks to the privacy, confidentiality, and integrity of such Covered Information, based on the volume and sensitivity of Covered Information that is at risk and the likelihood the risk could be realized and result in the unauthorized access, collection, use, destruction, or disclosure of the Covered Information.<sup>272</sup>

269. [REDACTED] <sup>273</sup>

270. [REDACTED]

<sup>266</sup> Ex. 4 at 79.

<sup>267</sup> Ex. 3, Parts II, IV, V, VI, VII.E.4, VII.E.5.

<sup>268</sup> Ex. 4 at 77; Ex. 5 at 16 (Oct. 29, 2021 resp. to Aug. 27, 2021 requests 6-7).

<sup>269</sup> Ex. 4 at 77; Ex. 5 at 16 (Oct. 29, 2021 resp. to Aug. 27, 2021 requests 6-7);.

<sup>270</sup> Ex. 4 at 77.

<sup>271</sup> Ex. 6 at 15-16 (Nov. 19, 2021 resp. to Aug. 27, 2021 request 8); Ex. 79 at 69:17-25.

<sup>272</sup> Ex. 3, Part VII.E.3.

<sup>273</sup> Ex. 4 at 77; Ex. 6. at 15-16 (Nov. 19, 2021 resp. to Aug. 27, 2021 request 8).

[REDACTED] .274

271. At the time of the assessment, [REDACTED] .275

272. [REDACTED] .276

273. In addition, the Assessor found [REDACTED] .277

274. Moreover, Facebook [REDACTED] .278

275. [REDACTED] .279

276. Facebook agreed that, [REDACTED] .280

(3) [REDACTED]

277. [REDACTED] .81

278. The Assessor observed that [REDACTED] .282

<sup>274</sup> Ex. 79 at 70:1-14.

<sup>275</sup> Ex. 4 at 77; Ex. 6. at 15-16 (Nov. 19, 2021 resp. to Aug. 27, 2021 request 8).

<sup>276</sup> Ex. 4 at 77; Ex. 6. at 15-16 (Nov. 19, 2021 resp. to Aug. 27, 2021 request 8).

<sup>277</sup> Ex. 4 at 84.

<sup>278</sup> Ex. 4 at 84.

<sup>279</sup> Ex. 4 at 84.

<sup>280</sup> Ex. 7 at 22-25 (Dec. 3, 2021 resp. to Aug. 27, 2021 request 16).

<sup>281</sup> Ex. 6 at 31-32 (Nov. 19, 2021 resp. to Aug. 27, 2021 request 10).

<sup>282</sup> Ex. 4 at 80.

279. In some cases, the Assessor [REDACTED]  
[REDACTED] <sup>283</sup>

280. Facebook conceded [REDACTED]  
[REDACTED] <sup>284</sup>

(4) [REDACTED] Mitigations

281. The Order requires Facebook to: (i) assess the privacy risks associated with the new or modified product, service, or practice; and (ii) document each product, service, or practice as implemented, along with any safeguards implemented to control for the identified risks and the resulting Privacy Review decision (e.g., including documentation of whether the project was approved contingent upon the implementation of safeguards or other recommendations).<sup>285</sup>

282. The Assessor found [REDACTED]  
[REDACTED]  
[REDACTED] <sup>286</sup>

283. Moreover, Facebook [REDACTED]  
[REDACTED] Therefore, the Assessor [REDACTED]  
[REDACTED] <sup>287</sup>

284. Specifically, the Assessor found that [REDACTED]  
[REDACTED]  
[REDACTED] <sup>288</sup>

285. The Assessor also found [REDACTED]  
[REDACTED] <sup>289</sup>

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<sup>283</sup> Ex. 4 at 80.  
<sup>284</sup> Ex. 6 at 31-32 (Nov. 19, 2021 resp. to Aug. 27, 2021 request 10).  
<sup>285</sup> Ex. 3, Part VII.E.2.a.  
<sup>286</sup> Ex. 4 at 80.  
<sup>287</sup> Ex. 4 at 80.  
<sup>288</sup> Ex. 4 at 79.  
<sup>289</sup> Ex. 4 at 79.

286. [REDACTED] <sup>290</sup>

287. [REDACTED] <sup>291</sup>

288. [REDACTED] <sup>292</sup>

289. [REDACTED] <sup>293</sup>

(5) [REDACTED] Mitigation Implementations

290. [REDACTED] <sup>294</sup>

291. [REDACTED] <sup>295</sup>

292. [REDACTED] <sup>296</sup>

293. Evidence Manager is the tooling through which Facebook [REDACTED] <sup>297</sup>

<sup>290</sup> Ex. 4 at 80.

<sup>291</sup> Ex. 5 at 19 (Oct. 29, 2021 resp. to Aug. 27, 2021 request 12); Ex. 6 at 17 (Nov. 19, 2021 resp. to Aug. 27, 2021 requests 13, 18, 21); Ex. 79 at 71:1-11.

<sup>292</sup> Ex. 79 at 70:22-25

<sup>293</sup> Ex. 79 at 71:12-72:25.

<sup>294</sup> Ex. 5 at 18, 20 (Oct. 29, 2021 resp. to Aug. 27, 2021 requests 12, 19); Ex. 6 at 16-17 (Nov. 19, 2021 resp. to Aug. 27, 2021 requests 13, 18, 21).

<sup>295</sup> Ex. 79 at 80:17-81:11.

<sup>296</sup> Ex. 79 at 88:7-13.

<sup>297</sup> Ex. 79 at 81:12-23.

294. [REDACTED] 298

295. For instance, [REDACTED] 299

296. [REDACTED] 300

297. [REDACTED] 301

298. [REDACTED] 302

299. [REDACTED] 303

300. [REDACTED] 304

301. [REDACTED]

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<sup>298</sup> Ex. 4 at 81.

<sup>299</sup> Ex. 4 at 81; Ex. 79 at 89:9-91:22.

<sup>300</sup> Ex. 4 at 81.

<sup>301</sup> Ex. 8 at 8 (Oct. 1, 2021 resp. to Aug. 27, 2021 request 12); Ex. 6 at 16-17 (Nov. 19, 2021 resp. to Aug. 27, 2021 requests 13, 18, 21); Ex. 79 at 91:23-92:24.

<sup>302</sup> Ex. 79 at 82:4-83:14.

<sup>303</sup> Ex. 79 at 83:15-25.

<sup>304</sup> Ex. 4 at 86.

[REDACTED] 305

302. [REDACTED] 306

303. The Assessor observed [REDACTED] 307

304. For some mitigation implementations, Facebook uses systematic verifiers to the verify accuracy of an implementation. [REDACTED] Not all mitigation implementations can be validated using systematic verifiers. As of October 2020, [REDACTED] 308

305. As of November 2021, Facebook reported [REDACTED] 309

(6) [REDACTED]

306. [REDACTED] 310

307. [REDACTED] 311

<sup>305</sup> Ex. 4 at 86.

<sup>306</sup> Ex. 4 at 86.

<sup>307</sup> Ex. 4 at 81.

<sup>308</sup> Ex. 79 at 98:1-100:21.

<sup>309</sup> Ex. 5 at 18, 21 (Oct. 29, 2021 resp. to Aug. 27, 2021 requests 12, 19).

<sup>310</sup> Ex. 4 at 87-88; Ex. 79 at 86:12-16.

<sup>311</sup> Ex. 4 at 87-88.

308. [REDACTED]  
[REDACTED]  
[REDACTED]<sup>312</sup>

309. [REDACTED]  
[REDACTED]<sup>13</sup>

310. In fact, the Assessor noted that [REDACTED]  
[REDACTED]  
[REDACTED]<sup>314</sup>

311. [REDACTED]  
[REDACTED]<sup>315</sup>

312. [REDACTED]  
[REDACTED]  
[REDACTED]<sup>316</sup>

313. [REDACTED]  
[REDACTED]  
[REDACTED]<sup>317</sup>

(7) [REDACTED]  
[REDACTED]

314. The Assessor found that [REDACTED]  
[REDACTED]  
[REDACTED]<sup>318</sup>

315. Facebook reported that [REDACTED]  
[REDACTED]  
[REDACTED]

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<sup>312</sup> Ex. 79 at 86:4-11.  
<sup>313</sup> Ex. 79 at 85:9-22.  
<sup>314</sup> Ex. 4 at 87-88.  
<sup>315</sup> Ex. 79 at 86:12-87:15.  
<sup>316</sup> Ex. 79 at 87:11-88:6.  
<sup>317</sup> Ex. 4 at 87-88.  
<sup>318</sup> Ex. 4 at 81.

[REDACTED] 319

316. Moreover, [REDACTED] 320

317. For example, the Assessor observed [REDACTED]  
[REDACTED] However, the Assessor [REDACTED] 321

3. [REDACTED]

318. The Assessor was unable to [REDACTED] 322

319. [REDACTED] the Assessor found [REDACTED] 323

320. Additionally, the Assessor observed [REDACTED] 324

321. Facebook conceded [REDACTED] It further admitted that, [REDACTED] 325

322. On October 29, 2021, Facebook reported [REDACTED] 326

<sup>319</sup> Ex. 5 at 17 (Oct. 29, 2021 resp. to Aug. 27, 2021 request 11); Ex. 79 at 73:25-76:4.

<sup>320</sup> Ex. 4 at 81.

<sup>321</sup> Ex. 4 at 81.

<sup>322</sup> Ex. 4 at 73, 78.

<sup>323</sup> Ex. 4 at 85-86, 88.

<sup>324</sup> Ex. 4 at 86-87.

<sup>325</sup> Ex. 5 at 20-21 (Oct. 29, 2021 resp. to Aug. 27, 2021 request 19).

<sup>326</sup> Ex. 5 at 20-21 (Oct. 29, 2021 resp. to Aug. 27, 2021 request 19).

323. Facebook also reported [REDACTED] <sup>327</sup>

324. During the assessment, [REDACTED] <sup>328</sup>

325. Facebook provided the Assessor [REDACTED] <sup>329</sup>

326. [REDACTED] <sup>330</sup>

327. The Assessor observed that, [REDACTED] <sup>331</sup>

**4. [REDACTED] Privacy Review [REDACTED]**

328. [REDACTED] <sup>332</sup>

329. Specifically, the Privacy Review control domain in Facebook’s privacy program consists of [REDACTED] safeguards, [REDACTED] of which were implemented and executed during the assessment period.<sup>333</sup>

330. [REDACTED] <sup>334</sup>

331. [REDACTED]

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<sup>327</sup> Ex. 5 at 20-21 (Oct. 29, 2021 resp. to Aug. 27, 2021 request 19).

<sup>328</sup> Ex. 4 at 86.

<sup>329</sup> Ex. 4 at 86.

<sup>330</sup> Ex. 4 at 86.

<sup>331</sup> Ex. 4 at 88.

<sup>332</sup> Ex. 4 at 88.

<sup>333</sup> Ex. 4 at 65; Ex. 6 at 29-30 (Nov. 19, 2021 resp. to Aug. 27, 2021 request 9).

<sup>334</sup> Ex. 6 at 29-30 (Nov. 19, 2021 resp. to Aug. 27, 2021 request 9).

[REDACTED]

335

332. For instance, Facebook stated that [REDACTED]

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333. In its response to the FTC’s demand letters in late October and November 2021, Facebook stated [REDACTED]

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334. [REDACTED]

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335. Facebook’s [REDACTED]

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336. The [REDACTED]

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337. [REDACTED]

338. Facebook stated [REDACTED]

335 Ex. 6 at 29-30 (Nov. 19, 2021 resp. to Aug. 27, 2021 request 9).  
336 Ex. 6 at 29-30 (Nov. 19, 2021 resp. to Aug. 27, 2021 request 9).  
337 Ex. 5 at 22-23 (Oct. 29, 2021 resp. to Aug. 27, 2021, request 22); Ex. 6 at 9-11, 15 (Nov. 19, 2021 resp. to Aug. 27, 2021 requests 2, 15).  
338 Ex. 6 at 18-19 (Nov. 19, 2021 resp. to Aug. 27, 2021 request 21).  
339 Ex. 6 at 18-19 (Nov. 19, 2021 resp. to Aug. 27, 2021 request 21).  
340 Ex. 6 at 18-19 (Nov. 19, 2021 resp. to Aug. 27, 2021 request 21).

[REDACTED] 341

339. Specifically, [REDACTED] 342

340. [REDACTED] 343

341. [REDACTED] 344

342. Facebook [REDACTED] 345

343. Through this review, [REDACTED] 346

344. In or about the summer or fall of 2021, Facebook began using [REDACTED] to conduct retroactive, “after-the-fact” checks as part of its effort to ensure that all code changes that should have completed Privacy Review went through that process. These “lookback” efforts reached back in time to September 2020 but did not pull in all code changes that had occurred at Facebook.<sup>347</sup>

345. [REDACTED] 348

<sup>341</sup> Ex. 6 at 17-18 (Nov. 19, 2021 resp. to Aug. 27, 2021 requests 13, 18).

<sup>342</sup> Ex. 6 at 17-18 (Nov. 19, 2021 resp. to Aug. 27, 2021 requests 13, 18).

<sup>343</sup> Ex. 6 at 17-18 (Nov. 19, 2021 resp. to Aug. 27, 2021 requests 13, 18).

<sup>344</sup> Ex. 6 at 17-18 (Nov. 19, 2021 resp. to Aug. 27, 2021 requests 13, 18).

<sup>345</sup> Ex. 6 at 9-12 (Nov. 19, 2021 resp. to Aug. 27, 2021 requests 2, 3).

<sup>346</sup> Ex. 6 at 9-12 (Nov. 19, 2021 resp. to Aug. 27, 2021 requests 2, 3).

<sup>347</sup> Ex. 79 at 37:25-39:20.

<sup>348</sup> Ex. 79 at 47:20-48:21.

346. [REDACTED] 349

347. Through these efforts, [REDACTED] 50

348. [REDACTED] 351

5. [REDACTED]

349. [REDACTED] 352

350. However, the Assessor found [REDACTED] The Assessor concluded [REDACTED] 353

351. For example, [REDACTED] 354

352. The Assessor found, [REDACTED] The Assessor concluded [REDACTED]

<sup>349</sup> Ex. 6 at 9-11 (Nov. 19, 2021 resp. to Aug. 27, 2021 request 2).  
<sup>350</sup> Ex. 6 at 9-12 (Nov. 19, 2021 resp. to Aug. 27, 2021 requests 2-3); Ex. 9 (FBCO-ASSESS-XV-00001716).  
<sup>351</sup> Ex. 5 at 15 (Oct. 29, 2021 resp. to Aug. 27, 2021 request 1); Ex. 6 at 9-11 (Nov. 19, 2021 resp. to Aug. 27, 2021 request 2); Ex. 79 at 38:25-39:14, 39:21-42:10. [REDACTED]

<sup>352</sup> Ex. 4 at 88-89.  
<sup>353</sup> Ex. 4 at 88-89.  
<sup>354</sup> Ex. 4 at 88-89.

[REDACTED] .<sup>355</sup>

353. In another example, Facebook required both a Privacy Review and an API XFN review (a separate review conducted in Launch Manager before Facebook updates an internal or external API) whenever it modified the way a third-party API shared Covered Information.<sup>356</sup>

354. However, there was no direct link between these processes; Facebook acknowledged they were administered by separate groups.<sup>357</sup>

355. For instance, [REDACTED] .<sup>358</sup>

356. [REDACTED] .<sup>359</sup>

357. [REDACTED] .<sup>360</sup>

6. [REDACTED]

358. In late December 2020, Facebook executive [REDACTED] wrote in an email to Chief Executive Officer Mark Zuckerberg: “The privacy work is putting a significant shear force on our Tech teams and culture, and I don’t think I’ve seen anything like it. . . . [REDACTED]

[REDACTED] further wrote: [REDACTED]

<sup>355</sup> Ex. 4 at 88-89.  
<sup>356</sup> Ex. 7 at 25-26 (Dec. 3, 2021 resp. to Aug. 27, 2021 request 25).  
<sup>357</sup> Ex. 7 at 25-26 (Dec. 3, 2021 resp. to Aug. 27, 2021 request 25).  
<sup>358</sup> Ex. 4 at 89.  
<sup>359</sup> Ex. 7 at 25-26 (Dec. 3, 2021 resp. to Aug. 27, 2021 request 25).  
<sup>360</sup> Ex. 7 at 25-26 (Dec. 3, 2021 resp. to Aug. 27, 2021 request 25).

[REDACTED]

[REDACTED]

361

359. In June 2021, [REDACTED], a Privacy Program Manager (PPM) responsible for leading Privacy Reviews, emailed Chief Executive Officer Mark Zuckerberg and Chief Operating Officer Sheryl Sandberg to raise concerns. Specifically, [REDACTED] wrote that some project owners had “made a pattern out of pushing Privacy to rush, re-prioritize, and in my opinion to circumvent/cut corners in the process.” [REDACTED] also described being pressured or intimidated by product teams into approving or prioritizing certain products, or otherwise changing how the Privacy Review was conducted, such as with respect to timelines, scope, and review methods.<sup>362</sup>

360. Michel Protti is Facebook’s Chief Privacy Officer and designated compliance officer under the Order.<sup>363</sup>

361. Protti’s job duties and responsibilities include overseeing Facebook’s efforts to improve privacy and comply with all privacy regulations, including the Order.<sup>364</sup>

362. In a discussion about [REDACTED]’s email to Sandberg and Zuckerberg, Protti wrote that what [REDACTED] described is “basically what every [Privacy Project Manager] goes through,” although [REDACTED]’s experience was “maybe slightly more acute.”<sup>365</sup>

363. In a separate discussion among [REDACTED]’s supervisors within the Privacy Organization, one theorized that project managers were probably being particularly forceful because “we’re getting to end of half so I’m guessing shipping is super important to someone’s [performance review] and they are pushing to get [part of their project] approved ASAP.”<sup>366</sup>

364. Two weeks later, [REDACTED] resigned.<sup>367</sup>

365. In a December 2, 2020, email from Chief Privacy Officer Michel Protti to Chief Executive Officer Mark Zuckerberg and other Facebook personnel, Protti wrote: [REDACTED]

[REDACTED]

[REDACTED]

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366. At his February 4, 2022, deposition, Chief Executive Officer Mark Zuckerberg was asked [REDACTED]

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<sup>361</sup> Ex. 42 (Dec. 22, 2020 email fr. [REDACTED] to M. Zuckerberg, FBCO-ASSESS-XV-00018835).

<sup>362</sup> Ex. 46 (June 21, 2021 email fr. [REDACTED] to S. Sandberg, M. Zuckerberg, FBCO-ASSESS-XV-00014986).

<sup>363</sup> Ex. 79 at 11:19-23.

<sup>364</sup> Ex. 79 at 11:24-12:3.

<sup>365</sup> Ex. 80 (June 23, 2021 Work Chat between M. Protti and [REDACTED], FBCO-ASSESS-XV-00024414).

<sup>366</sup> Ex. 81 at 2 (June 21, 2021 Work Chat between [REDACTED], FBCO-ASSESS-XV-000247660).

<sup>367</sup> Ex. 82 (July 6, 2021 email fr. [REDACTED] to [REDACTED], FBCO-ASSESS-XV-00024398).

<sup>368</sup> Ex. 78 (Dec. 2, 2020 email fr. M. Protti to [REDACTED] M. Zuckerberg, et al., FBCO-ASSESS-XV-00022024).



like, do you know for sure that this data was never used in this feature, you kind of need to make your way down the long tail of things, which aren't necessarily the most used systems."<sup>373</sup>

### C. Third-Party Risk Management

371. The 2020 Order directs Facebook to consider the risks posed by its data-sharing arrangements with Covered Third Parties, and to develop appropriate safeguards to control for such risks.<sup>374</sup>

372. Specifically, the Order requires Facebook to assess and document internal and external risks to the privacy, confidentiality, or integrity of Covered Information that could result in the unauthorized access, collection, use, destruction, or disclosure of such information in each area of its operation, including developer operations, partnerships with Covered Third Parties, and sharing of Covered Information with Covered Third Parties.<sup>375</sup>

373. The Order further requires Facebook to design, implement, maintain, and document safeguards that control for the material internal and external risks it identifies. Each safeguard must be based on the volume and sensitivity of the Covered Information that is at risk, and the likelihood the risk could be realized and result in the unauthorized access, collection, use, destruction, or disclosure of the Covered Information.<sup>376</sup>

374. Specifically with respect to any Covered Third Party that obtains or otherwise has access to Covered Information from Facebook for use in an independent third-party consumer application or website, Part VII.E.1. of the Order requires Facebook's safeguards to include:

(a) requiring an annual self-certification by each Covered Third Party that certifies (i) its compliance with each of Facebook's Platform Terms and (ii) the purposes or uses for each type of Covered Information to which it requests or continued to have access, and that each specified purpose or use complies with Facebook's Platform Terms;

(b) denying or terminating access to any type of Covered Information that the Covered Third Party fails to certify pursuant to Part VII.E.1.a.(ii) or, if the Covered Third Party fails to complete the annual self-certification, denying or terminating access to all Covered Information unless the Covered Third Party cures such failure within a reasonable time not to exceed 30 days;

(c) monitoring Covered Third Party compliance with Facebook's Platform Terms through measures including, but not limited to, ongoing manual reviews and automated scans, and regular assessments, audits, or other technical and operational testing at least once every 12 months; and

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<sup>373</sup> Ex. 43 at 228:23-229:2.

<sup>374</sup> Ex. 3, Parts VII.D. & E.

<sup>375</sup> Ex. 3, Part VII.D.

<sup>376</sup> Ex. 3, Part VII.E.

(d) enforcing against any Covered Third Party violations of Facebook’s Platform Terms based solely on the severity, nature, and impact of the violation; the Covered Third Party’s malicious conduct or history of violations; and applicable law.<sup>377</sup>

### 1. Facebook’s Third-Party Risk Management Controls

375. To address the Order requirements, Facebook developed its Third Party Risk Management control domain, which includes safeguards governing third-party developer access to Covered Information through Public APIs for users in a consumer-facing website or application.<sup>378</sup>

376. Most third-party developers utilize Public APIs, which are available to all developers on the Company’s developer platforms for Facebook and Oculus.<sup>379</sup>

377. Facebook also grants third-party access to Covered Information through Partner APIs, which it makes available on an individual partner basis through a separate approval process.<sup>380</sup>

378. Use of the Public APIs is governed by Facebook’s mandatory Platform Product Terms.<sup>381</sup>

379. Developers on the Oculus developer platform must agree to the Oculus Developer Data Use policy.<sup>382</sup>

380. In addition, depending on the API to which they seek access, third-party developers may be required to agree to Developer Policies, Facebook Terms of Service, Instagram Terms of Use, the Facebook Commercial Terms, the Business Tools Terms, and other applicable Facebook Product terms.<sup>383</sup>

381. Facebook’s Platform Product Terms describe third-party developers’ obligations, and include privacy and security provisions, which govern use of Covered Information accessed or received through a Public API.<sup>384</sup>

382. Facebook’s Platform Terms generally prohibit developers from sharing Facebook user data with other parties (so-called “fourth parties”), and obligate developers to delete user data upon the user’s request.<sup>385</sup>

383. Facebook uses the term “advanced permissions” or “advanced privileges” to refer to circumstances when a third-party developer has access through Facebook’s APIs to Covered

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<sup>377</sup> Ex. 3, Part VII. E.1.

