

**FEDERAL ELECTION COMMISSION**  
**FIRST GENERAL COUNSEL'S REPORT**

MUR: 7812

DATE COMPLAINT FILED: Oct. 6, 2020  
DATE OF NOTIFICATIONS: Oct. 14, 2020  
DATE OF LAST RESPONSE: Dec. 10, 2020  
DATE ACTIVATED: Mar. 11, 2021

EXPIRATION OF SOL: Aug. 19, 2025  
ELECTION CYCLE: 2020

## COMPLAINANTS:

John Crump  
Gun Owners of America, Inc.

## **RESPONDENTS:**

Facebook, Inc.  
Biden for President and Andrea Wise in her  
official capacity as treasurer  
Agence France-Presse<sup>1</sup>

MUR: 7825

DATE COMPLAINT FILED: Oct. 21, 2020  
DATE OF NOTIFICATION: Oct. 27, 2020  
DATE OF LAST RESPONSE: Dec. 11, 2020  
DATE ACTIVATED: Mar. 11, 2021

EXPIRATION OF SOL: Oct. 12 – 14, 2025  
ELECTION CYCLE: 2020

## COMPLAINANTS:

Anita L. Staver  
Liberty Counsel Action, Inc.

**RESPONDENT:**

Facebook, Inc.

MUR: 7869

DATE COMPLAINT FILED: Jan. 12, 2021  
DATE OF NOTIFICATIONS: Jan. 15, 2021  
DATE OF LAST RESPONSE: Mar. 1, 2021  
DATE ACTIVATED: Mar. 11, 2021

EXPIRATION OF SOL: Oct. 1, 2025

<sup>1</sup> The Complaint names and we notified AFP Fact Check as the respondent. Agence France-Press (“AFP”) submitted a Response stating that AFP Fact Check is not a separate legal entity but rather a division of AFP. AFP Resp. at 1, n.1 (Dec. 10, 2020). Accordingly, in this Report, we make one recommendation for AFP, which is inclusive of AFP Fact Check.

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ELECTION CYCLE: 2020

**COMPLAINANT:** Tony McDonald

**RESPONDENTS:** Facebook, Inc.  
Biden for President and Andrea Wise in her  
official capacity as treasurer

<b>RELEVANT STATUTES AND REGULATIONS:</b>	52 U.S.C. § 30104(c)(1) 52 U.S.C. § 30116(a), (f) 52 U.S.C. § 30118(a) 52 U.S.C. § 30120(a) 52 U.S.C. § 30121 11 C.F.R. § 100.73 11 C.F.R. § 100.132 11 C.F.R. § 109.20 (a), (b) 11 C.F.R. § 110.20
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**INTERNAL REPORTS CHECKED:** None

**FEDERAL AGENCIES CHECKED:** None

## I. INTRODUCTION

24 These matters involve allegations that Facebook, Inc. (“Facebook”), violated the Federal  
25 Election Campaign Act of 1971, as amended (the “Act”), by “fact-checking” and reducing the  
26 distribution of posts by users on its platform linking to articles critical of 2020 presidential  
27 candidate Joseph Biden and vice-presidential candidate Kamala Harris. The Complaints  
28 specifically allege that Facebook labeled several posts with links to articles critical of Harris as  
29 “False Information” or “False News” and provided alternative links to articles published by  
30 Facebook’s fact-checking partners explaining why the original articles were deemed false.<sup>2</sup> The  
31 Complaints also allege that Facebook reduced the distribution of articles that were critical of

<sup>2</sup> MUR 7825 Compl. at 3-4 (Oct. 21, 2020); MUR 7812 Compl. at 12-13 (Oct. 6, 2020).

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1 Biden, specifically pointing to an article in the *New York Post* relating to allegations of illegal  
 2 activity by Biden's son, Hunter Biden.<sup>3</sup>

3 The Complaints allege that, in posting these fact-checking articles and allegedly reducing  
 4 the distribution of certain news stories, Facebook made excessive and prohibited in-kind  
 5 corporate contributions to Biden for President and Andrea Wise in her official capacity as  
 6 treasurer (the "Biden Committee")<sup>4</sup> or, in the alternative, that Facebook made independent  
 7 expenditures in support of Biden, without providing required disclaimers or reporting the  
 8 independent expenditures to the Commission.<sup>5</sup> The Complaints in MURs 7812 and 7869 also  
 9 allege that the Biden Committee violated the Act by knowingly accepting the excessive and  
 10 prohibited in-kind corporate contributions from Facebook.<sup>6</sup> Finally, the Complaint in MUR  
 11 7812 alleges that Agence France-Presse ("AFP"), a foreign media outlet and fact-checking  
 12 partner of Facebook, made prohibited in-kind foreign national contributions to the Biden  
 13 Committee.<sup>7</sup>

14 Respondents deny the allegations. Facebook asserts that its actions were part of its  
 15 "broader, well-publicized effort to combat misinformation on its platform for independent  
 16 business reasons," and were not undertaken "for the purpose of influencing any election for  
 17 Federal office."<sup>8</sup> In addition, Facebook asserts that there is no evidence of coordination between

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<sup>3</sup> MUR 7825 Compl. at 4, 6; MUR 7869 Compl. at 1-2 (Jan. 12, 2021).