<sup>378</sup> Ex. 5 at 26, 30-31 (Oct. 29, 2021 resp. to Sept. 1, 2021 requests 1, 9). Facebook’s Third-Party Oversight and Management (TPOM) program also addresses Facebook’s contract-based engagements with service providers and other products-based engagements such as business and ads-related APIs. Ex. 79 at 109:1-110:11.

<sup>379</sup> Ex. 5 at 26, 30-31 (Oct. 29, 2021 resp. to Sept. 1, 2021 requests 1, 9); Ex. 79 at 110:5-21.

<sup>380</sup> Ex. 5 at 26, 30-31 (Oct. 29, 2021 resp. to Sept. 1, 2021 requests 1, 9); Ex. 79 at 110:5-21.

<sup>381</sup> Ex. 5 at 26, 30-31 (Oct. 29, 2021 resp. to Sept. 1, 2021 requests 1, 9).

<sup>382</sup> Ex. 5 at 26, 30-31 (Oct. 29, 2021 resp. to Sept. 1, 2021 requests 1, 9).

<sup>383</sup> Ex. 5 at 26, 30-31 (Oct. 29, 2021 resp. to Sept. 1, 2021 requests 1, 9); Ex. 79 at 131:19-132:3.

<sup>384</sup> Ex. 5 at 26, 30-31 (Oct. 29, 2021 resp. to Sept. 1, 2021 requests 1, 9).

<sup>385</sup> Ex. 5 at 26, 30-31 (Oct. 29, 2021 resp. to Sept. 1, 2021 requests 1, 9).

Information that goes beyond a Facebook user's publicly available profile information and email address.<sup>386</sup>

384. Publicly available profile information includes information that is always public on Facebook, such as the user's name, user ID, profile picture, and cover photo.<sup>387</sup>

385. Publicly available information may also include any information the user has chosen to designate as public through their settings.<sup>388</sup>

386. With advanced permissions or privileges, Covered Third Party developers may access a user's nonpublic information, such as the user's photos, posts, religious views, political views, and relationship status.<sup>389</sup>

387. Facebook employs different processes to evaluate Covered Third Parties' access to Covered Information depending on the applicable API. When developers seek to use a Public API to request access to Covered Information other than a user's public profile information and email address (referred to as "advanced permissions" or "advanced privileges"), Facebook conditions access through the App Review process.<sup>390</sup>

388. In App Review, a team of Developer Operations reviewers evaluates the app's use of the Covered Information against Facebook's permitted uses for such information, as well as the developer's compliance with Facebook's Platform Terms and developer policies, and decides whether to approve or deny access.<sup>391</sup>

389. The App Review process occurs when a third-party app first seeks API permissions.<sup>392</sup>

390. The App Review process

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<sup>386</sup> Ex. 79 at 115:7-116:6.

<sup>387</sup> Ex. 79 at 115:7-116:6.

<sup>388</sup> Ex. 79 at 115:7-116:6.

<sup>389</sup> Ex. 79 at 117-118:1.

<sup>390</sup> Ex. 5 at 26 (Oct. 29, 2021 resp. to Sept. 1, 2021 request 1); Ex. 79 at 120:7-19.

<sup>391</sup> Ex. 5 at 26-27 (Oct. 29, 2021 resp. to Sept. 1, 2021 request 1); Ex. 79 at 122:22-124:16.

<sup>392</sup> Ex. 5 at 26-27 (Oct. 29, 2021 resp. to Sept. 1, 2021 request 1).

<sup>393</sup> Ex. 5 at 26-27 (Oct. 29, 2021 resp. to Sept. 1, 2021 request 1).

<sup>394</sup> Ex. 5 at 27 (Oct. 29, 2021 resp to Sept. 1, 2021 request 1); Ex. 79 at 121:21-122:17.

2. [REDACTED]

392. The Assessor identified [REDACTED]  
[REDACTED] 395

393. [REDACTED]  
[REDACTED] 396

a) [REDACTED]

394. The Assessor observed that [REDACTED]  
[REDACTED] 397

395. [REDACTED]  
[REDACTED] 398

396. Throughout its report, the Assessor referred to Covered Third Parties that obtained or otherwise had access to Covered Information for use in an independent, third-party consumer application or website as “E1 Covered Third Parties,” to indicate the requirements of the Part VII.E.1 of the Order applied.<sup>399</sup>

397. [REDACTED]  
[REDACTED] 400

398. The Assessor found that [REDACTED]  
[REDACTED] 401

399. Facebook completed an initial risk assessment of E1 Covered Third Parties in or about August 2021.<sup>402</sup>

400. Facebook finished implementing the automated process for its formal risk assessment of E1 Covered Third Parties on or about October 18, 2021.<sup>403</sup>

401. [REDACTED]  
[REDACTED] 404

<sup>395</sup> Ex. 4 at 150.

<sup>396</sup> Ex. 4 at 150.

<sup>397</sup> Ex. 4 at 152.

<sup>398</sup> Ex. 4 at 152.

<sup>399</sup> Ex. 4 at 150.

<sup>400</sup> Ex. 4 at 152.

<sup>401</sup> Ex. 4 at 152.

<sup>402</sup> Ex. 79 at 135:22-136:2

<sup>403</sup> Ex. 79 at 136:19-137:17, 139:11-21.

<sup>404</sup> Ex. 6 at 37 n.36 (Nov. 19, 2021 resp. to Sept. 22, 2021 request 3).

402. Facebook began using the risk-tier designations in its newly developed risk assessment framework for E1 Covered Third Parties to subject apps in higher-risk tiers to [REDACTED]

[REDACTED].<sup>405</sup>

403. After assigning E1 Covered Third Party apps into risk-tier designations pursuant to the newly developed risk assessment framework, Facebook began subjecting higher-risk apps to the following monitoring measures: a detailed questionnaire that Facebook called the Data Protection Assessment (DPA); an enhanced privacy policy review (for apps in the highest-risk tier only); and an enhanced version of App Re-Review (for all E1 Covered Third Party Apps).<sup>406</sup>

404. Facebook began sending Data Protection Assessment (DPA) questionnaires to developers for apps in higher-risk tiers on Facebook's platform on August 9, 2021, [REDACTED]

[REDACTED].<sup>407</sup>

405. Facebook began conducting enhanced privacy policy reviews on apps in the highest-risk tier on or about August 16, 2021.<sup>408</sup>

406. Facebook began conducting enhanced App Re-Reviews on apps on or about September 7, 2021, for apps on the Facebook platform and [REDACTED]

[REDACTED].<sup>409</sup>

407. [REDACTED]

[REDACTED].<sup>410</sup>

b) [REDACTED]

408. [REDACTED]

[REDACTED],<sup>411</sup> the Assessor found [REDACTED]

[REDACTED].<sup>412</sup>

409. Specifically, the Assessor found [REDACTED]

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<sup>405</sup> Ex. 79 at 141:1-142:13.

<sup>406</sup> Ex. 79 at 142-14-143:15.

<sup>407</sup> Ex. 79 at 144:20-146:3.

<sup>408</sup> Ex. 79 at 146:9-147:6.

<sup>409</sup> Ex. 79 at 149:23-151:25.

<sup>410</sup> Ex. 79 at 161:11-163:18.

<sup>411</sup> Part VII.E. of the Order specifically requires this approach. *See* Ex. 3, Part VII.E. ("Each safeguard must be based on the volume and sensitivity of the Covered Information that is at risk, and the likelihood that the risk could be realized and result in the unauthorized access, collection, use, destruction, or disclosure of the Covered Information.").

<sup>412</sup> Ex. 4 at 150, 152.

[REDACTED] <sup>413</sup>

410. However, the Assessor found that, [REDACTED] <sup>414</sup>

411. In particular, the Assessor found that, [REDACTED] <sup>415</sup>

412. For the broader period from October 25, 2020 to September 22, 2021, there were [REDACTED] E1 Covered Third Party apps with advanced privileges (i.e., apps that had access, for one or more days during the period, to APIs that provided access to Covered Information other than public profile information and email address).<sup>416</sup>

413. Specifically, the Assessor found [REDACTED] <sup>417</sup>

414. As of October 2020, Facebook’s measures to monitor E1 Covered Third Parties’ compliance with Platform Terms comprised a requirement that apps provide an annual self-certification (the Data Use Checkups (DUC)), an annual App Re-Review process, and ongoing “signals-based” monitoring (such as through reports from Facebook employees, press, or the Company’s bug bounty program). In addition, Facebook stated that [REDACTED] <sup>418</sup>

415. The Assessor found that [REDACTED] <sup>419</sup>

416. [REDACTED] Facebook’s annual self-certification process (also called the Data Use Checkup (DUC)), which the Company implemented to satisfy the requirements of Part VII.1.a.

<sup>413</sup> Ex. 4 at 150, 152.

<sup>414</sup> Ex. 4 at 151-52.

<sup>415</sup> Ex. 4 at 151-52.

<sup>416</sup> Ex. 7 at 12-14 (Dec. 3, 2021 resp. to Sept. 22, 2021 request 2).

<sup>417</sup> Ex. 4 at 152-53; Ex. 6 at 43 (Nov. 19, 2021 resp. to Sept 22, 2021 request 4).

<sup>418</sup> Ex. 79 at 132:14-134:17.

<sup>419</sup> Ex. 4 at 152-53.

of the Order,<sup>420</sup> asks all E1 Covered Third Parties to certify that they adhere to the Platform Terms [REDACTED]

[REDACTED]<sup>421</sup>

417. Facebook’s annual self-certification requirement (the Data Use Checkup (DUC)) applies to all E1 Covered Third Parties using Facebook’s APIs, whether they use the APIs for advanced privileges to access users’ nonpublic information, or whether they use APIs to access only the users’ public profile information and email address.<sup>422</sup>

418. The Order requires that Facebook develop appropriate safeguards “based on the volume and sensitivity of the Covered Information that is at risk, and the likelihood that the risk could be realized . . . .”<sup>423</sup>

419. [REDACTED], the Assessor noted [REDACTED]

[REDACTED]<sup>424</sup>

420. The Assessor found that [REDACTED]

[REDACTED]<sup>425</sup>

421. At his February 4, 2022, deposition, Facebook Chief Executive Officer Mark Zuckerberg was asked “Do you agree with Protiviti’s observation that [REDACTED]

[REDACTED]” Zuckerberg responded, [REDACTED]

[REDACTED]<sup>426</sup>

422. Later at his February 4, 2022 deposition, Chief Executive Officer Mark Zuckerberg stated, [REDACTED]

[REDACTED]<sup>427</sup>

423. At his February 4, 2022 deposition, Facebook Chief Executive Officer Mark Zuckerberg stated: “I do think that the development platform area and the third party data has been – it’s a difficult governance and big data access problem. . . . [I]t’s been a challenging one to . . . build a

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<sup>420</sup> See Exh. 3, 2020 Order, Part VII.E.1.a. (“[S]afeguards shall include . . . [r]equiring an annual self-certification by each Covered Third Party that certifies: (i) its compliance with each of Respondent’s Platform Terms; and (ii) the purpose(s) or use(s) for each type of Covered Information to which it requests or continues to have access, and that each specified purpose or use complies with Respondent’s Platform Terms”).

<sup>421</sup> Ex. 4 at 152-53; Ex. 6 at 43 (Nov. 19, 2021 resp. to Sept 22, 2021 request 4); Ex. 79 at 125:7-18, 126:4-13.

<sup>422</sup> Ex. 79 at 126:4-13.

<sup>423</sup> Ex. 3, Parts VII.D. & E.

<sup>424</sup> Ex. 4 at 151-52.

<sup>425</sup> Ex. 4 at 151-52.

<sup>426</sup> Ex. 43 at 213:16-21.

<sup>427</sup> Ex. 43 at 222:23-223:4.

program that's as strong as we would need to. Just because inherently what's happening is people are . . . signing up to give data or to have data flow outside of the system to people we don't necessarily control. I mean, you can give us commitments, but we . . . don't have perfect ability to control what they do after that. So I think . . . there are a bunch of steps that we can take to improve this, but it may be one of the bigger areas of risk over the long term as well."<sup>428</sup>

c) [REDACTED]

424. The Assessor found [REDACTED]

429

425. The Order specifically requires Facebook to develop safeguards that include “[m]onitoring Covered Third Party compliance with [Facebook]’s Platform Terms through measures including, but not limited to, ongoing manual reviews and automated scans, and regular assessments, audits, or other technical and operational testing at least once every twelve (12) months.”<sup>430</sup>

426. [REDACTED]

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427. Facebook stated it also engages in other measures such as automated rate limiting, automated detection of missing privacy policies, and signals-based monitoring, which may alert the Company to the existence of non-compliant apps.<sup>432</sup>

428. Signals-based monitoring in this context means Facebook’s efforts to collect and analyze information from various sources, including the Company’s global threat intelligence and social media monitoring teams, external data misuse teams, external reporting channels for developers, data abuse bounty programs, and leads from public sources like news articles and consumer watchdog organizations.<sup>433</sup>

429. The Assessor’s report noted that [REDACTED]

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<sup>428</sup> Ex. 43 at 193:4-20.

<sup>429</sup> Ex. 4 at 152.

<sup>430</sup> Ex. 3, Part VII.E.1.c.

<sup>431</sup> Ex. 6 at 37 (Nov. 19, 2021 resp. to Sept. 22, 2021 request 3)

<sup>432</sup> Ex. 6 at 40-43 (Nov. 19, 2021 resp. to Sept 22, 2021 request 3).

<sup>433</sup> Ex. 6 at 40-43 (Nov. 19, 2021 resp. to Sept 22, 2021 request 3).

<sup>434</sup> Ex. 4 at 151.

d) [REDACTED]

**(1) Detection of Third-Party Privacy Policies**

430. One of Facebook’s safeguards provided that it ran automated scans to detect whether a Covered Third Party provided a functioning link to its privacy policy.<sup>435</sup>

431. [REDACTED]  
[REDACTED] <sup>436</sup>

432. [REDACTED]  
[REDACTED] <sup>437</sup>

433. [REDACTED]  
[REDACTED] <sup>438</sup>

434. [REDACTED]  
[REDACTED] <sup>439</sup>

**(2) [REDACTED]**

435. The Assessor found that [REDACTED] <sup>440</sup>

436. [REDACTED]  
[REDACTED] <sup>441</sup>

437. The Assessor observed that [REDACTED] <sup>442</sup>

438. For instance, [REDACTED] <sup>443</sup>

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<sup>435</sup> Ex. 4 at 15; Ex. 5 at 26 (Oct. 29, 2021 resp. to Sept. 1, 2021 request 1).

<sup>436</sup> Ex. 4 at 15; Ex. 5 at 26 (Oct. 29, 2021 resp. to Sept. 1, 2021 request 1).

<sup>437</sup> Ex. 4 at 153; Ex. 5 at 26-27 (Oct. 29, 2021 resp. to Sept. 1, 2021 request 1).

<sup>438</sup> Ex. 4 at 153; Ex. 5 at 26-27 (Oct. 29, 2021 resp. to Sept. 1, 2021 request 1).

<sup>439</sup> Ex. 5 at 26-27 (Oct. 29, 2021 resp. to Sept. 1, 2021 request 1).

<sup>440</sup> Ex. 4 at 150.

<sup>441</sup> Ex. 5 at 42 (Oct. 29, 2021 resp. to Sept. 22, 2021 request 5).

<sup>442</sup> Ex. 4 at 150.

<sup>443</sup> Ex. 4 at 153-54.

439. [REDACTED] .444

440. [REDACTED] .445

441. At the time of the assessment, [REDACTED] .446

442. [REDACTED] .447

443. [REDACTED] .448

444. Approximately [REDACTED] apps that were supposed to have completed App Re-Review by October 24, 2021 remained incomplete as of October 25, 2021.<sup>449</sup>

445. Of the [REDACTED] apps that were supposed to have completed App Re-Review by October 24, 2021 and remained incomplete as of October 25, 2021, [REDACTED] had advanced permissions to access nonpublic user information.<sup>450</sup>

446. By November 29, 2021, Facebook completed App Re-Reviews for [REDACTED] of the [REDACTED] overdue apps.<sup>451</sup>

447. Of the group of [REDACTED] overdue apps, [REDACTED] were in violation of Platform Terms or developer policies, [REDACTED] of which had advanced permissions to access nonpublic user information.<sup>452</sup>

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<sup>444</sup> Ex. 4 at 153-54.

<sup>445</sup> Ex. 5 at 42-43 (Oct. 29, 2021 resp. to Sept. 22, 2021 request 5).

<sup>446</sup> Ex. 5 at 42-43 (Oct. 29, 2021 resp. to Sept. 22, 2021 request 5).

<sup>447</sup> Ex. 5 at 42-43 (Oct. 29, 2021 resp. to Sept. 22, 2021 request 5).

<sup>448</sup> Ex. 4 at 153-54.

<sup>449</sup> Ex. 5 at 11-12 (Oct. 29, 2021 resp. to Sept. 22, 2021 request 6); Ex. 7 at 15 (Dec. 3, 2021 resp. to Sept. 22, 2021 request 6); Ex. 79 at 152:8-22.

<sup>450</sup> Ex. 7 at 15-19 (Dec. 3, 2021 resp. to Sept. 22, 2021 request 6).

<sup>451</sup> Ex. 7 at 16-19 (Dec. 3, 2021 resp. to Sept. 22, 2021 request 6).

<sup>452</sup> Ex. 7 at 16-19 (Dec. 3, 2021 resp. to Sept. 22, 2021 request 6).



457. [REDACTED] .462

458. The Assessor noted that, [REDACTED] .463

459. Facebook stated that [REDACTED] .464

460. At the December 17, 2021, Rule 30(b)(6) deposition regarding Third Party Risk Management, Facebook’s corporate designee testified that, [REDACTED] .465

e) [REDACTED]

461. Part VII.E.1.d of the Order requires the Company to enforce its Platform Terms based solely on the severity, nature, and impact of the violation; the Covered Third Party’s malicious conduct or history of violations; and applicable law.<sup>466</sup>

462. The Assessor found [REDACTED] .467

463. [REDACTED] .468

464. During the assessment period, Facebook’s Enforcement Rubric [REDACTED] .469

465. During the assessment period, Facebook’s Enforcement Rubric [REDACTED] .470

<sup>462</sup> Ex. 5 at 45-46 (Oct. 29, 2021 resp. to Sept. 22, 2021 request 8); Ex. 79 at 171:12-172:7.

<sup>463</sup> Ex. 4 at 160.

<sup>464</sup> Ex. 5 at 45-46 (Oct. 29, 2021 resp. to Sept. 22, 2021 requests 8, 9, 10).

<sup>465</sup> Ex. 79 at 172:9-17.

<sup>466</sup> Ex. 3, Part VII.E.1.d.

<sup>467</sup> Ex. 4 at 158.

<sup>468</sup> Ex. 79 at 163:19-164:4.

<sup>469</sup> Ex. 4 at 158; Ex. 5 at 28 (Oct. 29, 2021 resp. to Sept. 1, 2021 request 1); Ex. 7 at 8-11 (Dec. 3, 2021 resp. to Sept. 1, 2021 request 4); Ex. 79 at 164:12-165:8.

<sup>470</sup> Ex. 79 at 164:12-165:8.

466. The Assessor concluded [REDACTED]  
[REDACTED] 471

467. Facebook stated that, [REDACTED]  
[REDACTED] 472

468. Facebook stated that [REDACTED]  
[REDACTED] 473

469. During the assessment, [REDACTED] 474

470. [REDACTED]  
[REDACTED] 475

471. [REDACTED]  
[REDACTED] 476

472. [REDACTED]  
[REDACTED] 77

473. [REDACTED]  
[REDACTED] 478

474. [REDACTED]  
[REDACTED] 479

475. [REDACTED]  
[REDACTED]

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<sup>471</sup> Ex. 4 at 158.

<sup>472</sup> Ex. 4 at 158; Ex. 5 at 28 (Oct. 29, 2021 resp. to Sept. 1, 2021 request 1); Ex. 7 at 8-11 (Dec. 3, 2021 resp. to Sept. 1, 2021 request 4).

<sup>473</sup> Ex. 4 at 158; Ex. 5 at 28 (Oct. 29, 2021 resp. to Sept. 1, 2021 request 1); Ex. 7 at 8-11 (Dec. 3, 2021 resp. to Sept. 1, 2021 request 4).

<sup>474</sup> Ex. 4 at 158; Ex. 5 at 28 (Oct. 29, 2021 resp. to Sept. 1, 2021 request 1); Ex. 7 at 8-11 (Dec. 3, 2021 resp. to Sept. 1, 2021 request 4).

<sup>475</sup> Ex. 4 at 158; Ex. 5 at 28 (Oct. 29, 2021 resp. to Sept. 1, 2021 request 1); Ex. 7 at 8-11 (Dec. 3, 2021 resp. to Sept. 1, 2021 request 4).

<sup>476</sup> Ex. 4 at 158.

<sup>477</sup> Ex. 5 at 29-30 (Oct. 29, 2021 resp. to Sept. 1, 2021 request 5); Ex. 7 at 11-12 (Dec. 3, 2021 resp. to Sept. 1, 2021 request 6).

<sup>478</sup> Ex. 4 at 158; Ex. 5 at 29 (Oct. 29, 2021 resp. to Sept. 1, 2021 request 5).

<sup>479</sup> Ex. 4 at 158; Ex. 5 at 29 (Oct. 29, 2021 resp. to Sept. 1, 2021 request 5).

[REDACTED] .480

476. [REDACTED] .481

477. [REDACTED] .482

478. [REDACTED] .483

479. [REDACTED] .484

480. [REDACTED] .485

481. [REDACTED] .486

482. [REDACTED] .87

483. [REDACTED] .488

<sup>480</sup> Ex. 7 at 8-11 (Dec. 3, 2021 resp. to Sept. 1, 2021 request 4)

<sup>481</sup> Ex. 4 at 102-04.

<sup>482</sup> Ex. 4 at 102-04.

<sup>483</sup> Ex. 4 at 102-04.

<sup>484</sup> Ex. 6 at 33-35 (Nov. 19, 2021 resp. to Sept. 16, 2021 request 1).

<sup>485</sup> Ex. 6 at 33-35 (Nov. 19, 2021 resp. to Sept. 16, 2021 request 1).

<sup>486</sup> Ex. 6 at 33-35 (Nov. 19, 2021 resp. to Sept. 16, 2021 request 1).

<sup>487</sup> Ex. 6 at 33-35 (Nov. 19, 2021 resp. to Sept. 16, 2021 request 1).

<sup>488</sup> Ex. 6 at 33-35 (Nov. 19, 2021 resp. to Sept. 16, 2021 request 1).

484. [REDACTED] 489

485. During testing, the Assessor [REDACTED] 490

486. [REDACTED] 491

487. Facebook explained [REDACTED] 492

488. In the course of responding to the FTC's requests, Facebook [REDACTED] 493

489. [REDACTED] 494

490. In response to the FTC's requests, Facebook [REDACTED] 495

491. More broadly, the Assessor found, [REDACTED] 496

492. During its testing, for example, the Assessor found [REDACTED] 497

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<sup>489</sup> Ex. 4 at 110; Ex. 6 at 33-35 (Nov. 19, 2021 resp. to Sept. 16, 2021 request 1).

<sup>490</sup> Ex. 4 at 110; Ex. 6 at 33-35 (Nov. 19, 2021 resp. to Sept. 16, 2021 request 1).

<sup>491</sup> Ex. 4 at 110; Ex. 6 at 33-35 (Nov. 19, 2021 resp. to Sept. 16, 2021 request 1).

<sup>492</sup> Ex. 6 at 33-35 (Nov. 19, 2021 resp. to Sept. 16, 2021 request 1); Ex. 7 at 20-21 (Dec. 3, 2021 resp. to Nov. 23, 2021 request 2).

<sup>493</sup> Ex. 6 at 33-35 (Nov. 19, 2021 resp. to Sept. 16, 2021 request 1); Ex. 7 at 20-21 (Dec. 3, 2021 resp. to Nov. 23, 2021 request 2).

<sup>494</sup> Ex. 6 at 33-35 (Nov. 19, 2021 resp. to Sept. 16, 2021 request 1); Ex. 7 at 20-21 (Dec. 3, 2021 resp. to Nov. 23, 2021 request 2).

<sup>495</sup> Ex. 6 at 33-35 (Nov. 19, 2021 resp. to Sept. 16, 2021 request 1).

<sup>496</sup> Ex. 4 at 157.

<sup>497</sup> Ex. 4 at 157-58.

493. [REDACTED]  
[REDACTED]<sup>498</sup>

494. Only after the assessment did Facebook begin taking additional steps to address [REDACTED] and develop [REDACTED].<sup>499</sup>

495. [REDACTED]  
[REDACTED]<sup>500</sup>

496. [REDACTED]  
[REDACTED]<sup>501</sup>

497. Facebook also reported [REDACTED]  
[REDACTED]<sup>502</sup>

498. For example, [REDACTED]  
[REDACTED]<sup>503</sup>

**f) Oculus Product Platforms**

499. The Assessor identified [REDACTED]  
[REDACTED]<sup>504</sup>

500. Oculus produces consumer-focused virtual reality (VR) headsets, which have access to the Oculus App Store, where users can download applications such as games, simulators, and other virtual reality experiences.<sup>505</sup>

501. The majority of applications available for use on Oculus are developed and maintained by third-party developers.<sup>506</sup>

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<sup>498</sup> Ex. 79 at 167:2-168:2.

<sup>499</sup> Ex. 5 at 29 (Oct. 29, 2021 resp. to Sept. 1, 2021 request 1); Ex. 79 at 167:20-168:25.

<sup>500</sup> Ex. 5 at 29 (Oct. 29, 2021 resp. to Sept. 1, 2021 request 1).

<sup>501</sup> Ex. 7 at 8-11 (Dec. 3, 2021 resp. to Sept. 1, 2021, request 4).

<sup>502</sup> Ex. 7 at 8-11 (Dec. 3, 2021 resp. to Sept. 1, 2021, request 4).

<sup>503</sup> Ex. 5 at 29-30 (Oct. 29, 2021 resp. to Sept. 1, 2021 request 5).

<sup>504</sup> Ex. 4 at 154.

<sup>505</sup> Ex. 4 at 154.

<sup>506</sup> Ex. 4 at 154.

502. To support development efforts, Oculus maintains an ecosystem platform solutions where third-party developers can build, test, and distribute VR applications. Oculus also maintains multiple software development kits (SDKs) and APIs for use by third-party developers.<sup>507</sup>

503. [REDACTED]  
[REDACTED] 508

(1) [REDACTED]

504. [REDACTED] 509

505. [REDACTED] 510

506. [REDACTED] 511

507. During testing, the Assessor found [REDACTED] 512

508. The Assessor reported [REDACTED] 513

509. [REDACTED] 514

(2) [REDACTED]

510. [REDACTED]

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<sup>507</sup> Ex. 4 at 154.  
<sup>508</sup> Ex. 4 at 154.  
<sup>509</sup> Ex. 4 at 154.  
<sup>510</sup> Ex. 4 at 154.  
<sup>511</sup> Ex. 4 at 154.  
<sup>512</sup> Ex. 4 at 154.  
<sup>513</sup> Ex. 4 at 154.  
<sup>514</sup> Ex. 4 at 154-55.

[REDACTED] 515

511. [REDACTED] 516

512. [REDACTED] 517

513. [REDACTED] 518

514. [REDACTED] 519

515. [REDACTED] 520

516. [REDACTED] 521

517. [REDACTED] 522

518. [REDACTED] 23

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515 Ex. 4 at 155.  
 516 Ex. 4 at 155.  
 517 Ex. 4 at 155.  
 518 Ex. 4 at 155.  
 519 Ex. 4 at 155.  
 520 Ex. 4 at 155.  
 521 Ex. 4 at 155.  
 522 Ex. 4 at 156.  
 523 Ex. 4 at 156.

(3) [REDACTED]

519. [REDACTED]  
[REDACTED] 524

520. [REDACTED]  
[REDACTED] 525

521. [REDACTED]  
[REDACTED] 526

522. [REDACTED]  
[REDACTED] 527

523. The Assessor observed [REDACTED]  
[REDACTED] 528

(4) [REDACTED]

524. [REDACTED]  
[REDACTED] 529

525. During testing, the Assessor noted that, [REDACTED]  
[REDACTED] 530

526. The Assessor independently tested [REDACTED]  
[REDACTED] 531

527. The Assessor reported that, [REDACTED]  
[REDACTED] 532

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524 Ex. 4 at 156.  
525 Ex. 4 at 156.  
526 Ex. 4 at 156.  
527 Ex. 4 at 156.  
528 Ex. 4 at 156.  
529 Ex. 4 at 157.  
530 Ex. 4 at 157.  
531 Ex. 4 at 157.  
532 Ex. 4 at 157.

528. [REDACTED]  
[REDACTED] <sup>533</sup>

g) [REDACTED]

529. Facebook maintains a number of automated safeguards, which are technical systems that largely function without ongoing human involvement. These safeguards serve a wide range of functions and are designed to operate on an automated basis without routine human intervention.<sup>534</sup>

530. The Assessor found that [REDACTED]  
[REDACTED] <sup>535</sup>

531. The Assessor observed that, [REDACTED]  
[REDACTED] <sup>536</sup>

532. During operating effectiveness testing, the Assessor found [REDACTED]  
[REDACTED] <sup>537</sup>

533. For example, [REDACTED]  
[REDACTED] <sup>538</sup>

534. The Assessor noted [REDACTED]  
[REDACTED] <sup>539</sup>

535. [REDACTED]  
[REDACTED] <sup>540</sup>

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<sup>533</sup> Ex. 4 at 157.

<sup>534</sup> Ex. 5 at 44 (Oct. 29, 2021 resp. to Sept. 22, 2021 request 7).

<sup>535</sup> Ex. 4 at 157.

<sup>536</sup> Ex. 4 at 157.

<sup>537</sup> Ex. 4 at 157-58.

<sup>538</sup> Ex. 4 at 159.

<sup>539</sup> Ex. 4 at 160.

<sup>540</sup> Ex. 4 at 160.

536. The Assessor observed that [REDACTED]  
[REDACTED]  
[REDACTED]<sup>541</sup>

537. In response to the Assessor's observation, Facebook stated [REDACTED]  
[REDACTED]  
[REDACTED]<sup>542</sup>

538. Facebook further stated [REDACTED]  
[REDACTED]  
[REDACTED]<sup>43</sup>

539. The Assessor observed that [REDACTED]  
[REDACTED]  
[REDACTED]<sup>544</sup>

540. [REDACTED]  
[REDACTED]<sup>545</sup>

541. [REDACTED]  
[REDACTED]  
[REDACTED]  
[REDACTED]  
[REDACTED]<sup>46</sup>

**h)** [REDACTED]  
[REDACTED]

542. Facebook maintains active engagements with numerous third-party service providers, several of which receive and process Covered Information on behalf of the Company.<sup>547</sup>

543. Facebook's Privacy Risk Assessment (PRA) [REDACTED]  
[REDACTED]  
[REDACTED]<sup>548</sup>

544. [REDACTED]  
[REDACTED]  
[REDACTED]

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<sup>541</sup> Ex. 4 at 160.

<sup>542</sup> Ex. 4 at 160.

<sup>543</sup> Ex. 4 at 160. The Assessor noted [REDACTED].

<sup>544</sup> Ex. 4 at 158.

<sup>545</sup> Ex. 5 at 44 (Oct. 29, 2021 resp. to Sept. 22, 2021 request 7).

<sup>546</sup> Ex. 5 at 44-45 (Oct. 29, 2021 resp. to Sept. 22, 2021 request 7).

<sup>547</sup> Ex. 4 at 158.

<sup>548</sup> Ex. 4. at 158-59.

[REDACTED] 549

545. The Assessor observed that, [REDACTED] 550

546. The Assessor concluded [REDACTED] 551

547. [REDACTED] 552

548. [REDACTED] 553

549. [REDACTED] 554

550. [REDACTED] 555

551. Facebook further reported [REDACTED] 556

552. Facebook reported that, [REDACTED] 557

<sup>549</sup> Ex. 4. at 159.

<sup>550</sup> Ex. 4. at 159.

<sup>551</sup> Ex. 4 at 159.

<sup>552</sup> Ex. 10 at 4-6 (Oct. 15, 2021 resp. to Sept. 1, 2021 request 8).

<sup>553</sup> Ex. 10 at 4-6 (Oct. 15, 2021 resp. to Sept. 1, 2021 request 8).

<sup>554</sup> Ex. 10 at 4-6 (Oct. 15, 2021 resp. to Sept. 1, 2021 request 8).

<sup>555</sup> Ex. 10 at 4-6 (Oct. 15, 2021 resp. to Sept. 1, 2021 request 8).

<sup>556</sup> Ex. 10 at 4-6 (Oct. 15, 2021 resp. to Sept. 1, 2021 request 8).

<sup>557</sup> Ex. 10 at 4-6 (Oct. 15, 2021 resp. to Sept. 1, 2021 request 8).

i) [REDACTED]

553. The Assessor observed that, [REDACTED]  
[REDACTED] 558

554. In response to the Assessor's request for information during testing, Facebook [REDACTED]  
[REDACTED] 59

555. At the time of testing, [REDACTED]  
[REDACTED] 560

556. [REDACTED]  
[REDACTED] 561

557. [REDACTED]  
[REDACTED] 562

j) [REDACTED]

558. [REDACTED]  
[REDACTED] 563

559. [REDACTED]  
[REDACTED] 64

560. [REDACTED]  
[REDACTED] 565

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558 Ex. 4 at 161.  
559 Ex. 4 at 161.  
560 Ex. 4 at 161.  
561 Ex. 4 at 161.  
562 Ex. 4 at 161.  
563 Ex. 4 at 161.  
564 Ex. 4 at 161.  
565 Ex. 4 at 162.

561. [REDACTED]  
[REDACTED] <sup>566</sup>

562. The Assessor observed [REDACTED]  
[REDACTED] <sup>67</sup>

563. [REDACTED]  
[REDACTED] <sup>68</sup>

564. Facebook is working to prevent the storage of sensitive health and financial data received from third-party apps and websites by using Facebook's [REDACTED] to identify and filter out potentially sensitive information, including health data and certain financial data, and remove that potentially sensitive data before it can be stored and used in Facebook's advertising systems.<sup>569</sup>

565. Facebook provided the Assessor with statistics that [REDACTED]  
[REDACTED] <sup>570</sup>

566. The Assessor noted that [REDACTED]  
[REDACTED] <sup>571</sup>

567. The Assessor noted that [REDACTED]  
[REDACTED] <sup>572</sup>

568. In addition to Facebook's [REDACTED], Facebook is working on other measures to prevent the storage of potentially sensitive data sent by third parties via Facebook's Pixel and SDK. These other measures include measures to educate third parties about their contractual obligations not to send sensitive data to Facebook via the Facebook Business Tools (which include Pixel and SDK), inform third parties when Facebook identifies and removes

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<sup>566</sup> Ex. 4 at 162.

<sup>567</sup> Ex. 4 at 162.

<sup>568</sup> Ex. 4 at 162.

<sup>569</sup> Ex. 4 at 162; Ex. 5 at 35 (Oct. 29, 2021 resp. to Sept. 1, 2021 request 14).

<sup>570</sup> Ex. 4 at 162.

<sup>571</sup> Ex. 4 at 162.

<sup>572</sup> Ex. 4 at 162.

potentially violating data that was sent to Facebook, and implement technical means designed to prevent potentially sensitive data from being used in Facebook's advertising systems.<sup>573</sup>

569. When Facebook's [REDACTED] identify and filter out potential health or personally identifying information in its Business Tools data, Facebook notifies third parties via email and in two locations in Facebook's "developer dashboard." These notifications identify the data blocked as being potential personal or health data that may not comply with Facebook's terms, confirm that the removal may affect ad performance, and provide details about the affected events data (e.g., the URL where the events occurred, where the potentially violating information was found, and how to remove the information).<sup>574</sup>

570. [REDACTED]

[REDACTED]<sup>575</sup>

571. [REDACTED]

[REDACTED]<sup>76</sup>

572. Specifically, Facebook stated that its systems "are designed to drop even potentially sensitive information that they detect [REDACTED]

[REDACTED]<sup>577</sup>

573. The Company further explained, [REDACTED]

[REDACTED]<sup>578</sup>

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<sup>573</sup> Ex. 5 at 34 (Oct. 29, 2021 resp. to Sept. 1, 2021 request 14).

<sup>574</sup> Ex. 5 at 35 (Oct. 29, 2021 resp. to Sept. 1, 2021 request 14).

<sup>575</sup> Ex. 5 at 41 (Oct. 29, 2021 resp. to Sept. 1, 2021 request 15).

<sup>576</sup> Ex. 5 at 41 (Oct. 29, 2021 resp. to Sept. 1, 2021 request 15).

<sup>577</sup> Ex. 5 at 41 (Oct. 29, 2021 resp. to Sept. 1, 2021 request 15).

<sup>578</sup> Ex. 5 at 41 (Oct. 29, 2021 resp. to Sept. 1, 2021 request 15).

**D. Incident Management**

**1. [REDACTED]**

574. [REDACTED] 579

575. [REDACTED] 580

576. [REDACTED] 581

577. During testing, however, the Assessor discovered that [REDACTED] 582

578. [REDACTED] 583

579. [REDACTED] 584

580. During testing, however, the Assessor found [REDACTED] 585

581. [REDACTED]

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<sup>579</sup> Ex. 4 at 102; Ex. 10 at 7 (Oct. 15, 2021 resp. to Sept. 16, 2021 requests 3-5).  
<sup>580</sup> Ex. 4 at 102; Ex. 10 at 7 (Oct. 15, 2021 resp. to Sept. 16, 2021 requests 3-5).  
<sup>581</sup> Ex. 10 at 7 (Oct. 15, 2021 resp. to Sept. 16, 2021 requests 3-5).  
<sup>582</sup> Ex. 4 at 112; Ex. 10 at 7 (Oct. 15, 2021 resp. to Sept. 16, 2021 requests 3-5).  
<sup>583</sup> Ex. 10 at 7 (Oct. 15, 2021 resp. to Sept. 16, 2021 requests 3-5).  
<sup>584</sup> Ex. 4 at 112; Ex. 10 at 8 (Oct. 15, 2021 resp. to Sept. 16, 2021 requests 3-5).  
<sup>585</sup> Ex. 4 at 112.

[REDACTED] 586

582. The Assessor stated that [REDACTED] 87

583. [REDACTED] 588

## 2. Scraping Covered Incidents

584. Once an EDM incident has been investigated and validated as a “Scraping Covered Incident” (SCI) (scraping or automated bot attacks where suspected unauthorized extraction of data has occurred from the Facebook platforms using automated mechanisms like computer programs or bots), the FTC Order requires Facebook to include it in the monthly SCI Reports it submits to the FTC, and to report it in all subsequent monthly SCI Reports until it initiates remediation.<sup>589</sup>

585. The Assessor observed that [REDACTED] 590

586. The Assessor concluded that [REDACTED] 591

<sup>586</sup> Ex. 10 at 8 (Oct. 15, 2021 resp. to Sept. 16, 2021 requests 3-5).

<sup>587</sup> Ex. 4 at 112.

<sup>588</sup> Ex. 10 at 8-9 (Oct. 15, 2021 resp. to Sept. 16, 2021 requests 3-5).

<sup>589</sup> Ex. 4 at 113, 233.

<sup>590</sup> Ex. 4 at 113.

<sup>591</sup> Ex. 4 at 113.

3. [REDACTED]

587. [REDACTED]  
[REDACTED] <sup>592</sup>

588. [REDACTED]  
[REDACTED] <sup>593</sup>

589. [REDACTED]  
[REDACTED] <sup>594</sup>

590. [REDACTED]  
[REDACTED] <sup>595</sup>

591. [REDACTED]  
[REDACTED] <sup>96</sup>

592. [REDACTED]  
[REDACTED] <sup>597</sup>

593. [REDACTED]  
[REDACTED] <sup>598</sup>

594. The Assessor found that [REDACTED]  
[REDACTED] <sup>99</sup>

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<sup>592</sup> Ex. 4 at 103.  
<sup>593</sup> Ex. 4 at 103.  
<sup>594</sup> Ex. 4 at 103, 111.  
<sup>595</sup> Ex. 4 at 103, 111.  
<sup>596</sup> Ex. 4 at 111.  
<sup>597</sup> Ex. 4 at 111.  
<sup>598</sup> Ex. 4 at 111.  
<sup>599</sup> Ex. 4 at 111.

595. The Assessor stated [REDACTED]

4. [REDACTED]

596. [REDACTED]

597. [REDACTED]

598. The Assessor concluded that [REDACTED]

**E. Data Life Cycle Management**

599. The 2020 Order requires Facebook to ensure Covered Third Parties cannot access Covered Information from servers under Facebook’s control after a reasonable period (not to exceed 30 days) from the time a user has deleted such information or terminated their account. The Order further requires Facebook to implement procedures designed to ensure that Covered Information a user enters (e.g., user-generated content) is deleted from servers under Facebook’s control or de-identified such that it is no longer associated with the user’s account or device, within a reasonable period (not to exceed 120 days) from the time the user has deleted such information or deleted their account.<sup>604</sup>

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<sup>600</sup> Ex. 4 at 111.

<sup>601</sup> Ex. 4 at 112.

<sup>602</sup> Ex. 4 at 112, 232.

<sup>603</sup> Ex. 4 at 112.

<sup>604</sup> Exceptions to this requirement include: (1) where required by law; (2) where necessary for the safety and security of Facebook’s products, services, and users; (3) where stored solely for backup or disaster recovery purposes (subject to retention periods necessary to provide reliable service), or (4) where technically infeasible given Facebook’s existing systems. Ex. 3, Part III.

## 1. Background – Data Life Cycle Management

600. Facebook created the Data Life Cycle Management control domain to establish data management standards (e.g., for overseeing deletion and retention issues, and preventing deleted data from being “surfaced” (made accessible) to third parties).<sup>605</sup>

601. To that end, Facebook organized a central team to oversee its data management programs and verify its compliance with pertinent Order provisions.<sup>606</sup>

602. Facebook maintains user data and other information in systems it calls data stores, which retain or manage that data. The various tables and records kept in the data stores are known as data assets.<sup>607</sup>

603. At the time of the assessment, Facebook kept [REDACTED] of its data in General Purpose Production Data Stores [REDACTED] and its Data Warehouse [REDACTED] (collectively, “General Purpose Data Stores”).<sup>608</sup>

604. Facebook kept [REDACTED] in Special Purpose Data Stores, which serve various purposes. [REDACTED]

<sup>609</sup>

605. [REDACTED]

<sup>10</sup>

606. Facebook’s Rule 30(b)(6) corporate designee on topics relating to the [REDACTED] explained that an API (application programming interface) is “generically how one software program or set of infrastructure talks to another program or infrastructure.”<sup>611</sup>

607. APIs are the authorized means by which third parties can access Facebook data.<sup>612</sup>

608. [REDACTED]

<sup>613</sup>

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<sup>605</sup> Ex. 4 at 90.

<sup>606</sup> Ex. 4 at 90.

<sup>607</sup> Ex. 83 (Dec. 17, 2021 R. 30(b)(6) Michael Patrick Clark Dep. Tr.) at 19:5-21:11.

<sup>608</sup> Ex. 5 at 23 (Oct. 29, 2021 resp. to Aug. 27, 2021 request 27); Ex. 7 at 6-8 (Dec. 3, 2021 resp. to Aug. 27, 2021 requests 29-30); Ex. 83 at 21:12-22:10.

<sup>609</sup> Ex. 5 at 23 (Oct. 29, 2021 resp. to Aug. 27, 2021 request 27); Ex. 7 at 6-8 (Dec. 3, 2021 resp. to Aug. 27, 2021 requests 29-30); Ex. 83 at 21:12-22:10.

<sup>610</sup> Ex. 83 at 26:11-23.

<sup>611</sup> Ex. 83 at 34:1-5.

<sup>612</sup> Ex. 83 at 35:2-5.

<sup>613</sup> Ex. 83 at 26:11-23.

609. At Facebook, [REDACTED] 614

610. The Ent and Node frameworks are written in different software languages, so there are differences in the software itself. [REDACTED] 615

611. At Facebook, [REDACTED] 616

612. Facebook's Rule 30(b)(6) corporate designee witness on topics relating to [REDACTED] explained that [REDACTED] According to Facebook's corporate designee, [REDACTED] 17

613. Facebook's Rule 30(b)(6) corporate designee stated that [REDACTED] 618

614. [REDACTED] 619

615. According to Facebook's Rule 30(b)(6) corporate designee, [REDACTED] 20

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614 Ex. 83 at 27:1-9.  
615 Ex. 83 at 27:13-23.  
616 Ex. 83 at 27:24-28:9.  
617 Ex. 83 at 28:10-17.  
618 Ex. 83 at 33:19-21.  
619 Ex. 83 at 28:18-29:4.  
620 Ex. 83 at 29:6-30:18.

616. [REDACTED] 621

617. [REDACTED] 622

618. The Ent and Node frameworks are software components [REDACTED] 623

619. [REDACTED] 624

2. [REDACTED]

620. The Assessor found that [REDACTED] 625

621. [REDACTED] 626

622. At his February 4, 2022, deposition, Chief Executive Officer Mark Zuckerberg was asked [REDACTED] Zuckerberg responded: [REDACTED]

621 Ex. 4 at 228-229.

622 Ex. 4 at 228.

623 Ex. 83 at 39:22-40:20.

624 Ex. 83 at 40:21-41:8.

625 Ex. 4 at 91, 93-94.

626 Ex. 4 at 93-94.

[REDACTED] 627

a) [REDACTED]

623. The Assessor stated that [REDACTED] 28

624. The Assessor found that [REDACTED] 629

625. At the Rule 30(b)(6) deposition of Facebook’s corporate designee regarding topics relating to the [REDACTED] Facebook’s witness [REDACTED] 630

626. [REDACTED] 631

627. In addition, the Assessor noted that [REDACTED] 632

627 Ex. 43 at 195:1-197:1.

628 Ex. 4 at 94.

629 Ex. 4 at 94-95.

630 Ex. 83 at 72:4-73:24.

631 Ex. 83 at 76:1-21.

632 Ex. 4 at 95.

628. The Assessor stated [REDACTED]  
[REDACTED] The Assessor concluded [REDACTED]  
[REDACTED] 633

629. The Assessor also observed that [REDACTED]  
[REDACTED] 34

630. The Assessor observed [REDACTED]  
[REDACTED] The Assessor  
stated [REDACTED] 635

631. Moreover, the Assessor observed that [REDACTED]  
[REDACTED] 636

632. The Assessor concluded that [REDACTED]  
[REDACTED] 637

633. The Assessor identified [REDACTED]  
[REDACTED] 638

634. The Assessor also noted [REDACTED]  
[REDACTED]

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633 Ex. 4 at 95.  
634 Ex. 4 at 95.  
635 Ex. 4 at 95.  
636 Ex. 4 at 95.  
637 Ex. 4 at 95.  
638 Ex. 4 at 95-96.