<sup>4</sup> See MUR 7812 Compl. at 19-21; MUR 7825 Compl. at 5-6; MUR 7869 Compl. at 3. Though the Complaints in MURs 7812 and 7825 frame these contributions as to Harris, because Harris was the vice-presidential candidate running on the same ticket as presidential candidate Joe Biden, the entity receiving any alleged contribution would be the Biden for President committee.

<sup>5</sup> MUR 7812 Compl. at 22; see MUR 7825 Compl. at 5.

<sup>6</sup> MUR 7812 Compl. at 19-22; MUR 7869 Compl. at 3.

<sup>7</sup> MUR 7812 Compl. at 22-23.

<sup>8</sup> MUR 7812 Facebook Resp. at 2 (Nov. 24, 2020); MUR 7825 Facebook Resp. at 2 (Dec. 11, 2020); MUR 7869 Facebook Resp. at 1-2 (Mar. 1, 2021).

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1 Facebook and any candidate,<sup>9</sup> and it argues that the fact-checking articles at issue were not  
2 “independent expenditures” because they did not include express advocacy.<sup>10</sup> The Biden  
3 Committee similarly asserts that the Complaints fail to provide any facts that suggest that it  
4 coordinated with Facebook or AFP.<sup>11</sup> Finally, AFP responds noting the absence of evidence  
5 suggesting AFP coordinated with any federal candidate, its general journalistic purposes and  
6 asserting that, although it is a foreign corporation, its activities are covered by the Act’s media  
7 exemption and therefore are not contributions or expenditures.<sup>12</sup>

8 As explained below, based on the available information, Facebook’s conduct does not  
9 appear to constitute a contribution under the Act because Facebook has credibly explained that it  
10 has a commercial, rather than electoral, motivation underlying the fact-checking program and  
11 related activities at issue in these Complaints. Moreover, there is no basis to reasonably  
12 conclude that Facebook or AFP coordinated with the Biden Committee. Further, the fact-  
13 checking articles at issue do not satisfy the meaning of independent expenditure because they do  
14 not expressly advocate for the election or defeat of any candidate. Finally, AFP’s activities  
15 appear to have been done for journalistic purposes rather than for the purpose of influencing an  
16 election; in any event, these activities appear to be excluded from the definition of contribution  
17 under the Act’s media exemption.

18 Accordingly, we recommend that the Commission find no reason to believe that  
19 Facebook violated 52 U.S.C. §§ 30116(a), 30118(a) by making excessive or prohibited in-kind

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<sup>9</sup> MUR 7812 Facebook Resp. at 5-7; MUR 7825 Facebook Resp. at 5-7.

<sup>10</sup> MUR 7812 Facebook Resp. at 8; MUR 7825 Facebook Resp. at 8; MUR 7869 Facebook Resp. at 4-6.

<sup>11</sup> MUR 7812 Biden Committee Resp. at 3 (Dec. 1, 2020); MUR 7869 Biden Committee Resp. at 4 (Mar. 1, 2021).

<sup>12</sup> MUR 7812 AFP Resp. at 4-6 (Dec. 10, 2020).

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1 corporate contributions or that Facebook violated 52 U.S.C. §§ 30104(c)(1), 30120(a) by failing  
2 to report or provide required disclaimers on independent expenditures. Further, we recommend  
3 that the Commission find no reason to believe that the Biden Committee violated 52 U.S.C.  
4 §§ 30116(f), 30118(a) by knowingly accepting or receiving prohibited corporate or excessive  
5 contributions. Finally, we recommend that the Commission find no reason to believe that AFP  
6 violated 52 U.S.C. § 30121 by making prohibited foreign national contributions.

7 **II. FACTUAL BACKGROUND**

8 The Complaints identify three Facebook posts that were flagged by Facebook's fact-  
9 checking program as "False Information" or "False News," and appended with articles written by  
10 Facebook's fact-checking partners. In addition, the Complaints point to Facebook's actions to  
11 limit the distribution of posts containing a link to a *New York Post* article that had been flagged  
12 for fact-checking. Based on these actions, described below, the Complaints allege that Facebook  
13 made in-kind contributions to the Biden Committee, and that AFP, the author of one of the fact-  
14 checking posts, made a foreign national in-kind contribution.