[redacted]; the Assessor stated, [redacted]  
639

635. The Assessor also stated that [redacted]  
[redacted]  
The Assessor observed [redacted]  
The Assessor noted [redacted]  
640

b) [redacted]

636. The Assessor stated that, [redacted]  
[redacted]  
641

637. According to the Assessor, [redacted]  
[redacted]  
642

638. [redacted]  
[redacted]  
643

639. The Assessor stated, [redacted]  
[redacted]  
644

640. The Assessor found that [redacted]  
[redacted]  
645

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639 Ex. 4 at 95-96.  
640 Ex. 4 at 96.  
641 Ex. 4 at 96.  
642 Ex. 4 at 96.  
643 Ex. 4 at 96.  
644 Ex. 4 at 96.  
645 Ex. 4 at 94, 96.

641. The Assessor observed that [REDACTED]  
[REDACTED] 646

642. [REDACTED]  
[REDACTED] 647

643. The Assessor stated [REDACTED]  
[REDACTED] 648

644. [REDACTED]; the  
Assessor concluded that [REDACTED] 649

645. The Assessor confirmed [REDACTED]  
[REDACTED] specifically, the Assessor found [REDACTED]  
[REDACTED] 650

646. The Assessor concluded that [REDACTED]  
[REDACTED] 651

647. At his February 4, 2022, deposition, Chief Executive Officer Mark Zuckerberg was asked [REDACTED]  
[REDACTED] Zuckerberg responded [REDACTED]  
[REDACTED] When asked [REDACTED]  
[REDACTED] Zuckerberg responded, [REDACTED]  
[REDACTED] 652

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646 Ex. 4 at 97.  
647 Ex. 4 at 97.  
648 Ex. 4 at 97.  
649 Ex. 4 at 97.  
650 Ex. 4 at 96.  
651 Ex. 4 at 96.  
652 Ex. 43 at 223:12-224:12.



[REDACTED] .659

655. During the initial assessment, [REDACTED] .660

656. [REDACTED] .661

657. The Assessor concluded [REDACTED]  
[REDACTED] he Assessor noted [REDACTED] .662

658. Since the initial assessment, [REDACTED] .663

659. [REDACTED] .664

**d) Third-Party Access to [REDACTED]**

660. The Order requires Facebook to ensure a Covered Third Party cannot access Covered Information from servers under Facebook’s control after a reasonable period of time – not to exceed 30 days – from when the user has deleted such information or terminated their account.<sup>665</sup>

661. The Order also requires Facebook to design, implement, maintain, and document safeguards that control for the material internal and external risks it identifies, and requires that each safeguard be based not only on the volume and sensitivity of Covered Information at risk, but also the likelihood that such risk could be realized and result in the unauthorized access, collection, use, destruction, or disclosure of the Covered Information.<sup>666</sup>

<sup>659</sup> Ex. 4 at 97-98; Ex. 5 at 23 (Oct. 29, 2021 resp. to Aug 27, 2021 request 27).

<sup>660</sup> Ex. 5 at 24 (Oct. 29, 2021 resp. to Aug. 27, 2021 request 27).

<sup>661</sup> Ex. 4 at 97-98; Ex. 83 at 97:20-101:19.

<sup>662</sup> Ex. 4 at 97-98.

<sup>663</sup> Ex. 5 at 25 (Oct. 29, 2021 resp. to Aug. 27, 2021 request 27).

<sup>664</sup> Ex. 5 at 25 (Oct. 29, 2021 resp. to Aug. 27, 2021 request 27).

<sup>665</sup> Ex. 3, Part III.

<sup>666</sup> Ex. 3, Part VII.E.

662. [REDACTED] 667

663. [REDACTED] 668

664. [REDACTED] 669

665. [REDACTED] 670

666. The Assessor found [REDACTED] 671

667. [REDACTED] 672

668. [REDACTED] 673

669. [REDACTED] 674

670. At the December 2021 Rule 30(b)(6) deposition, Facebook’s corporate designee explained, [REDACTED] that [REDACTED]

<sup>667</sup> Ex. 4 at 98-99.

<sup>668</sup> Ex. 6 at 32-33 (Nov. 19, 2021 resp. to Aug. 27, 2021 request 28); Ex. 7 at 6 (Dec. 3, 2021 resp. to Aug. 27, 2021 requests 29-30).

<sup>669</sup> Ex. 6 at 32-33 (Nov. 19, 2021 resp. to Aug. 27, 2021 request 28); Ex. 83 at 46:19-47:18.

<sup>670</sup> Ex. 6 at 32-33 (Nov. 19, 2021 resp. to Aug. 27, 2021 request 28); Ex. 7 at 6 (Dec. 3, 2021 resp. to Aug. 27, 2021 requests 29-30).

<sup>671</sup> Ex. 4 at 98.

<sup>672</sup> Ex. 6 at 32-33 (Nov. 19, 2021 resp. to Aug. 27, 2021 request 28); Ex. 7 at 6 (Dec. 3, 2021 resp. to Aug. 27, 2021 requests 29-30).

<sup>673</sup> Ex. 83 at 42:21-24.

<sup>674</sup> Ex. 7 at 6 (Dec. 3, 2021 resp. to Aug. 27, 2021 requests 29-30).

[REDACTED] The witness further stated [REDACTED]  
675

671. [REDACTED]  
676

672. [REDACTED]  
677

673. The Assessor explained that, [REDACTED]  
678

674. [REDACTED]  
679

675. [REDACTED]  
680

676. [REDACTED]  
681

677. The Assessor concluded that, [REDACTED]  
682

678. The Assessor found that [REDACTED]  
683

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675 Ex. 83 at 49:24-51:1.  
676 Ex. 83 at 31:18-21.  
677 Ex. 83 at 31:22-32:1.  
678 Ex. 4 at 99.  
679 Ex. 7 at 7 (Dec. 3, 2021 resp. to Aug. 27, 2021 requests 29-30).  
680 Ex. 4 at 99; Ex. 83 at 118:8-21.  
681 Ex. 7 at 7 (Dec. 3, 2021 resp. to Aug. 27, 2021 requests 29-30).  
682 Ex. 4 at 99.  
683 Ex. 4 at 98-99.

679. The Assessor observed that [REDACTED]

[REDACTED]  
84

680. Based on Facebook's review of the data stores onboarded to its Data Deletion program as of December 2021, the Company reported there were [REDACTED] Special Purpose Data Stores that

[REDACTED]  
685

681. [REDACTED]

[REDACTED]  
686

682. For instance, it is possible for non-schematized data to be shared with Covered Third Parties by pathways other than Public or Partner APIs. This occurs, for example, when a user chooses to publicly share their non-schematized data, [REDACTED]

[REDACTED]  
687

683. The Assessor found that, [REDACTED]

[REDACTED]  
688

684. In response to the FTC's request, Facebook stated it is "not aware" of any instances during the period from June 12, 2019 to August 27, 2021 in which a Covered Third Party, such as a developer or other similar third party, accessed Covered Information from [REDACTED] via an API more than 30 days after a user deleted such information.<sup>689</sup>

685. [REDACTED]

[REDACTED]  
690

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<sup>684</sup> Ex. 4 at 98-99.

<sup>685</sup> Ex. 7 at 7 (Dec. 3, 2021 resp. to Aug. 27, 2021 requests 29-30).

<sup>686</sup> Ex. 7 at 7 (Dec. 3, 2021 resp. to Aug. 27, 2021 requests 29-30).

<sup>687</sup> Ex. 7 at 7 (Dec. 3, 2021 resp. to Aug. 27, 2021 requests 29-30); Ex. 83 at 58:19-59:9.

<sup>688</sup> Ex. 4 at 98-99.

<sup>689</sup> Ex. 7 at 8 (Dec. 3, 2021 resp. to Aug. 27, 2021 requests 29-30).

<sup>690</sup> Ex. 83 at 56:4-58:11.

686. [REDACTED] <sup>691</sup>

687. The Assessor stated [REDACTED] <sup>692</sup>

688. Facebook conceded [REDACTED] <sup>693</sup>

689. Facebook further explained [REDACTED] <sup>694</sup>

690. Specifically, Facebook reported [REDACTED] <sup>695</sup>

691. [REDACTED] <sup>696</sup>

692. [REDACTED] <sup>697</sup>

693. Facebook's safeguard [REDACTED] <sup>698</sup>

694. The Assessor found that [REDACTED]

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<sup>691</sup> Ex. 6 at 32-33 (Nov. 19, 2021 resp. to Aug. 27, 2021 request 28).

<sup>692</sup> Ex. 4 at 98-99.

<sup>693</sup> Ex. 6 at 32-33 (Nov. 19, 2021 resp. to Aug. 27, 2021 request 28).

<sup>694</sup> Ex. 6 at 32-33 (Nov. 19, 2021 resp. to Aug. 27, 2021 request 28).

<sup>695</sup> Ex. 6 at 32-33 (Nov. 19, 2021 resp. to Aug. 27, 2021 request 28).

<sup>696</sup> Ex. 83 at 52:19-21.

<sup>697</sup> Ex. 4 at 98-99.

<sup>698</sup> Ex. 4 at 98.

[REDACTED] 699

695. The Assessor concluded [REDACTED] 700

696. At the December 2021 Rule 30(b)(6) deposition on topics relating to the [REDACTED], Facebook’s corporate designee testified [REDACTED] 701

697. [REDACTED] 702

698. [REDACTED] 703

e) [REDACTED]

699. [REDACTED] 704

700. [REDACTED] 705

701. [REDACTED]

<sup>699</sup> Ex. 4 at 98-99.

<sup>700</sup> Ex. 4 at 94, 98.

<sup>701</sup> Ex. 83 at 118-120:14.

<sup>702</sup> Ex. 6 at 32-33 (Nov. 19, 2021 resp. to Aug. 27, 2021 request 28); Ex. 5 at 25-26 (Oct. 29, 2021 resp. to Aug. 27, 2021 request 32).

<sup>703</sup> Ex. 6 at 32-33 (Nov. 19, 2021 resp. to Aug. 27, 2021 request 28); Ex. 83 at 113:4-116:16.

<sup>704</sup> Ex. 5 at 25-26 (Oct. 29, 2021 resp. to Aug. 27, 2021 request 32).

<sup>705</sup> Ex. 6 at 32-33 (Nov. 19, 2021 resp. to Aug. 27, 2021 request 28).

[REDACTED] .706

702. In testing Facebook's enforcement of this policy, the Assessor identified [REDACTED]  
[REDACTED] 707

703. Moreover, the Assessor observed that [REDACTED]  
[REDACTED] 708

704. [REDACTED]  
[REDACTED] 709

705. [REDACTED]  
[REDACTED] 710

706. [REDACTED]  
[REDACTED] 711

707. [REDACTED]  
[REDACTED]

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<sup>706</sup> Ex. 5 at 25-26 (Oct. 29, 2021 resp. to Aug. 27, 2021 request 32); Ex. 4 at 100.  
<sup>707</sup> Ex. 4 at 100.  
<sup>708</sup> Ex. 4 at 100; Ex. 5 at 25 (Oct. 29, 2021 resp. to Aug. 27, 2021 request 32).  
<sup>709</sup> Ex. 6 at 32-33 (Nov. 19, 2021 resp. to Aug. 27, 2021 request 28).  
<sup>710</sup> Ex. 6 at 32-33 (Nov. 19, 2021 resp. to Aug. 27, 2021 request 28).  
<sup>711</sup> Ex. 4 at 99.

[REDACTED] <sup>712</sup>

**F. Security for Privacy**

**1. Facebook’s Use of Third-Party Cloud Service Providers**

**a) Background Regarding [REDACTED]**

708. [REDACTED] <sup>713</sup>

709. [REDACTED] <sup>714</sup>

710. [REDACTED] <sup>15</sup>

711. [REDACTED] <sup>716</sup>

712. [REDACTED] <sup>717</sup>

713. [REDACTED] <sup>718</sup>

714. [REDACTED] <sup>719</sup>

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<sup>712</sup> Ex. 5 at 25-26 (Oct. 29, 2021 resp. to Aug. 27, 2021 request 32); Ex. 6 at 20-21, 32-33 (Nov. 19, 2021 resp. to Aug. 27, 2021 requests 28, 31).

<sup>713</sup> Ex. 4 at 90, 114; Ex. 17 at 10-11 (Dec. 23, 2021 resp. to Nov. 4, 2021 request 1).

<sup>714</sup> Ex. 4 at 118.

<sup>715</sup> Ex. 17 at 10-11 (Dec. 23, 2021 resp. to Nov. 4, 2021 request 1).

<sup>716</sup> Ex. 17 at 10-11 (Dec. 23, 2021 resp. to Nov. 4, 2021 request 1).

<sup>717</sup> Ex. 17 at 11 (Dec. 23, 2021 resp. to Nov. 4, 2021 request 1).

<sup>718</sup> Ex. 17 at 11 (Dec. 23, 2021 resp. to Nov. 4, 2021 request 1).

<sup>719</sup> Ex. 17 at 12 (Dec. 23, 2021 resp. to Nov. 4, 2021 request 1).

715. [REDACTED] 720

716. [REDACTED] 721

717. [REDACTED] 22

718. [REDACTED] 723

719. [REDACTED] 724

720. [REDACTED] 725

721. [REDACTED] 726

722. Part VII.E.3 of the 2020 Order requires Facebook to “design[], implement[], and maintain[] access policies and controls that limit employee access to any table(s) or other comparable data storage units [in Facebook’s “data warehouse(s)”] known to contain Covered Information to only those employees with a business need to access such Covered Information.”<sup>727</sup>

723. [REDACTED] 728

724. [REDACTED] 729

<sup>720</sup> Ex. 17 at 12 (Dec. 23, 2021 resp. to Nov. 4, 2021 request 1).

<sup>721</sup> Ex. 17 at 13 (Dec. 23, 2021 resp. to Nov. 4, 2021 request 1).

<sup>722</sup> Ex. 17 at 13 (Dec. 23, 2021 resp. to Nov. 4, 2021 request 1).

<sup>723</sup> Ex. 17 at 10 (Dec. 23, 2021 resp. to Nov. 4, 2021 request 1).

<sup>724</sup> Ex. 17 at 13, 17 (Dec. 23, 2021 resp. to Nov. 4, 2021 requests 1, 4).

<sup>725</sup> Ex. 17 at 17 (Dec. 23, 2021 resp. to Nov. 4, 2021 request 4).

<sup>726</sup> Ex. 4 at 120-22.

<sup>727</sup> Ex. 3, Part VII.E.3.

<sup>728</sup> Ex. 22 (Feb. 24, 2021 email fr. M. Protti to M. Zuckerberg re FTC Assessment Update).

<sup>729</sup> Ex. 22.

725. In a February 2021 email, Facebook’s Chief Privacy Officer explained this history in an email to Facebook CEO Mark Zuckerberg: “[The Assessor has] disputed our original scope interpretation of the Order [REDACTED]

[REDACTED] After significant back and forth (including with FTC), we have agreed that the scope for Security controls [REDACTED]

<sup>730</sup>

726. In the same February 2021 email, Facebook’s Chief Privacy Officer [REDACTED]

<sup>731</sup>

727. [REDACTED]

<sup>732</sup>

b) [REDACTED]

(1) [REDACTED]

728. Facebook uses a service called CloudTrail to “capture logs of activity” occurring on cloud servers used by Facebook.<sup>733</sup>

729. Facebook also uses a service called GuardDuty to [REDACTED]

<sup>734</sup>

730. [REDACTED]

<sup>735</sup>

731. The Assessor, however, found that, [REDACTED]

<sup>736</sup>

732. Facebook admitted that, [REDACTED]

<sup>737</sup>

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<sup>730</sup> Ex. 22.

<sup>731</sup> Ex. 22.

<sup>732</sup> Ex. 4 at 114.

<sup>733</sup> Ex. 17 at 14 (Dec. 23, 2021 resp. to Nov. 24, 2021 request 2).

<sup>734</sup> Ex. 17 at 14 (Dec. 23, 2021 resp. to Nov. 24, 2021 request 2).

<sup>735</sup> Ex. 17 at 14 (Dec. 23, 2021 resp. to Nov. 24, 2021 request 2).

<sup>736</sup> Ex. 4 at 120-21.

<sup>737</sup> Ex. 17 at 14 (Dec. 23, 2021 resp. to Nov. 24, 2021 request 2).

733. Facebook also admitted that, [REDACTED] 738

734. [REDACTED] 739

735. [REDACTED] 740

736. [REDACTED] 741

737. [REDACTED] 742

738. [REDACTED] 743

739. [REDACTED] 744

740. [REDACTED] 745

741. [REDACTED] 746

742. The Assessor found that [REDACTED] 747

<sup>738</sup> Ex. 17 at 14 (Dec. 23, 2021 resp. to Nov. 24, 2021 request 2).

<sup>739</sup> Ex. 17 at 14 & n.27 (Dec. 23, 2021 resp. to Nov. 24, 2021 request 2).

<sup>740</sup> Ex. 17 at 14 (Dec. 23, 2021 resp. to Nov. 24, 2021 request 2); Ex. 10 at 1-2 (Oct. 15, 2021 resp. to Aug. 19, 2021 request 2).

<sup>741</sup> Ex. 10 at 2 (Oct. 15, 2021 resp. to Aug. 19, 2021 request 2).

<sup>742</sup> Ex. 10 at 2 (Oct. 15, 2021 resp. to Aug. 19, 2021 request 2).

<sup>743</sup> Ex. 10 at 2 (Oct. 15, 2021 resp. to Aug. 19, 2021 request 2).

<sup>744</sup> Ex. 10 at 2 (Oct. 15, 2021 resp. to Aug. 19, 2021 request 2).

<sup>745</sup> Ex. 10 at 2 (Oct. 15, 2021 resp. to Aug. 19, 2021 request 2).

<sup>746</sup> Ex. 10 at 2 (Oct. 15, 2021 resp. to Aug. 19, 2021 request 2).

<sup>747</sup> Ex. 4 at 121.

(2) [REDACTED]

743. The Assessor identified [REDACTED]  
[REDACTED] 748

744. In particular, the Assessor [REDACTED]  
[REDACTED] 749

745. The Assessor also found [REDACTED]  
[REDACTED] 750

746. The Assessor found, [REDACTED]  
[REDACTED] 751

747. The Assessor found, [REDACTED]  
[REDACTED] 752

748. Facebook admitted [REDACTED]  
[REDACTED] 753

749. Additionally, the Assessor determined that [REDACTED]  
[REDACTED] 754

750. [REDACTED]  
[REDACTED] 755

751. The Assessor concluded: [REDACTED]  
[REDACTED] 756

<sup>748</sup> Ex. 4 at 121.

<sup>749</sup> Ex. 4 at 121.

<sup>750</sup> Ex. 23 (“ [REDACTED] ” tab, row 23).

<sup>751</sup> Ex. 23 (“ [REDACTED] ” tab, row 23); Ex. 76 at 6 (Apr. 15, 2022 resp. to Mar. 17, 2022 (Set 11) request 1.d).

<sup>752</sup> Ex. 23 (“ [REDACTED] ” tab, row 22); Ex. 76 at 6 (Apr. 15, 2022 resp. to Mar. 17, 2022 (Set 11) request 1.e).

<sup>753</sup> Ex. 17 at 17 (Dec. 23, 2021 resp. to Nov. 24, 2021 request 4).

<sup>754</sup> Ex. 4 at 121.

<sup>755</sup> Ex. 17 at 16 (Dec. 23, 2021 resp. to Nov. 24, 2021 request 4).

<sup>756</sup> Ex. 4 at 121.

(3) [REDACTED]

752. [REDACTED]  
[REDACTED] 757

753. As a result, the Assessor reported, [REDACTED]  
[REDACTED] 758

754. The Assessor concluded [REDACTED]  
[REDACTED] 59

755. The Assessor [REDACTED]  
[REDACTED]  
[REDACTED] 60

2. [REDACTED]

756. The Assessor observed that [REDACTED]  
[REDACTED] 761

757. In particular, the Assessor found [REDACTED]  
[REDACTED] 762

758. The Assessor added that [REDACTED]  
[REDACTED] 63

**G. Training, Awareness, And Communication**

**3. Background**

759. Part VII.G of the 2020 Order requires Facebook to “[e]stablish regular privacy training programs for all employees on at least an annual basis, updated to address any internal or

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<sup>757</sup> Ex. 4 at 121.

<sup>758</sup> Ex. 4 at 121; Ex. 17 at 16 (Dec. 23, 2021 resp. to Nov. 24, 2021 request 5).

<sup>759</sup> Ex. 4 at 121.

<sup>760</sup> Ex. 4 at 121.

<sup>761</sup> Ex. 4 at 121-22.

<sup>762</sup> Ex. 4 at 122.

<sup>763</sup> Ex. 4 at 122.



768. As of April 5, 2021—nearly a year after the 2020 Annual Privacy Training was deployed—██████████ Facebook personnel out of ██████████ (approximately ██████████ %) had not completed the 2020 Annual Privacy Training.<sup>773</sup>

769. ██████████  
██████████  
██████████<sup>774</sup>

770. ██████████  
██████████<sup>775</sup>

## (2) New Hire Annual Privacy Training

771. According to the Assessor, Facebook deployed new hire privacy training for all personnel hired ██████████ 2020.<sup>776</sup>

772. The Assessor stated that Facebook’s new hires have 30 days from their date of assignment to complete the New Hire Privacy Training.<sup>777</sup>

773. ██████████, 2021, ██████████ Facebook new hires who were supposed to complete the new hire privacy training between ██████████ 2021, and ██████████ 2021, had yet to complete it.<sup>778</sup>

774. Out of the ██████████ individuals enrolled in the New Hire Privacy Training between June 8, 2020, and December 31, 2020, with a due date on or before December 31, 2020, ██████████ personnel (approximately ██████████ %) did not complete the training as of January 30, 2021.<sup>779</sup>

775. ██████████  
██████████  
██████████<sup>780</sup>

776. ██████████  
██████████  
██████████<sup>781</sup>

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<sup>773</sup> Ex. 4 at 29; Ex. 30 at 9 (Jan. 21, 2022 resp. to Dec. 2, 2021 request 1) (Facebook “agrees with the cited portion of the Assessment to the extent that the figures regarding completion of the First Annual Privacy Training listed in the assessment were accurate as of April 25, 2021.”).

<sup>774</sup> Ex. 4 at 29.

<sup>775</sup> Ex. 4 at 29 n.6.

<sup>776</sup> Ex. 4 at 27.

<sup>777</sup> Ex. 30 at 10 (Jan. 21, 2022 resp. to Dec. 2, 2021 request 3); *see also* Ex. 4 at 27 (“New hires have 30 days from their hire date to complete the New Hire Privacy Training.”).

<sup>778</sup> Ex. 4 at 29.

<sup>779</sup> Ex. 4 at 29; Ex. 30 at 10 (Jan. 21, 2022 resp. to Dec. 2, 2021 request 3) (Facebook “agrees with the cited portion of the Assessment to the extent that the figures regarding completion of the New Hire Privacy Training listed in the Assessment were accurate as of January 30, 2021”).

<sup>780</sup> Ex. 4 at 29.

<sup>781</sup> Ex. 4 at 29.

**(3) Assessor's Recommendations**

777. The Assessor found that [REDACTED]  
[REDACTED]  
[REDACTED] 782

778. [REDACTED]  
[REDACTED] 783

779. [REDACTED]  
[REDACTED] 84

780. The Assessor observed that [REDACTED]  
[REDACTED] 85

781. [REDACTED] 786

782. [REDACTED] 787

783. [REDACTED] 788

784. The Assessor found [REDACTED] 789

785. The Assessor determined that [REDACTED]  
[REDACTED] 790

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782 Ex. 4 at 29.  
783 Ex. 4 at 29.  
784 Ex. 4 at 29.  
785 Ex. 4 at 29.  
786 Ex. 4 at 29.  
787 Ex. 4 at 29.  
788 Ex. 4 at 29.  
789 Ex. 4 at 29.  
790 Ex. 4 at 30.

**b) Role-Based Privacy Training [REDACTED]**

786. The Assessor found that [REDACTED]  
[REDACTED] <sup>791</sup>

787. The Assessor concluded that [REDACTED]  
[REDACTED]  
[REDACTED] <sup>792</sup>

788. The Assessor further noted that, [REDACTED]  
[REDACTED] <sup>93</sup>

789. The Assessor recommended that, [REDACTED]  
[REDACTED]  
[REDACTED] <sup>794</sup>

790. Facebook acknowledged that “role-based trainings were typically managed by individual teams and not always centrally tracked or enforced.”<sup>795</sup>

791. Facebook has stated that, during the Assessment Period, it provided formal and informal training to key personnel involved in the Privacy Review process, including Privacy Program Managers and Product Managers.<sup>796</sup>

792. Facebook has also acknowledged [REDACTED]  
[REDACTED] <sup>797</sup>

**c) [REDACTED]**

793. [REDACTED], the Assessor observed there were [REDACTED]  
[REDACTED]  
[REDACTED]

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<sup>791</sup> Ex. 4 at 29.

<sup>792</sup> Ex. 4 at 30.

<sup>793</sup> Ex. 4 at 30.

<sup>794</sup> Ex. 4 at 30.

<sup>795</sup> Ex. 30 at 5 (Jan. 21, 2022 resp. to Dec. 2, 2021 requests 7 and 8).

<sup>796</sup> Ex. 30 at 5 (Jan. 21, 2022 resp. to Dec. 2, 2021 requests 7 and 8).

<sup>797</sup> Ex. 7 at 28 (Dec. 3, 2021 resp. to Oct. 1, 2021 request 10).

[REDACTED] 798

794. The Assessor found [REDACTED] 799

795. [REDACTED] 800

796. The Assessor found [REDACTED] 801

797. [REDACTED] 802

798. [REDACTED] 803

799. [REDACTED] 804

5. [REDACTED]

a) [REDACTED]

800. Even as of January 13, 2022, [REDACTED] Facebook personnel had still not completed the 2020 Annual Training [REDACTED].<sup>805</sup>

801. In its January 21, 2022, response, Facebook stated that, out of the [REDACTED] personnel who did not complete the 2020 Annual Training as of January 13, 2022, [REDACTED] did not have access to Meta Intern System Access systems because they were associated with an entity whose acquisition remained in a pending state as of January 21, 2022.<sup>806</sup>

<sup>798</sup> Ex. 4 at 160.  
<sup>799</sup> Ex. 4 at 160.  
<sup>800</sup> Ex. 4 at 160.  
<sup>801</sup> Ex. 4 at 160.  
<sup>802</sup> Ex. 4 at 160.  
<sup>803</sup> Ex. 4 at 160.  
<sup>804</sup> Ex. 4 at 160. [REDACTED]

<sup>805</sup> Ex. 30 at 9, 12-17 (Jan. 21, 2022 resp. to Dec. 2, 2021 request 1) (chart listing the [REDACTED] employees who did not complete the 2020 Annual Training by January 13, 2022).  
<sup>806</sup> Ex. 30 at 9 (Jan. 21, 2022 resp. to Dec. 2, 2021 request 1).



810. In its April 29, 2022 response, Facebook stated that the manager and the Employee Relations contact for the full-time employee who did not complete the 2020 Annual Training received notifications that the employee had not completed the 2020 Annual Privacy Training.<sup>815</sup>

811. In its April 29, 2022 response, Facebook stated [REDACTED]<sup>816</sup>

812. In its January 21, 2022 response, Facebook stated [REDACTED]<sup>817</sup>

813. In its April 29, 2022 response, Facebook stated, of those [REDACTED] Contingent Workers who were past due for the New Hire Privacy Training, [REDACTED] of them “likely had access to Covered Information as part of their job responsibilities;”<sup>818</sup> [REDACTED]<sup>819</sup>

b) [REDACTED]

814. On September 28, 2021, Facebook deployed the 2021 Annual Privacy Training to the entire company.<sup>820</sup>

815. All Company “learners” were required to complete the 2021 Annual Privacy Training by November 29, 2021.<sup>821</sup>

816. [REDACTED]<sup>822</sup>

817. [REDACTED]<sup>823</sup>

818. [REDACTED]

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<sup>815</sup> Ex. 73 at 15 (Apr. 29, 2022 resp. to Second Mar. 17, 2022 request 1).  
<sup>816</sup> Ex. 73 at 15 (Apr. 29, 2022 resp. to Second Mar. 17, 2022 request 1).  
<sup>817</sup> Ex. 30 at 10 and 18-25 (Jan. 21, 2022 resp. to Dec. 2, 2021 request 3) (chart listing the [REDACTED] new hires past due for the new hire privacy training as of January 13, 2022).  
<sup>818</sup> Ex. 73 at 16 (Apr. 29, 2022 resp. to Second Mar. 17, 2022 request 2).  
<sup>819</sup> Ex. 73 at 16 (Apr. 29, 2022 resp. to Second Mar. 17, 2022 request 2).  
<sup>820</sup> Ex. 30 at 3 (Jan. 21, 2022 resp. to Dec. 2, 2021 request 2).  
<sup>821</sup> Ex. 30 at 3 (Jan. 21, 2022 resp. to Dec. 2, 2021 request 2).  
<sup>822</sup> Ex. 30 at 3 (Jan. 21, 2022 resp. to Dec. 2, 2021 request 2).  
<sup>823</sup> Ex. 30 at 3 (Jan. 21, 2022 resp. to Dec. 2, 2021 request 2).

[REDACTED] <sup>824</sup> and [REDACTED] <sup>825</sup>

819. [REDACTED] <sup>826</sup>

820. According to Facebook, [REDACTED]

821. [REDACTED] <sup>827</sup>

822. [REDACTED] <sup>828</sup>

823. [REDACTED] Facebook reported that [REDACTED] <sup>829</sup>

824. According to Facebook, [REDACTED]

825. [REDACTED] <sup>830</sup>

826. [REDACTED] <sup>831</sup> and

827. [REDACTED] <sup>832</sup>

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<sup>824</sup> Ex. 30 at 3 (Jan. 21, 2022 resp. to Dec. 2, 2021 request 2).  
<sup>825</sup> Ex. 30 at 3 (Jan. 21, 2022 resp. to Dec. 2, 2021 request 2).  
<sup>826</sup> Ex. 30 at 3 (Jan. 21, 2022 resp. to Dec. 2, 2021 request 2).  
<sup>827</sup> Ex. 30 at 3 (Jan. 21, 2022 resp. to Dec. 2, 2021 request 2).  
<sup>828</sup> Ex. 30 at 3 (Jan. 21, 2022 resp. to Dec. 2, 2021 request 2).  
<sup>829</sup> Ex. 30 at 3 (Jan. 21, 2022 resp. to Dec. 2, 2021 request 2).  
<sup>830</sup> Ex. 30 at 4 (Jan. 21, 2022 resp. to Dec. 2, 2021 request 2).  
<sup>831</sup> Ex. 30 at 4 (Jan. 21, 2022 resp. to Dec. 2, 2021 request 2).  
<sup>832</sup> Ex. 30 at 4 (Jan. 21, 2022 resp. to Dec. 2, 2021 request 2).

828. Facebook defines “Facebook Intern System Access” as access to the Company’s internal systems, websites, and tools.<sup>833</sup> Facebook personnel are provisioned different levels of access to Facebook’s internal systems based on the needs of their position or contract at any time.<sup>834</sup>

829. Access to Facebook Intern System Access may also provide access to Covered Information.<sup>835</sup>

830. In its April 29, 2022, response, Facebook stated that, between January 21, 2022 and March 24, 2022, Facebook identified [REDACTED] “learners” as past due for the 2021 Annual Privacy Training.<sup>836</sup>

831. In its April 29, 2022, response, Facebook stated that, of the [REDACTED] “learners” who did not complete the 2021 Annual Privacy Training by January 21, 2022, [REDACTED] were full-time employees and [REDACTED] were Contingent Workers.<sup>837</sup>

832. In its April 29, 2022, response, Facebook stated [REDACTED]

[REDACTED]<sup>838</sup>

833. In its April 29, 2022, response, Facebook stated that, of the [REDACTED] past-due “learners,” [REDACTED] completed the 2021 Annual Privacy Training between January 22, 2022, and March 24, 2022, leaving [REDACTED] learners who did not complete the 2021 Annual Privacy Training by March 24, 2022.<sup>839</sup>

834. In its April 29, 2022, response, Facebook stated that, of the [REDACTED] learners who were past due on the 2021 Annual Privacy Training as of March 24, 2022, [REDACTED] are full-time employees with Facebook Intern System Access on a leave of absence during the pendency of the 2021 Annual Privacy Training.<sup>840</sup>

835. In its April 29, 2022, response, Facebook stated, of the [REDACTED] full-time employees who had Facebook Intern System Access and who were on a leave of absence during the pendency of the 2021 Annual Privacy Training, [REDACTED] employees “likely had access to Covered Information as part of their job responsibilities; [REDACTED]

[REDACTED].”<sup>841</sup>

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<sup>833</sup> Ex. 30 at 9 n.7 (Jan. 21, 2022 resp. to Dec. 2, 2021 request 1).

<sup>834</sup> Ex. 30 at 9 n.7 (Jan. 21, 2022 resp. to Dec. 2, 2021 request 1).

<sup>835</sup> Ex. 30 at 9 n.7 (Jan. 21, 2022 resp. to Dec. 2, 2021 request 1).

<sup>836</sup> Ex. 73 at 18 (Apr. 29, 2022 resp. to Mar. 24, 2022, request 8).

<sup>837</sup> Ex. 73 at 18 (Apr. 29, 2022 resp. to Mar. 24, 2022 request 8).

<sup>838</sup> Ex. 73 at 19 (Apr. 29, 2022 resp. to Mar. 24, 2022 request 8).

<sup>839</sup> Ex. 73 at 18 (Apr. 29, 2022 resp. to Mar. 24, 2022 request 8), 23-25 ([REDACTED]).

<sup>840</sup> Ex. 73 at 19 (Apr. 29, 2022 resp. to Mar. 24, 2022 request 8).

<sup>841</sup> Ex. 73 at 19 (Apr. 29, 2022 resp. to Mar. 24, 2022 request 8).

836. In its April 29, 2022, response, Facebook stated that, of the [REDACTED] learners who were past due on the 2021 Annual Privacy Training as of March 24, 2022, [REDACTED] are Contingent Workers, [REDACTED] of whom have Facebook Intern System Access.<sup>842</sup>

837. [REDACTED] of these [REDACTED] Contingent Workers who were past due on the 2021 Annual Privacy Training [REDACTED] and “likely had access to Covered Information as part of their job responsibilities;” Facebook granted this Contingent Worker an extension due to a leave of absence.<sup>843</sup>

838. In its April 29, 2022, response, Facebook stated [REDACTED]  
[REDACTED]<sup>844</sup>

839. As of November 8, 2021, Facebook reported that it had set up a [REDACTED]  
[REDACTED] to ensure that new hires complete the New Hire Privacy training.<sup>845</sup>

840. [REDACTED], Facebook reported that [REDACTED]  
[REDACTED]<sup>846</sup>

841. [REDACTED]  
[REDACTED]<sup>847</sup>

842. [REDACTED]  
[REDACTED]<sup>848</sup>

843. [REDACTED]  
[REDACTED]<sup>849</sup>

844. Facebook reported on [REDACTED]  
[REDACTED]<sup>50</sup>

845. [REDACTED]  
[REDACTED]<sup>851</sup>

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<sup>842</sup> Ex. 73 at 19 (Apr. 29, 2022 resp. to Mar. 24, 2022 request 8).  
<sup>843</sup> Ex. 73 at 19 (Apr. 29, 2022 resp. to Mar. 24, 2022 request 8).  
<sup>844</sup> Ex. 73 at 19 (Apr. 29, 2022 resp. to Mar. 24, 2022 request 8).  
<sup>845</sup> Ex. 30 at 4 (Jan. 21, 2022 resp. to Dec. 2, 2021 request 4).  
<sup>846</sup> Ex. 30 at 4 (Jan. 21, 2022 resp. to Dec. 2, 2021 request 4).  
<sup>847</sup> Ex. 30 at 4 (Jan. 21, 2022 resp. to Dec. 2, 2021 request 4).  
<sup>848</sup> Ex. 30 at 4 (Jan. 21, 2022 resp. to Dec. 2, 2021 request 4).  
<sup>849</sup> Ex. 30 at 4 (Jan. 21, 2022 resp. to Dec. 2, 2021 request 4).  
<sup>850</sup> Ex. 30 at 4 (Jan. 21, 2022 resp. to Dec. 2, 2021 request 4).  
<sup>851</sup> Ex. 30 at 5 (Jan. 21, 2022 resp. to Dec. 2, 2021 request 4).



[REDACTED]  
860

855. In its April 29, 2022, response, Facebook stated that, of the [REDACTED] Contingent Workers who were past due on the New Hire Privacy Training, [REDACTED] “likely had access to Covered Information as part of their job responsibilities”: 2 [REDACTED]

[REDACTED]  
861

856. In its April 29, 2022, response, Facebook stated that, of those [REDACTED] Contingent Workers who “likely” had access to Covered Information, “[REDACTED] remain active and have since taken the New Hire Training” and [REDACTED] “is no longer a Contingent Worker” at Facebook.<sup>862</sup>

857. Facebook Intern System Access is revoked for all learners [REDACTED]

[REDACTED]  
863

c) [REDACTED]

858. [REDACTED]

[REDACTED]  
864

859. [REDACTED]

[REDACTED]  
865

860. Since the Assessment, Facebook has introduced additional role-based training, including a training entitled “Privacy Review Process for [REDACTED] (‘PMs’).”<sup>866</sup>

861. [REDACTED]

[REDACTED]  
867

862. Facebook reserves the term “mandatory” for trainings that are “actively monitored as part of a formal audit.”<sup>868</sup>

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<sup>860</sup> Ex. 73 at 20 (Apr. 29, 2022 resp. to Mar. 24, 2022 request 9).

<sup>861</sup> Ex. 73 at 20 (Apr. 29, 2022 resp. to Mar. 24, 2022 request 9).

<sup>862</sup> Ex. 73 at 20 (Apr. 29, 2022 resp. to Mar. 24, 2022 request 9).

<sup>863</sup> Ex. 73 at 20 (Apr. 29, 2022 resp. to Mar. 24, 2022 request 9).

<sup>864</sup> Ex. 30 at 6 (Jan. 21, 2022 resp. Dec. 2, 2021 requests 7 and 8).

<sup>865</sup> Ex. 30 at 6 (Jan. 21, 2022 resp. Dec. 2, 2021 requests 7 and 8).

<sup>866</sup> Ex. 30 at 5 (Jan. 21, 2022 resp. Dec. 2, 2021 requests 7 and 8); Ex. 73 at 9-10 (Apr. 29, 2022 resp. to First Mar. 17, 2022 request 9).

<sup>867</sup> Ex. 73 at 9 (Apr. 29, 2022 resp. to Mar. 17, 2022 request 9).

<sup>868</sup> Ex. 73 at 9 (Apr. 29, 2022 resp. to Mar. 17, 2022 request 9).

863. [REDACTED] 869

864. Facebook also provides training to [REDACTED] 871

865. [REDACTED] 72

866. Facebook’s Data Policy team provides training and guidance to [REDACTED] 873

867. Facebook also offers other trainings to [REDACTED] 874

868. Facebook provides onboarding training to the Privacy Policy team that covers a wide array of topics, including Privacy Review, [REDACTED] 875

869. Facebook also provides training to the Privacy Technical Audit team [REDACTED] 876

**H. Transparency, Notice, and Choice**

870. Facebook developed a control domain called Transparency, Notice, and Choice, [REDACTED] 877

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<sup>869</sup> Ex. 73 at 10 (Apr. 29, 2022 resp. to Mar. 17, 2022 request 9).  
<sup>870</sup> Ex. 73 at 11 (Apr. 29, 2022 resp. to Mar. 17, 2022 request 10).  
<sup>871</sup> Ex. 73 at 11 (Apr. 29, 2022 resp. to Mar. 17, 2022 request 10).  
<sup>872</sup> Ex. 73 at 11 (Apr. 29, 2022 resp. to Mar. 17, 2022 request 10).  
<sup>873</sup> Ex. 73 at 12 (Apr. 29, 2022 resp. to Mar. 17, 2022 request 10).  
<sup>874</sup> Ex. 73 at 12-13 (Apr. 29, 2022 resp. to Mar. 17, 2022 request 10).  
<sup>875</sup> Ex. 77 at 5 (May 13, 2022 resp. to Mar. 17, 2022 request 11).  
<sup>876</sup> Ex. 77 at 5-6 (May 13, 2022 resp. to Mar. 17, 2022 request 11).  
<sup>877</sup> Ex. 4 at 123.

1. [REDACTED]

871. [REDACTED]  
[REDACTED] 878

872. [REDACTED]  
[REDACTED] 879

873. [REDACTED]

a) [REDACTED]

b) [REDACTED]

c) [REDACTED]

d) [REDACTED]

e) [REDACTED] 880

874. Based on these observations, the Assessor concluded [REDACTED]  
[REDACTED] 881

875. For the period from October 25, 2020, and August 19, 2021, Facebook published [REDACTED] new and revised privacy policies that [REDACTED]  
[REDACTED] 882

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<sup>878</sup> Ex. 4 at 123; Ex. 6 at 7-8 (Nov. 19, 2021 resp. to Aug. 19, 2021 request 18).  
<sup>879</sup> Ex. 4 at 128, 132.  
<sup>880</sup> Ex. 4 at 133.  
<sup>881</sup> Ex. 4 at 133.  
<sup>882</sup> Ex. 6 at 7-9 (Nov. 19, 2021 resp. to Aug. 19, 2021 request 18).

876. These policies and terms included:

[REDACTED]

883

2. [REDACTED]

877.

[REDACTED]

884

878. [REDACTED] its “historical commitments” – i.e., any external statements it made to users prior to the implementation of the [REDACTED] process regarding the privacy and security of their Covered Information that remain visible to users and thus are still active.

[REDACTED]

885

879.

[REDACTED]

886

880.

[REDACTED]

887

881. At his February 4, 2022 deposition, Chief Executive Officer Mark Zuckerberg testified: “[O]ne of the main things that we have agreed to is . . . doing an inventory and having a process to ensure that the commitments that we’re making around privacy and data use especially, but I

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<sup>883</sup> Ex. 6 at 7-9 (Nov. 19, 2021 resp. to Aug. 19, 2021 request 18).

<sup>884</sup> Ex. 4 at 125, 129.

<sup>885</sup> Ex. 4 at 125, 129.

<sup>886</sup> Ex. 4 at 129-130.

<sup>887</sup> Ex. 4 at 130.

think potentially broader than that, are accurate. . . . I think especially as the company has grown a lot, . . . and a lot of different people [are] building different things and we want to go out and say different things publicly, we have just had to be a lot more rigorous around setting up a process to determine what commitments can people actually make that we as a company can stand behind.”<sup>888</sup>

### 3. Security Telephone Numbers

882. Facebook created a category of telephone numbers it calls Security Phone Numbers (SPNs). Facebook defines SPNs to include [REDACTED]

[REDACTED]  
889

883. [REDACTED]

[REDACTED]  
890

884. [REDACTED]

[REDACTED]  
891

885. [REDACTED]

[REDACTED]  
892

886. [REDACTED]

[REDACTED]  
893

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<sup>888</sup> Ex. 43 at 75:5-16.

<sup>889</sup> Ex. 6 at 4 (Nov. 19, 2021 resp. to Aug 19, 2021 request 16).

<sup>890</sup> Ex. 4 at 130.

<sup>891</sup> Ex. 6 at 4 (Nov. 19, 2021 resp. to Aug 19, 2021 request 16).

<sup>892</sup> Ex. 4 at 125, 131; Ex. 6 at 4 (Nov. 19, 2021 resp. to Aug 19, 2021 request 16).

<sup>893</sup> Ex. 4 at 125, 131; Ex. 6 at 4 (Nov. 19, 2021 resp. to Aug 19, 2021 request 16).



[REDACTED] .899

893. As of October 25, 2020, Oculus no longer allowed the creation of new “Oculus-only” accounts; all new accounts are part of a Facebook account and fall under Facebook policies and procedures.

[REDACTED] .900

4. [REDACTED]

894. [REDACTED] .901

895. The Assessor found that, [REDACTED] The Assessor found that [REDACTED] .902

896. The Assessor concluded [REDACTED] .903

899 Ex. 4 at 132.  
900 Ex. 4 at 132.  
901 Ex. 4 at 133, 215.  
902 Ex. 4 at 133.  
903 Ex. 4 at 133.

## I. Compliance Monitoring, Enforcement, and Reporting

1. [REDACTED]

### a) Background

897. Part VII.F of the 2020 Order requires Facebook to “[a]ssess, monitor, and test, at least once every twelve (12) months . . . the effectiveness of any safeguards put in place pursuant to [the Order] to address risks to the privacy, confidentiality, or Integrity of Covered Information, and modify the Privacy Program based on the results.”<sup>904</sup>

898. [REDACTED]

<sup>905</sup>

899. [REDACTED]

<sup>906</sup>

900. [REDACTED]

<sup>907</sup>

901. [REDACTED]

<sup>908</sup>

902. [REDACTED]

<sup>909</sup>

903. [REDACTED]

<sup>910</sup>

904. [REDACTED]

<sup>11</sup>

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<sup>904</sup> Ex. 3, Part VII.F.

<sup>905</sup> Ex. 70 ([REDACTED]) at 3.

<sup>906</sup> Ex. 4 at 52; Ex. 70 at 3.

<sup>907</sup> Ex. 4 at 52-53; Ex. 70 at 3.

<sup>908</sup> Ex. 70 at 3.

<sup>909</sup> Ex. 4 at 52; Ex. 70 at 3.

<sup>910</sup> Ex. 70 at 3; Ex. 4 at 52.

<sup>911</sup> Ex. 70 at 3; Ex. 4 at 53.

905. [REDACTED] 912

906. [REDACTED] 13

b) [REDACTED]

(1) [REDACTED]

907. [REDACTED] 914

908. [REDACTED] 915

909. [REDACTED] 916

(2) [REDACTED]

910. The Assessor noted that [REDACTED] 917

911. As part of its first Privacy Risk Assessment, [REDACTED] 918

912 Ex. 70 at 8-9; see also Ex. 4 at 53.  
913 Ex. 4 at 53; Ex. 70 at 3-4, 9-14.  
914 Ex. 30 at 7 (Jan. 21, 2022 resp. to Nov. 24, 2021 request 11).  
915 Ex. 30 at 7 (Jan. 21, 2022 resp. to Nov. 24, 2021 request 11).  
916 Ex. 30 at 7 (Jan. 21, 2022 resp. to Nov. 24, 2021 request 11).  
917 Ex. 4 at 59.  
918 Ex. 4 at 59; see supra ¶¶ 64-68, 139-143.

912. The Assessor explained that, [REDACTED]  
[REDACTED] 919

913. The Assessor stated [REDACTED]  
[REDACTED] 20

914. The Assessor found that [REDACTED]  
[REDACTED] 921

915. The Assessor determined that [REDACTED]  
[REDACTED] 922

916. The Assessor also observed that, [REDACTED]  
[REDACTED] 923

(3) [REDACTED]

917. The Assessor observed that [REDACTED]  
[REDACTED] 924

918. The Assessor also observe [REDACTED]  
[REDACTED] 925

919. The Assessor explained that [REDACTED]  
[REDACTED] 26

920. The Assessor added that [REDACTED]  
[REDACTED] 927

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919 Ex. 4 at 59.  
920 Ex. 4 at 59.  
921 Ex. 4 at 59.  
922 Ex. 4 at 59.  
923 Ex. 4 at 60.  
924 Ex. 4 at 60.  
925 Ex. 4 at 60.  
926 Ex. 4 at 60.  
927 Ex. 4 at 60.

921. Facebook stated that [REDACTED]  
[REDACTED] 928

922. The Assessor explained that [REDACTED]  
[REDACTED] 929

2. [REDACTED]

**a) Background**

923. [REDACTED] 930

924. [REDACTED]  
[REDACTED] 931

925. [REDACTED]  
[REDACTED] 932

926. [REDACTED] 933

927. [REDACTED]  
[REDACTED] 34

**b) [REDACTED]**

**(1) [REDACTED]**

928. The Assessor observed that, [REDACTED]  
[REDACTED] 935

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<sup>928</sup> Ex. 30 at 8 (Jan. 21, 2022 resp. to Nov. 24, 2021 request 12).

<sup>929</sup> Ex. 4 at 61.

<sup>930</sup> Ex. 29 ([REDACTED]) at 19; Ex. 71 (Internal Access Abuse Employment Law Runbook).

<sup>931</sup> Ex. 29 at 19.

<sup>932</sup> Ex. 4 at 61 & n.44.

<sup>933</sup> Ex. 29 at 19.

<sup>934</sup> Ex. 71 at 3-4.

<sup>935</sup> Ex. 4 at 61.

929. The Assessor determined, [REDACTED] <sup>936</sup>

930. Facebook stated that, between October 25, 2020, and September 29, 2021 (when it revised its access abuse procedures), there were [REDACTED] instances of potential access abuse not escalated to Employment Law. In each case, the IDR team instead issued a “warning.”<sup>937</sup>

931. The Assessor found that [REDACTED] <sup>938</sup>

932. The Assessor explained [REDACTED] <sup>939</sup>

(2) [REDACTED]

933. [REDACTED] <sup>940</sup>

934. The Assessor observed [REDACTED] <sup>941</sup>

935. The Assessor concluded that [REDACTED] <sup>942</sup>

### 3. Quarterly Privacy Review Reports

#### a) Background

936. Part VII.E.2.c of the Order requires that, each quarter, Facebook deliver to its Principal Executive Officer (Mark Zuckerberg) and the Assessor, a report containing (1) a summary of the Privacy Review Statements generated during the prior quarter; (2) an appendix containing each

<sup>936</sup> Ex. 4 at 61; Ex. 76 at 8 (Apr. 15, 2022 resp. to Mar. 17, 2022 (Set 11) request 2).

<sup>937</sup> Ex. 76 at 8 (Apr. 15, 2022 resp. to Mar. 17, 2022 (Set 11) request 2).

<sup>938</sup> Ex. 4 at 61.

<sup>939</sup> Ex. 4 at 61; *see also* Exs. 29, 71.

<sup>940</sup> Ex. 4 at 61.

<sup>941</sup> Ex. 4 at 61.

<sup>942</sup> Ex. 4 at 61.

Privacy Review Statement from the prior quarter; and (3) and appendix listing all Privacy Review decisions generated during the prior quarter.<sup>943</sup>

937. Each Quarterly Privacy Review Report (QPRR) summary of Privacy Review Statements must include a “detailed discussion” of (1) the material risks to Covered Information that Facebook identified in connection with the relevant Privacy Reviews during the prior quarter and (2) how Facebook addressed those risks.<sup>944</sup>

938. Facebook created a “Quarterly Privacy Review Report Preparation Process” (QPRR Process).<sup>945</sup>

939. [REDACTED]  
[REDACTED]<sup>946</sup>

940. [REDACTED]  
[REDACTED]<sup>47</sup>

941. Facebook’s first QPRR covered the fourth quarter of 2020.<sup>948</sup>

b) [REDACTED]

942. The Assessor determined that [REDACTED]  
[REDACTED]<sup>949</sup>

943. The Assessor noted that, [REDACTED]  
[REDACTED]<sup>950</sup>

944. Facebook’s first QPRR [REDACTED]  
[REDACTED]<sup>951</sup>

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<sup>943</sup> Ex. 3 at 10.

<sup>944</sup> Ex. 3 at 10.

<sup>945</sup> Ex. 72.

<sup>946</sup> Ex. 4 at 62; Ex. 72 at 7 (“Step 1”).

<sup>947</sup> Ex. 4 at 62; Ex. 72 at 7 (“Step 2”).

<sup>948</sup> Ex. 24 (Quarterly Privacy Review Report (Q4 2020)).

<sup>949</sup> Ex. 4 at 62; *see also* Ex. 24.

<sup>950</sup> Ex. 4 at 62; *see also* Ex. 24 at 5-7.

<sup>951</sup> Ex. 24.

945. Facebook’s first QPRR included a discussion of [REDACTED] “case study” Privacy Review Statements from the prior quarter, [REDACTED]<sup>952</sup>.

946. [REDACTED]<sup>953</sup>.

947. The Assessor also explained [REDACTED]<sup>954</sup>.

948. The Assessor added [REDACTED]<sup>955</sup>.

**J. Internal Policies and Procedures**

**1. Background**

949. Part VII.A of the 2020 Order requires Facebook to “[d]ocument in writing the content, implementation, and maintenance of the Privacy Program . . . .”<sup>956</sup>

950. Part VII.E of the 2020 Order requires Facebook to “[d]esign, implement, maintain, and document safeguards that control for the material and external risks identified by Respondent in response to Part VII.D.”<sup>957</sup>

951. To comply with Part VII, [REDACTED]<sup>958</sup>.

952. According to the Assessor’s Report, [REDACTED]<sup>959</sup>.

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<sup>952</sup> Ex. 24 at 9-12; Ex. 4 at 62-63.

<sup>953</sup> Ex. 14 at 15 (Jan. 11, 2022 resp. to Nov. 24 2021 request 8).

<sup>954</sup> Ex. 4 at 63.

<sup>955</sup> Ex. 4 at 63.

<sup>956</sup> Ex. 3, Part VII.A.

<sup>957</sup> Ex. 3 Part VII.E.

<sup>958</sup> Ex. 4 at 15.

<sup>959</sup> Ex. 4 at 15.

953. According to the Assessor's Report, [REDACTED]  
[REDACTED] <sup>960</sup>

954. According to the Assessor's Report, [REDACTED]  
[REDACTED] <sup>961</sup>

955. According to the Assessor's Report, [REDACTED]  
[REDACTED] <sup>962</sup>

956. According to the Assessor's Report, [REDACTED]  
[REDACTED] <sup>963</sup>

957. According to the Assessor's Report, as of October 25, 2020, Facebook [REDACTED]  
[REDACTED] <sup>964</sup>

2. [REDACTED]

a) [REDACTED]

958. [REDACTED]  
[REDACTED] <sup>966</sup>

959. [REDACTED]  
[REDACTED]

a. [REDACTED]

i. [REDACTED] <sup>67</sup>

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<sup>960</sup> Ex. 4 at 15.

<sup>961</sup> Ex. 4 at 15.

<sup>962</sup> Ex. 4 at 15.

<sup>963</sup> Ex. 4 at 15, 164-65, 169, 220, 224 ([REDACTED]).

<sup>964</sup> Ex. 4 at 15.

<sup>965</sup> The Assessor, Protiviti, informed the FTC that, [REDACTED]  
[REDACTED] *See* Ex. 4 at 18-19.

<sup>966</sup> Ex. 4 at 18.

<sup>967</sup> Ex. 52 ([REDACTED]) at F2; *see also* Ex. 4 at 87-88.

ii. [REDACTED] 968

iii. [REDACTED] 969

iv. [REDACTED] 970

v. [REDACTED] 971

vi. The Assessor determined that [REDACTED] 972

b. [REDACTED]

i. According to the Assessor, [REDACTED] 973

ii. The Assessor noted that, [REDACTED] 974

iii. [REDACTED]  
the Assessor found that [REDACTED]

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<sup>968</sup> Ex. 52 at F2.

<sup>969</sup> Ex. 52 at F2.

<sup>970</sup> Ex. 52 at F2.

<sup>971</sup> Ex. 51 at 8 (Feb. 18, 2022 resp. to Jan. 10, 2022 request 9.i).

<sup>972</sup> Ex. 52 at F2; *see also* Ex. 4 at 87-88.

<sup>973</sup> Ex. 52 at F31.

<sup>974</sup> Ex. 52 at F31.

[REDACTED] 975

iv. The Assessor concluded that [REDACTED] 76

v. In its February 18, 2022, response, Facebook [REDACTED] 77

vi. In its February 18, 2022, response, Facebook also stated that, [REDACTED] 978

960. The Assessor identified [REDACTED]

a. [REDACTED]

i. The Assessor noted that [REDACTED] 979

ii. The Assessor also noted [REDACTED] 980

iii. In its January 21, 2022, response, Facebook agreed that the specific term [REDACTED] which is the formal name of Safeguard

975 Ex. 52 at F31.

976 Ex. 52 at F31.

977 Ex. 51 at 9 (Feb. 18, 2022 resp. to Jan. 10, 2022 request 9.ii).

978 Ex. 51 at 10 (Feb. 18, 2022 resp. to Jan. 10, 2022 request 9.ii).

979 Ex. 52 at F11.

980 Ex. 52 at F11.

[REDACTED], did not appear in the Safeguard Effectiveness Testing Playbook.<sup>981</sup>

b. [REDACTED]

i. The Assessor noted that [REDACTED]  
[REDACTED]<sup>982</sup>

ii. The Assessor noted that, [REDACTED]  
[REDACTED]<sup>983</sup>

iii. The Assessor also observed that [REDACTED]  
[REDACTED]<sup>984</sup>

iv. In its February 18, 2022, response, Facebook [REDACTED]  
[REDACTED]<sup>985</sup>

c. [REDACTED]  
[REDACTED]

i. The Assessor found [REDACTED]  
[REDACTED]<sup>986</sup>

ii. While the Assessor recognized that [REDACTED]  
[REDACTED]<sup>987</sup>

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<sup>981</sup> Ex. 51 at 10 (Feb. 18, 2022 resp. to Jan. 10, 2022 request 9.iii).

<sup>982</sup> Ex. 52 at F12.

<sup>983</sup> Ex. 52 at F12.

<sup>984</sup> Ex. 52 at F12; *see also* Ex. 4 at 60.

<sup>985</sup> Ex. 51 at 11 (Feb. 18, 2022 resp. to Jan. 10, 2022 request 9.iv).

<sup>986</sup> Ex. 52 at F25.

<sup>987</sup> Ex. 52 at F25.

iii. Further, the Assessor found [REDACTED]  
[REDACTED]  
988

iv. The Assessor also stated [REDACTED]  
[REDACTED]  
989

v. [REDACTED] the Facebook playbook stated, [REDACTED]  
[REDACTED]  
990

vi. In its February 18, 2022, response, Facebook [REDACTED]  
[REDACTED]  
991

vii. In its February 18, 2022, response, Facebook [REDACTED]  
[REDACTED]  
992

viii. In its February 18, 2022, response, Facebook [REDACTED]  
[REDACTED]  
993

ix. In its February 18, 2022, response, Facebook [REDACTED]  
[REDACTED]  
994

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<sup>988</sup> Ex. 52 at F25.

<sup>989</sup> Ex. 52 at F34.

<sup>990</sup> Ex. 52 at F34.

<sup>991</sup> Ex. 51 at 12 (Feb. 18, 2022 resp. to Jan. 10, 2022 requests 9.v and 9.vi).

<sup>992</sup> Ex. 51 at 12 (Feb. 18, 2022 resp. to Jan. 10, 2022 requests 9.v and 9.vi).

<sup>993</sup> Ex. 51 at 13 (Feb. 18, 2022 resp. to Jan. 10, 2022 requests 9.v and 9.vi).

<sup>994</sup> Ex. 51 at 13 (Feb. 18, 2022 resp. to Jan. 10, 2022 requests 9.v and 9.vi).

961. The Assessor identified [REDACTED]

a. [REDACTED]

i. [REDACTED] he Assessor found that [REDACTED]  
995

ii. The Assessor stated [REDACTED]  
996

iii. [REDACTED] the Assessor noted [REDACTED]  
997

iv. Therefore, the Assessor found that [REDACTED]  
98

v. In its February 18, 2022, response, Facebook [REDACTED]  
999

vi. In its February 18, 2022, response, Facebook [REDACTED]  
1000

962. The Assessor identified [REDACTED]

a. [REDACTED]

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<sup>995</sup> Ex. 52 at F29.

<sup>996</sup> Ex. 52 at F29.

<sup>997</sup> Ex. 52 at F29.

<sup>998</sup> Ex. 52 at F29.

<sup>999</sup> Ex. 51 at 13 (Feb. 18, 2022 resp. to Jan. 10, 2022 request 9.vii).

<sup>1000</sup> Ex. 51 at 14 (Feb. 18, 2022 resp. to Jan. 10, 2022 request 9.vii).

i. [REDACTED] 1001

ii. However, the Assessor noted that [REDACTED] 1002

b. [REDACTED]

i. The Assessor found that [REDACTED] 1003

ii. The Assessor also found that, [REDACTED] 1004

963. The Assessor identified [REDACTED] 1005

a. [REDACTED]

i. [REDACTED] 1006

ii. The Assessor found that [REDACTED] 1007

b. [REDACTED]

i. [REDACTED] 1008

1001 Ex. 4 at 18; *see also* Ex. 52 at F7.  
1002 Ex. 4 at 18.  
1003 Ex. 4 at 18; *see also* Ex. 52 at F18.  
1004 Ex. 4 at 18.  
1005 Ex. 4 at 18.  
1006 Ex. 4 at 18; *see also* Ex. 52 at F15.  
1007 Ex. 4 at 161.



x. [REDACTED] 016

964. The Assessor identified [REDACTED]

a. [REDACTED]

i. The Assessor found that the [REDACTED] 1017

b) [REDACTED]

965. As part of its privacy program, Facebook documented [REDACTED] 018

966. During the assessment, Facebook [REDACTED] 1019

967. [REDACTED] 1020

c) [REDACTED]

968. [REDACTED] 1021

<sup>1016</sup> Ex. 10 at 6 (Oct. 15, 2021 resp. to Sept. 1, 2021 request 13).

<sup>1017</sup> Ex. 4 at 19; *see also* Ex. 52 at F19.

<sup>1018</sup> Ex. 4 at 162; Ex. 5 at 33 (Oct. 29, 2021 resp. to Sept. 1, 2021 request 14).

<sup>1019</sup> Ex. 4 at 162; Ex. 5 at 33 (Oct. 29, 2021 resp. to Sept. 1, 2021 request 14).

<sup>1020</sup> Ex. 5 at 34 (Oct. 29, 2021 resp. to Sept. 1, 2021 request 14).

<sup>1021</sup> Ex. 4 at 19.

969. The Assessor reported that [REDACTED]  
[REDACTED]  
[REDACTED]<sup>1022</sup>

970. The Assessor identified [REDACTED]  
[REDACTED]  
[REDACTED]:

a. [REDACTED]

i. During the Assessor's interviews, [REDACTED]  
[REDACTED]  
[REDACTED]<sup>1023</sup>

ii. The Assessor stated [REDACTED]  
[REDACTED]  
[REDACTED]<sup>1024</sup>

iii. However, during the Assessor's review, [REDACTED]  
[REDACTED]  
[REDACTED]<sup>1025</sup>

iv. [REDACTED]  
[REDACTED]  
[REDACTED]  
[REDACTED]<sup>1026</sup>

b. [REDACTED]

i. The Assessor noted that, [REDACTED]  
[REDACTED]  
[REDACTED]<sup>1027</sup>

ii. In its February 18, 2022, response, Facebook [REDACTED]  
[REDACTED]  
[REDACTED]<sup>1028</sup>

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<sup>1022</sup> Ex. 4 at 19.

<sup>1023</sup> Ex. 53 at F2.

<sup>1024</sup> Ex. 53 at F2.

<sup>1025</sup> Ex. 53 ([REDACTED]) at F2; *see also* Ex. 4 at 80.

<sup>1026</sup> Ex. 53 at F2.

<sup>1027</sup> Ex. 53 at F3.

<sup>1028</sup> Ex. 51 at 15 (Feb. 18, 2022 resp. to Jan. 10, 2022 request 10.ii).

971. The Assessor identified [REDACTED]

a. [REDACTED]

i. [REDACTED]  
1029

ii. According to Facebook, IDR uses [REDACTED], a case management tool, to identify, track, and document potential IAA violations.<sup>1030</sup>

iii. The Assessor further noted that [REDACTED]  
1031

iv. The Assessor observed for [REDACTED]  
1032

v. In its February 18, 2022, response, Facebook [REDACTED]  
1033

vi. In its February 18, 2022, response, Facebook stated that, [REDACTED]  
1034

972. The Assessor identified [REDACTED]

a. [REDACTED]

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<sup>1029</sup> Ex. 53 at F14; *see also* Ex. 4 at 19.

<sup>1030</sup> Ex. 51 at 16 n.23 (Feb. 18, 2022 resp. to Jan. 10, 2022, request 10.iii).

<sup>1031</sup> Ex. 53 at F14.

<sup>1032</sup> Ex. 53 at F14.

<sup>1033</sup> Ex. 51 at 16 (Feb. 18, 2022 resp. to Jan. 10, 2022 request 10.ii).

<sup>1034</sup> Ex. 51 at 16 (Feb. 18, 2022 resp. to Jan. 10, 2022 request 10.ii).

i. The Assessor found that [REDACTED] .<sup>1035</sup>

ii. The Assessor found that, [REDACTED] .<sup>1036</sup>

iii. Furthermore, the Assessor found [REDACTED] .<sup>1037</sup>

iv. In its February 18, 2022, response, Facebook [REDACTED] .<sup>1038</sup>

v. In its February 18, 2022, response, Facebook also stated that, in October 2021, it updated the relevant safeguard documentation “to clarify the information necessary to fully and appropriately document each type of external engagement pursuant to [REDACTED] .”<sup>1039</sup>

b. [REDACTED]

i. The Assessor found that [REDACTED] .<sup>1040</sup>

ii. The Assessor found that, [REDACTED] .<sup>1041</sup>

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<sup>1035</sup> Ex. 53 at F9.

<sup>1036</sup> Ex. 53 at F9; *see also* Ex. 4 at 24-25.

<sup>1037</sup> Ex. 53 at F9; *see also* Ex. 4 at 24-25.

<sup>1038</sup> Ex. 51 at 16 (Feb. 18, 2022 resp. to Jan. 10, 2022 requests 10.iv and 10.v).

<sup>1039</sup> Ex. 51 at 17 (Feb. 18, 2022 resp. to Jan. 10, 2022 requests 10.iv and 10.v).

<sup>1040</sup> Ex. 53 at F13; *see also* Ex. 4 at 24-25.

<sup>1041</sup> Ex. 53 at F13; *see also* Ex. 4 at 24-25.

iii. The Assessor further found that [REDACTED]  
[REDACTED] 1042

iv. In its February 18, 2022, response, Facebook [REDACTED]  
[REDACTED] 1043

v. In its February 18, 2022, response, Facebook [REDACTED]  
[REDACTED] 1044

vi. In its February 18, 2022, response, Facebook [REDACTED]  
[REDACTED] 1045

vii. In its February 18, 2022, response, Facebook also stated that, in October 2021, it updated the relevant Safeguard documentation “to clarify the information necessary to fully and appropriately document . . . the related standard for the quarterly Qualify Assurance reviews of external engagement documentation pursuant to [REDACTED]” 1046

973. The Assessor identified [REDACTED]  
[REDACTED]

a. [REDACTED]  
[REDACTED]

i. According to the Assessor, [REDACTED] 1047

ii. [REDACTED]  
[REDACTED]

1042 Ex. 53 at F13.

1043 Ex. 51 at 16 (Feb. 18, 2022 resp. to Jan. 10, 2022 requests 10.iv and 10.v).

1044 Ex. 51 at 16 (Feb. 18, 2022 resp. to Jan. 10, 2022 requests 10.iv and 10.v).

1045 Ex. 51 at 16-17 (Feb. 18, 2022 resp. to Jan. 10, 2022 requests 10.iv and 10.v).

1046 Ex. 51 at 17 (Feb. 18, 2022 resp. to Jan. 10, 2022 requests 10.iv and 10.v).

1047 Ex. 53 at F11.

[REDACTED] 1048

iii. In its February 18, 2022, response, Facebook [REDACTED] 1049

b. [REDACTED]

i. The Assessor noted that [REDACTED] 1050

ii. According to the Assessor, [REDACTED] 1051

iii [REDACTED]

iv. [REDACTED] 1052

v. According to the Assessor, [REDACTED] 1053

1048 Ex. 53 at F11.  
1049 Ex. 51 at 18 (Feb. 18, 2022 resp. to Jan. 10, 2022 request 10.vi).  
1050 Ex. 53 at F23.  
1051 Ex. 53 at F23.  
1052 Ex. 53 at F23.  
1053 Ex. 53 at F23.

vi. The Assessor noted that [REDACTED] 054

974. The Assessor identified [REDACTED] :

a. [REDACTED]

i. The Assessor noted [REDACTED] 1055

ii. [REDACTED] 1056

iii. The Assessor found that, [REDACTED] 1057

iv. The Assessor noted that, [REDACTED] 1058

v. The Assessor stated [REDACTED] 1059

vi. [REDACTED] 1060

vii. The Assessor also observed that [REDACTED]

1054 Ex. 53 at F23.  
1055 Ex. 53 at F26.  
1056 Ex. 53 at F26.  
1057 Ex. 53 at F26.  
1058 Ex. 53 at F26.  
1059 Ex. 53 at F26.  
1060 Ex. 53 at F26.

[REDACTED]  
1061

viii. [REDACTED]  
062

ix. The Assessor noted that [REDACTED]  
063

x. In its February 18, 2022, response, Facebook [REDACTED]  
064

xi. In its February 18, 2022, response, Facebook [REDACTED]  
1065

xii. In its February 18, 2022, response, Facebook [REDACTED]  
066

xiii. In its February 18, 2022, response, Facebook stated [REDACTED]  
1067

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1061 Ex. 53 at F26.  
1062 Ex. 53 at F26.  
1063 Ex. 53 at F26.  
1064 Ex. 51 at 19 (Feb. 18, 2022 resp. to Jan. 10, 2022 request 10.viii).  
1065 Ex. 51 at 19 (Feb. 18, 2022 resp. to Jan. 10, 2022 request 10.vi).  
1066 Ex. 51 at 19 (Feb. 18, 2022 resp. to Jan. 10, 2022 request 10.vi).  
1067 Ex. 51 at 19-20 (Feb. 18, 2022 resp. to Jan. 10, 2022 request 10.vi).

975. The Assessor identified [REDACTED] :

a. [REDACTED]

i. [REDACTED] 1068

ii. [REDACTED] 1069

**3. Assessor’s Recommendations**

976. The Assessor found that, [REDACTED] 1070

977. The Assessor also found [REDACTED] 1071

978. According to the Assessor, [REDACTED] 1072

**K. Complaints & Issue Management**

**1. Background**

979. Part VII.E of the 2020 Order requires Facebook to “[d]esign, implement, maintain, and document safeguards that control for the material internal and external risks identified by Respondent in response to Part VII.D. Each safeguard shall be based on the volume and sensitivity of the Covered Information that is at risk, and the likelihood that the risk could be realized and result in the unauthorized access, collection, use, destruction, or disclosure of the Covered Information.”<sup>1073</sup>

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<sup>1068</sup> Ex. 4 at 19; *see also* Ex. 53 at F29.  
<sup>1069</sup> Ex. 4 at 19; *see also* Ex. 53 at F29.  
<sup>1070</sup> Ex. 4 at 19.  
<sup>1071</sup> Ex. 4 at 19.  
<sup>1072</sup> Ex. 4 at 19.  
<sup>1073</sup> Ex. 3, Part VII.E.

980. Facebook's Complaints and Issue Management control domain [REDACTED]  
[REDACTED] 1074

981. [REDACTED]  
[REDACTED] 1075

982. [REDACTED]  
[REDACTED] 1076

983. [REDACTED] 1077

984. [REDACTED] 1078

2. [REDACTED]

a) [REDACTED]

985. Facebook's Global Privacy Operations team maintains a process for receiving, handling, resolving, monitoring, and reporting external inquiries regarding Facebook's privacy practices.<sup>1079</sup>

986. A user can submit an external inquiry, [REDACTED]  
[REDACTED] 1080

987. [REDACTED]  
[REDACTED] 1081

988. [REDACTED] :

a. [REDACTED]  
[REDACTED]

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<sup>1074</sup> Ex. 4 at 31.

<sup>1075</sup> Ex. 4 at 31.

<sup>1076</sup> Ex. 4 at 31.

<sup>1077</sup> Ex. 4 at 31; *see also* Ex. 4 at 163, 169-170 ([REDACTED] relating to the Complaints and Issue Management Control Domain).

<sup>1078</sup> Ex. 4 at 31.

<sup>1079</sup> Ex. 4 at 31.

<sup>1080</sup> Ex. 4 at 31.

<sup>1081</sup> Ex. 4 at 36.

[REDACTED] 1082

b. [REDACTED] 1083

c. [REDACTED] 1084 and

d. [REDACTED] 1085

989. [REDACTED] the Assessor confirmed that [REDACTED] 1086

990. According to the Assessor, [REDACTED] 1087

991. According to the Assessor, [REDACTED] 1088

992. According to the Assessor, [REDACTED] 1089

993. During the Assessment Period, [REDACTED] 1090

994. Based on its testing, the Assessor determined [REDACTED] 1091

1082 Ex. 4 at 36-37.  
1083 Ex. 4 at 37.  
1084 Ex. 4 at 37.  
1085 Ex. 4 at 36-37.  
1086 Ex. 4 at 37.  
1087 Ex. 4 at 37.  
1088 Ex. 4 at 37.  
1089 Ex. 4 at 37.  
1090 Ex. 4 at 37.  
1091 Ex. 4 at 37.

995. Moreover, the Assessor [REDACTED] .1092

996. [REDACTED] .1093

997. The Assessor also noted [REDACTED] .094

998. The Assessor identified [REDACTED] .1095

999. [REDACTED] .1096

1000. The Assessor stated that [REDACTED] .097

1001. During operational effectiveness testing, [REDACTED] .1098

1002. [REDACTED] .1099

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<sup>1092</sup> Ex. 4 at 37.  
<sup>1093</sup> Ex. 4 at 37.  
<sup>1094</sup> Ex. 4 at 37.  
<sup>1095</sup> Ex. 4 at 37.  
<sup>1096</sup> Ex. 4 at 37.  
<sup>1097</sup> Ex. 4 at 37.  
<sup>1098</sup> Ex. 4 at 37.  
<sup>1099</sup> Ex. 4 at 37.

1003. Facebook also acknowledged [REDACTED]  
[REDACTED] 1100

1004. According to the Assessor, [REDACTED]  
[REDACTED] 1101

1005. [REDACTED]  
[REDACTED] 1102

b) [REDACTED]

1006. According to the Assessor, [REDACTED]  
[REDACTED] 103

1007. The Assessor also stated that [REDACTED]  
[REDACTED] 104

1008. During its assessment, the Assessor identified [REDACTED]  
[REDACTED] 105

1009. [REDACTED]  
[REDACTED] 106

1010. [REDACTED]  
[REDACTED] 107

1011. [REDACTED]  
[REDACTED] 1108

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1100 Ex. 4 at 37.  
1101 Ex. 4 at 38.  
1102 Ex. 4 at 38.  
1103 Ex. 4 at 38.  
1104 Ex. 4 at 38.  
1105 Ex. 4 at 38.  
1106 Ex. 4 at 32.  
1107 Ex. 4 at 38.  
1108 Ex. 4 at 38.

1012. According to the Assessor, [REDACTED]  
[REDACTED] 1109

c) [REDACTED]

1013. [REDACTED]  
[REDACTED] 1110

1014. The Assessor observed [REDACTED]  
[REDACTED] 1111

1015. The Assessor noted [REDACTED]  
[REDACTED] 1112

1016. The Assessor determined [REDACTED]  
[REDACTED] 1113

1017. According to the Assessor, [REDACTED]  
[REDACTED] 1114

1018. The Assessor also determined [REDACTED]  
[REDACTED] 1115

1019. The Assessor observed [REDACTED]  
[REDACTED] 1116

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1109 Ex. 4 at 38.  
1110 Ex. 4 at 38.  
1111 Ex. 4 at 38.  
1112 Ex. 4 at 38.  
1113 Ex. 4 at 38.  
1114 Ex. 4 at 38.  
1115 Ex. 4 at 38.  
1116 Ex. 4 at 38.

1020. As a result, the Assessor noted [REDACTED]  
[REDACTED] 1117

d) [REDACTED]

1021. According to the Assessor, [REDACTED]  
[REDACTED] 118

1022. The Assessor noted [REDACTED]  
[REDACTED] 1119

1023. The Assessor [REDACTED]  
[REDACTED] 1120

1024. [REDACTED]  
[REDACTED] 121

1025. [REDACTED]  
[REDACTED] 1122

1026. The Assessor noted [REDACTED]  
[REDACTED] 1123

1027. [REDACTED]  
[REDACTED] 1124

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1117 Ex. 4 at 38.  
1118 Ex. 4 at 39.  
1119 Ex. 4 at 39.  
1120 Ex. 4 at 39.  
1121 Ex. 4 at 39.  
1122 Ex. 4 at 39.  
1123 Ex. 4 at 39.  
1124 Ex. 4 at 39.

1028. [REDACTED]

1125

## L. Governance

### 1. Background

1029. Facebook designed the Governance Control Domain “to implement key governing activities for the Mandated Privacy Program” under Parts VII.B, VII.C, VII.E, and VII.I of the 2020 Order.<sup>1126</sup>

1030. Specifically, Part VII.E. of the Order requires Facebook to “[d]esign, implement, maintain, and document safeguards that control for the material internal and external risks identified by Respondent in response to Part VII.D. Each safeguard shall be based on the volume and sensitivity of the Covered Information that is at risk, and the likelihood that the risk could be realized and result in the unauthorized access, collection, use, destruction, or disclosure of the Covered Information.”<sup>1127</sup>

1031. Part VII.I. of the Order requires Facebook to “[c]onsult with, and seek appropriate guidance from, independent, third-party experts on data protection and privacy in the course of establishing, implementing, maintaining, and updating the Privacy Program.”<sup>1128</sup>

1032. To comply with these Order provisions, Facebook established the Compensating, Nominating, and Governance Committee, as well as the Privacy Committee.<sup>1129</sup>

1033. Facebook’s Governance Control Domain also covers [REDACTED]

1130

1034. Additionally, Facebook engaged external experts on a variety of different topics, including privacy, to comply with Part VII.I of the Order.<sup>1131</sup>

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<sup>1125</sup> Ex. 4 at 39.

<sup>1126</sup> Ex. 4 at 20.

<sup>1127</sup> Ex. 3, Part VII.E.

<sup>1128</sup> Ex. 3, Part VII.I.

<sup>1129</sup> Ex. 4 at 20.

<sup>1130</sup> Ex. 4 at 20.

<sup>1131</sup> Ex. 4 at 22.

1035. [REDACTED]  
[REDACTED] 1132

2. [REDACTED]

a) [REDACTED]

1036. [REDACTED]  
[REDACTED] 1133

1037. [REDACTED] 1134

1038. [REDACTED] 1135

1039. [REDACTED] 1136

1040. At the time of the Assessment, [REDACTED] 1137

1041. At the time of the Assessment, [REDACTED] 1138

1042. The Assessor [REDACTED] 1139

1043. [REDACTED] 1140

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1132 Ex. 4 at 20, 163-167 ([REDACTED] relating to the Governance Control Domain).  
1133 Ex. 4 at 24.  
1134 Ex. 4 at 24.  
1135 Ex. 4 at 23-24.  
1136 Ex. 4 at 24.  
1137 Ex. 4 at 24.  
1138 Ex. 4 at 24.  
1139 Ex. 4 at 24.  
1140 Ex. 4 at 24.

1044. [REDACTED]  
[REDACTED]<sup>1141</sup>

b) [REDACTED]

1045. The Assessor determined [REDACTED]  
[REDACTED]<sup>1142</sup>

1046. According to the Assessor, [REDACTED]  
[REDACTED]<sup>1143</sup>

1047. According to the Assessor, the Privacy and Data Policy team “identified and engaged with independent privacy experts throughout the development and enhancement of the Privacy Program.”<sup>1144</sup>

1048. The Assessor stated that experts include external, independent individuals who have a background and focus in data protection, privacy, and compliance, including from industry, academia, and non-governmental organizations.<sup>1145</sup>

1049. According to the Assessor, [REDACTED]  
[REDACTED]<sup>146</sup>

1050. The Assessor also noted [REDACTED]  
[REDACTED]<sup>1147</sup>

1051. [REDACTED]  
[REDACTED]<sup>1148</sup>

1052. Furthermore, the Assessor observed a [REDACTED]  
[REDACTED]

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<sup>1141</sup> Ex. 4 at 24.  
<sup>1142</sup> Ex. 4 at 24.  
<sup>1143</sup> Ex. 4 at 24.  
<sup>1144</sup> Ex. 4 at 22.  
<sup>1145</sup> Ex. 4 at 22.  
<sup>1146</sup> Ex. 4 at 24.  
<sup>1147</sup> Ex. 4 at 24.  
<sup>1148</sup> Ex. 4 at 24.

[REDACTED] 1149

1053. The Assessor stated that, [REDACTED] 1150

1054. During the Assessment, the Assessor [REDACTED] 1151

1055. However, the Assessor [REDACTED] 1152

1056. The Assessor also noted that [REDACTED] 1153

1057. The Assessor [REDACTED] 1154

1058. [REDACTED] 1155

c) [REDACTED]

1059. According to the Assessor, [REDACTED] 1156

1060. According to the Assessor, [REDACTED]

1149 Ex. 4 at 25.  
1150 Ex. 4 at 25.  
1151 Ex. 4 at 25.  
1152 Ex. 4 at 25.  
1153 Ex. 4 at 25.  
1154 Ex. 4 at 25.  
1155 Ex. 4 at 25.  
1156 Ex. 4 at 25.

[REDACTED] 1157

1061. Therefore, the Assessor [REDACTED] 1158

1062. However, the Assessor [REDACTED] 1159

1063. The Assessor noted [REDACTED] 1160

1064. The Assessor recommended [REDACTED] 1161

1065. [REDACTED] 1162

1066. [REDACTED] 1163

**90-DAY LIMITATION FOR EXPIRED APPS**

**I. The Commission Orders Prohibits Misrepresentations**

1067. Part I of the 2012 Order states, in relevant part, that “[Facebook] and its representatives, in connection with any product or service, in or affecting commerce, shall not misrepresent in any manner, expressly or by implication, the extent to which it maintains the privacy or security of covered information, including but not limited to: . . . C. the extent to which [Facebook] makes or has made covered information accessible to third parties.”<sup>1164</sup>

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<sup>1157</sup> Ex. 4 at 25.

<sup>1158</sup> Ex. 4 at 25.

<sup>1159</sup> Ex. 4 at 25.

<sup>1160</sup> Ex. 4 at 25.

<sup>1161</sup> Ex. 4 at 25.

<sup>1162</sup> Ex. 4 at 25.

<sup>1163</sup> Ex. 4 at 25.

<sup>1164</sup> Ex. 1 (2012 Commission Order), Part I.

1068. Part I of the 2020 Order states, in relevant part, that Facebook, “in connection with any product or service, shall not misrepresent in any manner, expressly or by implication, the extent to which [Facebook] maintains the privacy or security of Covered Information, including, but not limited to . . . C. The extent to which [Facebook] makes or has made Covered Information accessible to third parties.”<sup>1165</sup>

**A. Facebook’s Representations That It Would Not Continue to Share Users’ Non-Public Information with Expired Apps**

1069. In a March 21, 2018, Newsroom post, Mark Zuckerberg stated: “We have a responsibility to everyone who uses Facebook to make sure their privacy is protected. That’s why we’re making changes to prevent abuse. We’re going to set a higher standard for how developers build on Facebook, what people should expect from them, and, most importantly, from us.”<sup>1166</sup>

1070. In a March 21, 2018, post, Zuckerberg also announced, “We will: . . . Turn off access for unused apps. If someone hasn’t used an app within the last three months, we will turn off the app’s access to their information.”<sup>1167</sup>

1071. Two weeks later, on April 4, 2018, Facebook’s then-Chief Technology Officer, Mike Schroepfer, provided “An Update on Our Plans to Restrict Data Access on Facebook” on Facebook’s Newsroom blog, in which he highlighted the “nine most important changes” the Company was making “to better protect your Facebook information.”<sup>1168</sup>

1072. As part of the April 4, 2018, announcement on Facebook Newsroom, Schroepfer stated, “In the next week, we will remove a developer’s ability to request data people shared with them if it appears they have not used the app in the last 3 months.”<sup>1169</sup>

1073. In a public Facebook Newsroom post dated April 4, 2018, Schroepfer stated that “starting on Monday, April 9, we’ll show people a link at the top of their News Feed so they can see what apps they use—and the information they have shared with those apps.”<sup>1170</sup>

1074. On April 18, 2018, Facebook launched a feature (the “90-Day Limitation”) designed to prevent a third-party consumer application (“app”) that a user had logged into using Facebook

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<sup>1165</sup> Ex. 3, Part I.

<sup>1166</sup> Ex. 66 (Mar. 21, 2018 Newsroom Post).

<sup>1167</sup> Ex. 66.

<sup>1168</sup> Ex. 65 (Facebook Newsroom Posts, Ex. 4 of Respondent’s July 14, 2020 response to FTC demand) at FB-FTC-EXPAPPS-000000017 (“Two weeks ago we promised to take a hard look at the information apps can use when you connect them to Facebook as well as other data practices. Today, we want to update you on the changes we’re making to better protect your Facebook information. . .”).

<sup>1169</sup> Ex. 65 at FB-FTC-EXPAPPS-000000018.

<sup>1170</sup> Ex. 65 at FB-FTC-EXPAPPS-000000018.

Login from continuing to access a user's Facebook data if the user had not used the app in the past 90 days.<sup>1171</sup>

1075. Facebook Login allows Facebook users to create accounts on third-party apps by authenticating with their Facebook account credentials.<sup>1172</sup>

1076. Specifically, Facebook represented these "Expired Apps" would be permitted to retain data they had obtained while the user was still active, but they would be unable to continue obtaining the user's nonpublic information.<sup>1173</sup>

1077. Apps can use Facebook Login to access Facebook users' data.<sup>1174</sup>

### 1. Apps and Websites Settings

1078. According to Facebook, as of July 7, 2020, when a user went to the Apps and Websites settings for their account after November 2019, Facebook represented on its desktop version: "These are apps and websites you've used Facebook to log into. They can receive information you chose to share with them. Expired and removed apps may still have access to information that was previously shared with them, but can't receive additional non-public information."<sup>1175</sup>

1079. In the corresponding mobile version of the Apps and Websites settings (in effect December 2019 through present as of July 14, 2020), when the user clicked on the Expired tab, it stated: "Expired and removed apps may still have access to information that was previously shared with them, but can't receive additional non-public information."<sup>1176</sup>

1080. Furthermore, at the Rule 30(b)(6) deposition, Facebook's corporate designee, Eric Totherow, stated that "[t]he expectation set out in the text of the expired apps tab [of the Apps and Website modules] makes it very clear that the app ought not to have access to that user's data any longer, except for the data the app has already collected prior to the expiration."<sup>1177</sup>

### 2. Help Center

1081. In both the desktop and mobile versions of the Apps and Websites settings, when users clicked on the "Learn more" hyperlink, they were directed to a Help Center article that stated, in

<sup>1171</sup> Ex. 61 (July 14, 2020 resp. to FTC demand) at 3; Ex. 34 (Sept. 30, 2021 R. 30(b)(6) Eric Totherow Dep. Tr.) at 36:17-20 ("if there was no indication of usage of [a third-party] app [by a user] within a 90-day window, [Facebook] would automatically expire that app's ability to access [that user's] data"), 41:5-21 (stating that the 90-day expiration feature began on April 11, 2018 and deployed through May 24, 2018 in a gradual fashion reaching "100 percent of overall users on May 24<sup>th</sup>."); Ex. 35 (July 28, 2021 White Paper Submitted by Facebook) at 2, 5.

<sup>1172</sup> Ex. 34 at 18:9-18 (Facebook Login is "the front door to the platform" and "it is the primary means of communicating from those third-party apps and websites into Facebook and into the Graph API underneath."); Ex. 62, Meta for Developers, *Facebook Login Overview*, at 1, <https://developers.facebook.com/docs/facebook-login/overview/> (last accessed Apr. 29, 2022).

<sup>1173</sup> Ex. 35 at 5.

<sup>1174</sup> Ex. 62 (Facebook Login Overview, <https://developers.facebook.com/docs/facebook-login/overview/>) at 1.

<sup>1175</sup> Ex. 54 at FB-FTC-EXPAPPS-000000004.

<sup>1176</sup> Ex. 54 at FB-FTC-EXPAPPS-000000008.

<sup>1177</sup> Ex. 34 at 195:4-195:8.

relevant part: “If an app or website is: . . . Expired: You’ve logged into these apps and websites with Facebook, but it appears you haven’t been active for more than 90 days. They may still have access to info you previously shared, but their ability to make additional requests for private info has expired.”<sup>1178</sup>

1082. The language in the Help Center article took effect in April 2018 and remains in effect through today, as of July 14, 2020.<sup>1179</sup>

1083. In March 2020, Facebook added a sentence, so that the Help Center was revised to state, in relevant part, that “If an app or website is: . . . Expired: You’ve logged into these apps and websites with Facebook, but it appears you haven’t been active for more than 90 days. *In some cases, an app or website may be marked as expired by Facebook.* They may still have access to info you previously shared, but their ability to make additional requests for private info has expired.”<sup>1180</sup>

### 3. Data Policy

1084. In its Data Policy, Facebook told users, “We are in the process of restricting developers’ data access even further to help prevent abuse. For example, we will remove developers’ access to your Facebook and Instagram data if you haven’t used their app in 3 months . . . .”<sup>1181</sup>

1085. During the period from April 19, 2018 to present as of July 14, 2020, Facebook’s Data Policy stated: “Apps and websites you use may receive your list of Facebook friends if you choose to share it with them. But apps and websites you use will not be able to receive any other information about your Facebook Friends from you, or information about any of your Instagram followers (although your friends and followers may, of course, choose to share this information themselves).”<sup>1182</sup>

### 4. Privacy Checkup Tool

1086. Facebook offered the “Privacy Checkup” tool to its users as a way to “guide you through some settings so you can make the right choices for your account.”<sup>1183</sup>

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<sup>1178</sup> Ex. 55 (Help Center Screenshot, in Facebook, 2020-07-14 Response to Demand re Expired Apps) at FB-FTC-EXPAPPS-000000009. (emphasis added).

<sup>1179</sup> Ex. 55 at FB-FTC-EXPAPPS-000000009 (emphasis added).

<sup>1180</sup> Ex. 55 at FB-FTC-EXPAPPS-000000009 (emphasis added).

<sup>1181</sup> Ex. 56 (Facebook Data Policy, in Facebook 2020-07-14 Response to Demand re Expired Apps) at FB-FTC-EXPAPPS-000000014.

<sup>1182</sup> Ex. 56 at FB-FTC-EXPAPPS-000000013 (Data Policy revised as of April 19, 2018) (emphasis added).

<sup>1183</sup> Ex. 64 at FB-FTC-EXPAPPS-000000047 (Privacy Checkup landing screen on desktop version from January 2020 to June 2020), FB-FTC-EXPAPPS-000000048 (Privacy Checkup landing screen on desktop version from June 2020 to present).

1087. If users availed themselves of Facebook’s “Privacy Checkup” tool, apps in the users’ “Expired Apps” category were not shown for the user to consider as part of their Privacy Checkup.<sup>1184</sup>

1088. When the user checked their data settings through Privacy Checkup, Facebook purported to “walk through the options to make sure your settings are right for you.”<sup>1185</sup>

1089. The “Apps and Websites” module in Privacy Checkup showed the user “the apps and websites from other companies you’ve used Facebook to log into and have recently used.”<sup>1186</sup>

1090. The “Apps and Websites” module in Privacy Checkup did not show the user’s Expired Apps.<sup>1187</sup>

1091. Privacy Checkup on the mobile version of Facebook during the first half of 2020 likewise directed the user to check their data settings for apps and websites and showed “the apps and websites from other companies you’ve used Facebook to log into and have recently used.”<sup>1188</sup>

1092. Privacy Checkup on the mobile version of Facebook during the first half of 2020 did not show the user’s Expired Apps.<sup>1189</sup>

### **B. Facebook Continued to Share Users’ Nonpublic Information with Expired Apps.**

1093. A Facebook engineer discovered the coding oversight in the Expiration Check that allowed third-party apps to access inactive users’ non-public information on June 16, 2020.<sup>1190</sup>

1094. At the Rule 30(b)(6) deposition, Facebook’s corporate designee confirmed that “as a result of the coding oversight, Facebook for some period of time was sending users’ nonpublic

<sup>1184</sup> Ex. 64 at FB-FTC-EXPAPPS-000000047 (Privacy Checkup landing screen on desktop version from January 2020 to June 2020).

<sup>1185</sup> Ex. 64 at FB-FTC-EXPAPPS-000000049 (Data Settings module in Privacy Checkup, desktop version from January-June 2020), FB-FTC-EXPAPPS-000000050 (Data Settings module in Privacy Checkup, desktop version from June 2020 to present as of July 14, 2020).

<sup>1186</sup> Ex. 64 at FB-FTC-EXPAPPS-000000051 (Data Settings module for Apps and Websites for desktop version from January 2020 to present as of July 14, 2020) (emphasis added).

<sup>1187</sup> Ex. 64 at FB-FTC-EXPAPPS-000000051 (Data Settings module for Apps and Websites for desktop version from January 2020 to present as of July 14, 2020).

<sup>1188</sup> Ex. 64 at FB-FTC-EXPAPPS-000000060 (Data Settings Flow on mobile version, from January 2020 to Present as of July 14, 2020) (emphasis added).

<sup>1189</sup> Ex. 64 at FB-FTC-EXPAPPS-000000057-FB-FTC-EXPAPPS-000000058 (Privacy Checkup landing screen on mobile version from January 2020 to June 2020) (emphasis added), FB-FTC-EXPAPPS-000000060 (Data Settings Flow on mobile version, from January 2020 to Present as of July 14, 2020).

<sup>1190</sup> Ex. 61 at 4; *see also* Ex. 34 at 153:3-154:2 (the corporate designee for the Rule 30(b)(6) deposition stated that “one of the engineers who works on the Facebook Login team noticed that there was a potential issue with a particular piece of code that in his mind didn’t appear to conform with the 90-day expiration commitment” and “he observed . . . that it appeared to be possible for user data for an app friend, in other words, we’re going to go to our software friends on Facebook again, it would be able to use my authentication token for my app to get data about you using a similar app, and that particular data request path was not subject to the 90-day expiration.”), 154:15-17 (“Coding oversight . . . was internally discovered on June 16, 2020.”).

information to third-party developers of apps that Facebook had categorized as being expired.”<sup>1191</sup>

1095. On June 29, 2020, Facebook notified Commission staff that, due to a coding oversight, Facebook had in fact, in some instances, continued to share users’ nonpublic information with Expired Apps.<sup>1192</sup>

1096. Facebook had been continuing to share certain users’ non-public information with Expired Apps since it launched the feature in April 2018.<sup>1193</sup>

1097. In a Facebook Newsroom post dated July 1, 2020, Konstantinos Papamiltiadis (a Facebook Vice-President of Platform Partnerships) stated that “in 2018, we announced that we would automatically expire an app’s ability to receive any updates to [nonpublic user] information if our systems didn’t recognize a person as having used the app within the last 90 days. But recently, we discovered that in some instances apps continued to receive the data that people had previously authorized, even if it appeared they hadn’t used the app in the last 90 days.”<sup>1194</sup>

1098. Facebook had implemented the 90-Day Limitation by creating a check in the software code (the “Expiration Check”) that ran when an app used a user’s access token to request data through the Graph API.<sup>1195</sup>

1099. The Graph API is “the interface through which third-party apps request data from Facebook’s social graph.”<sup>1196</sup>

1100. In most cases, an app relies on a user’s own access token to access data shared with the app by that user.<sup>1197</sup>

1101. A user’s access token is the mechanisms that an app uses to make a request on a user’s behalf to look up data on another user.<sup>1198</sup>

1102. Expiration Check was programmed to evaluate whether the user associated with that token had used the app within the previous 90 days based on certain activity signals.<sup>1199</sup>

<sup>1191</sup> Ex. 34 at 155:14-20.

<sup>1192</sup> Ex. 35 at 9; Ex. 34 at 79:7-16, 153:3-155:20 (stating that, in June 2020, Facebook accidentally uncovered the coding oversight that allowed third-party developers to receive nonpublic data that Facebook had categorized as expired).

<sup>1193</sup> Ex. 35 at 7-8; *see also* Ex. 34 at 79:7-16, 153:3-155:20 (stating that, in June 2020, Facebook accidentally uncovered the coding oversight that allowed third-party developers to receive nonpublic data that Facebook had categorized as expired).

<sup>1194</sup> Ex. 65 at FB-FTC-EXPAPPS-000000040.

<sup>1195</sup> Ex. 61 at 3; *see also* Ex. 35 at 6; Ex. 34 at 202:6-203:15 (describing the Expiration Check).

<sup>1196</sup> Ex. 35 at 6.

<sup>1197</sup> Ex. 61 at 3.

<sup>1198</sup> Ex. 35 at 7; *see also* Ex. 34 at 42:8-10 (“A user authentication token is a thing that happens after a user allows an app to have access to its Facebook data.”).

<sup>1199</sup> Ex. 61 at 3; *see also* Ex. 34 at 212:10-212:25 (explaining the role of a token using the example of ██████████).

1103. If the user was deemed to have been inactive over this 90-day period, the Expiration Check was programmed to return an expired status for the token, preventing an app from using the token to access user data.<sup>1200</sup>

1104. For example, if one Facebook user (“User B”) did not use an app for 90 days, that app correctly would be blocked from using User B’s token to request information regarding User B.<sup>1201</sup>

1105. In some instances, an app may use one user’s access token to access the data of *another* user.<sup>1202</sup>

1106. If User B’s friend (“User A”) still actively used the app, then the app developer would be able to use User A’s token to request, and obtain, data for User B that User B had previously authorized the app to access, and that User B had granted permission for User A to view.<sup>1203</sup>

1107. For example, an app may have a feature that allows User A to invite a Facebook friend who is the same age and who also uses the app (“User C”) to join a game or other joint activity in the app. To determine if User C is the same age as User A, the app would use User A’s token to request User C’s birthday, and the code would return data about User C’s birthday (provided that User C had granted User A permission to view the information).<sup>1204</sup>

1108. Facebook engineers wrote Expiration Check into the software, but failed to execute similar code in all areas where it would be necessary to prevent expired apps from receiving nonpublic user information.<sup>1205</sup>

1109. The Facebook engineers did not test to ensure that the Expiration Check applied to the user’s friends and failed to uncover this coding oversight because “the [coding] oversight . . . was not something that the engineers would have known to test for.”<sup>1206</sup>

1110. Where an app requested User B’s data through User A’s token, the Expiration Check did not additionally check the expiration status of User B because the Expiration Check was designed to check the expiration status of the user whose token was used in the app’s request for data (i.e., the token for User A)—and not User B’s expiration status. As a result, User B’s data was returned to the app, even if User B was classified as an inactive user in Facebook’s systems.<sup>1207</sup>

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<sup>1200</sup> Ex. 61 at 3; *see also* Ex. 35 at 6.

<sup>1201</sup> Ex. 61 at 3; *see also* Ex. 35 at 7-8.

<sup>1202</sup> Ex. 61 at 3.

<sup>1203</sup> Ex. 35 at 7; *see also* Ex. 61 at 3; Ex. 34 at 158:8-160:3 (detailing the circumstances in which a third-party developer could obtain User B’s nonpublic information through User A without the Expiration Check protecting User B’s information).

<sup>1204</sup> Ex. 35 at 7-8.

<sup>1205</sup> Ex. 35 at 7-8; *see also* Ex. 61 at 4-5.

<sup>1206</sup> Ex. 34 at 79:17-80:10; *see also* Ex. 61 at 4-5.

<sup>1207</sup> Ex. 35 at 7-8; Ex. 34 at 156:8-157:10.

1111. The coding oversight resulted in third-party apps accessing the nonpublic information of 17.4 million affected users (“Affected Users”).<sup>1208</sup>

1112. 1.6 million Affected Users out of approximately 17.4 million had non-static data fields queried.<sup>1209</sup>

1113. Static data fields are fields of data that a user is unlikely to change over time (such as their birthday or hometown).<sup>1210</sup>

1114. Non-static data fields are fields of data that are likely to change over time (such as quotes, likes, photos, feed, friends, photo albums, and videos.)<sup>1211</sup>

1115. Facebook allowed apps to access nonpublic photos from 95,587 Affected Users.<sup>1212</sup>

1116. Facebook allowed apps to access nonpublic feeds from 81,865 Affected Users.<sup>1213</sup>

1117. Facebook allowed apps to access nonpublic friends lists from 49,106 Affected Users.<sup>1214</sup>

1118. Facebook allowed apps to access nonpublic photo albums from 39,520 Affected Users.<sup>1215</sup>

1119. Facebook allowed apps to access nonpublic videos from 7,574 Affected Users.<sup>1216</sup>

1120. Approximately 1,300 apps received nonpublic information from Affected Users from June 12, 2019 through July 14, 2020.<sup>1217</sup>

### **C. Facebook Developed and Implemented the 90-Day Limitation and the Expiration Check between March 30, 2018 and May 28, 2018.**

1121. Facebook acknowledged that its “worked around the clock” to implement the 90-Day Limitation and the Expiration Check.<sup>1218</sup>

1122. In an April 12, 2018, post to Workplace, ██████████ (a Facebook software engineer on the Facebook Login product) stated that Facebook had “made an ambitious 2 years worth of changes to this [90-day expiration check] product in about 3 weeks.”<sup>1219</sup>

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<sup>1208</sup> Ex. 35 at 11.

<sup>1209</sup> Ex. 35 at 11.

<sup>1210</sup> Ex. 35 at 11.

<sup>1211</sup> Ex. 35 at 11, 13.

<sup>1212</sup> Ex. 35 at 13.

<sup>1213</sup> Ex. 35 at 13.

<sup>1214</sup> Ex. 35 at 13.

<sup>1215</sup> Ex. 35 at 13.

<sup>1216</sup> Ex. 35 at 13.

<sup>1217</sup> Ex. 61 at 9-10; Ex. 63 (list of apps that received nonpublic information from Affected Users).

<sup>1218</sup> Ex. 35 at 5.

<sup>1219</sup> Ex. 57 (Consumer Identity Platform + Experiences (Expired Apps 30b6 Dep. Ex. 6)); *see also* Ex. 34 at 63:22-23 (“██████████ is a software engineer on the Facebook Login product”)



1129. In a WorkChat dated July 20, 2018, between [REDACTED] and [REDACTED], [REDACTED] stated that “[Facebook] prioritized getting the [Login] changes out ahead of [Zuckerberg’s] Congressional testimony, so these changes were made in ~4 days over a weekend.”<sup>1233</sup>

1130. In a July 14, 2018, email from [REDACTED], a Facebook employee, to [REDACTED], [REDACTED] stated that “in the wake of [Cambridge Analytica], we rushed to make changes to the platform, many of which didn’t take into account how it would affect the apps, esp games, even if they seemed like good ideas.”<sup>1234</sup>

1131. In a public Facebook Newsroom post dated April 4, 2018, Schroeffer (Facebook’s then-Chief Technology Officer) stated that “starting on Monday, April 9, we’ll show people a link at the top of their News Feed so they can see what apps they use—and the information they have shared with those apps.”<sup>1235</sup>

1132. At the Rule 30(b)(6) deposition, Facebook’s corporate designee stated that Schroeffer suggested a time frame of the week after April 4, 2018 for the completion the code for the 90-day limitation.<sup>1236</sup>

1133. At the Rule 30(b)(6) deposition, Facebook’s corporate designee stated that, as of March 21, 2018, “the implementation details of exactly how to execute the 90-day expiration hadn’t actually been ironed out.”<sup>1237</sup>

1134. At the Rule 30(b)(6) deposition, Facebook’s corporate designee stated that “engineering work [for the 90-day limitation feature] began on March 30<sup>th</sup> of 2018 and concluded on May 28 of 2018.”<sup>1238</sup>

1135. At the Rule 30(b)(6) deposition, Facebook’s corporate designee stated, regarding the 90-day limitation feature, that “we do deliberately move very deliberately, some might even say slowly, when we rollout changes to the [Facebook] platform. And changes of this nature, if this magnitude, would normally have accompanied a much more gradual rollout period. The standard process when we make a dramatic change to how the API behaves is to [REDACTED]

[REDACTED]”<sup>1239</sup>

1136. At the Rule 30(b)(6) deposition, in response to whether the 90-day limitation feature was a “dramatic change,” Facebook’s corporate designee stated, “Very. very much so. It is difficult to overstate how dramatic of a change this was to . . . our ecosystem in particular but also to

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<sup>1233</sup> Ex. 59 (WorkChat dated July 20, 2018 between [REDACTED] and [REDACTED] (Expired Apps 30b6 Dep. Ex. 13)) at FB-FTC-EXPAPPS-000010591.

<sup>1234</sup> Ex. 60 (Email from [REDACTED] to [REDACTED] (Expired Apps 30b6 Dep. Ex. 14)) at FB-FTC-EXPAPPS-000005540.

<sup>1235</sup> Ex. 65 at FB-FTC-EXPAPPS-000000018.

<sup>1236</sup> Ex. 34 at 118:13-119:6.

<sup>1237</sup> Ex. 34 at 48:8-10.

<sup>1238</sup> Ex. 34 at 70:1-3.

<sup>1239</sup> Ex. 34 at 70:19-71:6.

users of apps.”<sup>1240</sup> He further stated that “[a] change of this magnitude . . . is the single most impactful thing that has been done on the [Facebook] platform since its creation.”<sup>1241</sup>

## MESSENGER KIDS

### I. Messenger Kids Is Directed to Children and Collects Personal Information from Users Under the Age of 13

1137. In December 2017, Facebook began offering Messenger Kids (MK), a free messaging and video calling application “specifically intended for users under the age of 13.”<sup>1242</sup>

1138. The MK app allows children to communicate via text or video with parent-approved contacts.<sup>1243</sup>

1139. Facebook reported that most MK users as of October 2019 were under the age of 13. Specifically, Facebook reported that, of the more than 1.7 million MK users in October 2019, over 1.1 million of them had provided Facebook with a birth date, and over 1 million of those users (approximately 95%) had reported birth dates identifying the users as under the age of 13.<sup>1244</sup>

1140. During the account registration process, Facebook collects certain information about the child from the parent, such as the child’s name and, if the parent chooses to provide it, the child’s date of birth.<sup>1245</sup>

1141. Facebook also collects information from parents as part of the account sign-up process, including location information, device identifiers, and other information about the devices on which the app is downloaded.<sup>1246</sup>

1142. As the child uses MK, Facebook combines certain of the information it collects from parents as part of the account sign-up process with additional information it collects from the child, including the child’s profile picture, name or username, messages the child sent and received as well as photos, videos, and audio files sent and received by the child.<sup>1247</sup>

1143. Facebook discloses certain of this information from the child on various occasions, including by: (1) sharing the child’s name and profile picture with contacts the parent invites and approves; (2) making the child’s name and profile picture visible to others who have created Messenger Kids accounts for their children; (3) sharing the child’s name and profile picture in

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<sup>1240</sup> Ex. 34 at 71:12-15.

<sup>1241</sup> Ex. 34 at 71:21-24.

<sup>1242</sup> Ex. 38 at 2, 19 (Nov. 15, 2019 resp. to CID interrogatory 2(a) and 5(a)).

<sup>1243</sup> Ex. 38 at 2.

<sup>1244</sup> Ex. 38 at 9.

<sup>1245</sup> Ex. 38 at 8.

<sup>1246</sup> Ex. 38 at 8.

<sup>1247</sup> Ex. 38 at 9; [www.messengerkids.com](http://www.messengerkids.com).

messages sent by the child; and (4) facilitating the disclosure of information the child includes in messages, including photos, videos, and audio files sent in the messages.<sup>1248</sup>

#### **A. Facebook Tells Parents that Their Children Will Only Communicate with Parent-Approved Contacts on MK**

1144. Facebook has represented, and continues to represent, that MK users can communicate in MK with only parent-approved contacts.<sup>1249</sup>

1145. For example, Facebook’s websites have stated that, when using MK, “[k]ids can only connect with parent-approved contacts, which creates a more controlled environment”<sup>1250</sup> and that “[p]arents fully control the contact list and kids can’t connect with contacts that their parent does not approve.”<sup>1251</sup>

1146. Facebook has also made similar representations during the sign-up process for MK, specifically on a page in which Facebook requests parents’ consent to collect, use, and disclose their children’s information. This page informs parents “[y]ou can approve who your child can communicate with,” and links to the MK terms of service and privacy policy.<sup>1252</sup>

1147. Additionally, from December 2017 to February 2020, MK’s terms of service represented that “[k]ids can creatively express themselves as they communicate with parent-approved family and friends...in a secure environment” and that “[y]our child owns all of the content and information they post on Messenger Kids, and you can control who they may share it with through the Messenger Kids parental controls.”<sup>1253</sup>

1148. From December 2017 to early February 2020, the linked privacy policy stated MK was “designed to allow parents and guardians to decide who may and may not interact with their child on Messenger Kids.”<sup>1254</sup>

1149. Facebook requires parents to consent to MK’s term of service and privacy policy, and it informs parents that it “won’t collect, use or disclose any info from your child without this consent.”<sup>1255</sup>

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<sup>1248</sup> Ex. 38 at 4, 7-8; [www.messengerkids.com](http://www.messengerkids.com).

<sup>1249</sup> Ex. 38 at 12; <https://www.facebook.com/legal/messengerkids/terms>; <https://www.facebook.com/legal/messengerkids/privacypolicy2019>; Ex. 38 at 12; Ex. 38 at 18-20; Ex. 40 at 5-6, 10-11 (Jan. 31, 2020 White Paper).

<sup>1250</sup> Ex. 104 (FB-MK-FTC-00000062).

<sup>1251</sup> Ex. 39 (FB-MK-FTC-00000014) at FB-MK-FTC-00000019.

<sup>1252</sup> Ex. 38 at 12.

<sup>1253</sup> <https://www.facebook.com/legal/messengerkids/terms>.

<sup>1254</sup> <https://www.facebook.com/legal/messengerkids/privacypolicy2019>.

<sup>1255</sup> Ex. 38 at 12.

## **B. Group Text Chat Vulnerability Exposed Some MK Users to Communications with Unapproved Contacts**

1150. When MK users initiated a group text chat on Android devices by simultaneously selecting multiple contacts to participate in the chat, coding errors caused the application to fail to check whether the secondary contacts were approved to chat with each other.<sup>1256</sup>

1151. For example, if MK user A initiated a group text chat with B and C simultaneously, the application would check that B and C were approved contacts with A, but not whether B and C were approved contacts with each other.<sup>1257</sup>

1152. Facebook discovered the group text chat vulnerability when one of MK's employees noticed his child was communicating with an unapproved contact.<sup>1258</sup>

1153. Facebook remediated the vulnerability within twenty-four hours of discovery, and it notified the FTC of this vulnerability on July 15, 2019.<sup>1259</sup>

1154. This vulnerability allowed 5,658 MK users to communicate with unapproved contacts through text chat from June 2018 to July 2, 2019.<sup>1260</sup>

## **C. Group Video Call Vulnerability Exposed Some MK Users to Video Calls with Unapproved Contacts**

1155. Additionally, 3,625 MK users participated in group video calls with an unapproved contact.<sup>1261</sup>

1156. The 3,625 users affected by the group video call vulnerability include users who were also affected by the group text vulnerability.<sup>1262</sup>

1157. These unauthorized contacts resulted from a different coding error related to the Messenger application's "escalation" feature.<sup>1263</sup>

1158. In November 2018, Facebook updated its Messenger app to allow Messenger users to "escalate" a video call, i.e., add participants to an ongoing video call.<sup>1264</sup>

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<sup>1256</sup> Ex. 38 at 18-20; Ex. 40 (Jan. 31, 2020 White Paper) at 5-6, 10-11.

<sup>1257</sup> Ex. 38 at 18-20; Ex. 40 at 5-6, 10-11.

<sup>1258</sup> Ex. 38 at 20-21.

<sup>1259</sup> Ex. 38 at 21; Ex. 40 at 1.

<sup>1260</sup> Ex. 38 at 21-22.

<sup>1261</sup> Ex. 38 at 26; Ex. 40 at 6-8, 11-12.

<sup>1262</sup> Ex. 38 at 26; Ex. 40 at 6-8, 11-12.

<sup>1263</sup> Ex. 38 at 26; Ex. 40 at 6-8, 11-12.

<sup>1264</sup> Ex. 38 at 23-24.

1159. To block kids from using this escalation feature, Facebook implemented coding to block the escalation of video calls that included MK users.<sup>1265</sup>

1160. On November 12, 2018, however, a Messenger engineer inadvertently deleted part of the blocking code in iOS.<sup>1266</sup>

1161. This coding error allowed Messenger users to escalate video calls with MK users. Because the technical safeguards implemented to prevent MK users from communicating with unapproved contacts failed to work with the escalation feature, MK users could communicate in group video calls with unapproved contacts.<sup>1267</sup>

1162. An MK engineer discovered the error in January 2019, fixed the code without realizing the error impacted the effectiveness of the MK technical safeguards, and confirmed the error did not impact Android devices.<sup>1268</sup>

1163. In May 2019, a Messenger engineer made a second coding error affecting the code used to block escalation of video calls that included MK users. This error again allowed certain Messenger users to escalate video calls to include MK users, but this time on Android devices.<sup>1269</sup>

1164. Facebook discovered the error while investigating the group text chat vulnerability, and fixed it shortly after discovery, on or about July 2, 2019.<sup>1270</sup> Facebook notified the FTC of this vulnerability on July 15, 2019.<sup>1271</sup>

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<sup>1265</sup> Ex. 40 at 6.

<sup>1266</sup> Ex. 40 at 6.

<sup>1267</sup> Ex. 38 at 23-25; Ex. 40 at 6-8, 11-12.

<sup>1268</sup> Ex. 40 at 6-7.

<sup>1269</sup> Ex. 38 at 23-25; Ex. 40 at 6-8, 11-12.

<sup>1270</sup> Ex. 38 at 25.

<sup>1271</sup> Ex. 40 at 1.