15 The Complaint in MUR 7812 alleges that Facebook "censored and removed" posts  
16 linking to an article by Cam Edwards, published on BearingArms.com, entitled "Kamala Harris  
17 Doesn't Think You Have The Right To Own A Gun" ("Edwards Article").<sup>13</sup> The Complaint  
18 states that Facebook "visually and functionally superimposed" a fact-check article published by  
19 AFP in its place, such that "while a user could see that the [original] article had been posted, it  
20 was impossible to click on that article (or the original post) without being redirected to the AFP

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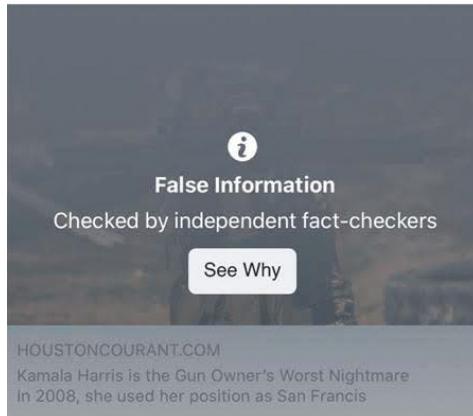
<sup>13</sup> MUR 7812 Compl. at 3, 13; see Cam Edwards, *Kamala Harris Doesn't Think You Have the Right To Own a Gun*, BEARINGARMS.COM (Aug. 11, 2020), <https://web.archive.org/web/20200812141104/https://bearingarms.com/cam-e/2020/08/11/kamala-harris-right-to-own-a-gun/>.

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1 Fact Check Article.”<sup>14</sup> Below is an example provided by the Complaint depicting how this fact  
 2 check article allegedly appeared.<sup>15</sup>



3

4 The Complaint states that the Edwards Article was “accurately stated and well-sourced” and that  
 5 AFP’s fact-check article was “deceptive and misleading.”<sup>16</sup> The Complainant also states that he  
 6 posted his opinion of these articles in a private Facebook group, but that Facebook “deleted and  
 7 rendered inaccessible” his post shortly thereafter.<sup>17</sup> The Complainant further states that he  
 8 posted a link to an *amicus* brief signed by Harris which supported his belief that the Edwards  
 9 Article was not false news and that this post was also “superimposed with the AFP Fact Check  
 10 Article.”<sup>18</sup> The Complainant states that, in response, he emailed Facebook disputing these

<sup>14</sup> MUR 7812 Compl. at 13; Ian Timberlake, *Kamala Harris Does Not Oppose Gun Ownership or the Second Amendment*, AFP FACT CHECK (Aug. 18, 2020), <https://factcheck.afp.com/kamala-harris-does-not-oppose-gun-ownership-or-second-amendment>.

<sup>15</sup> MUR 7812 Compl. at 16; *id.*, Ex. 7 (image of “False Information” label as appended to the original Facebook post). This image is of the fact check of another post, described below, which the Complaint contends was treated in the same manner. MUR 7812 Compl. at 16. Though the Complaint also attaches the image of the fact-check post regarding the Edwards Article, it was provided in a format which was so small as to be unreadable. *Id.*, Ex. 1.

<sup>16</sup> MUR 7812 Compl. at 13.

<sup>17</sup> *Id.* Based on the Complainant’s descriptions of Facebook’s actions, it is unclear whether the post disappeared entirely or was treated in the same fashion as the other post that were fact-checked. *Id.* The Complainant states that he is a former Facebook employee and that group was made up of current and former employees. He states that current Facebook employees told him that they would “raise the issue internally.” *Id.*

<sup>18</sup> *Id.* at 13-14. The Complaint does not provide an image of this post.

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1 decisions and that shortly afterward he was notified by Facebook that his account had been  
 2 disabled.<sup>19</sup>

3 Similarly, the Complaint in MUR 7812 alleges that Facebook fact checked another article  
 4 criticizing Harris, by Rachel Malone, published on HoustonCourant.com, entitled “Kamala  
 5 Harris is the Gun Owner’s Worst Nightmare” (“Malone Article”).<sup>20</sup> Again, the article was also  
 6 labeled “False Information” by Facebook and superimposed with an image linking to the same  
 7 fact-checking article as shown above.<sup>21</sup> The MUR 7812 Complaint also states that those sharing  
 8 the Malone Article had the distribution of their posts limited by Facebook.<sup>22</sup> According to the  
 9 Complaint, after “much criticism for its removal of the Malone Article that article apparently  
 10 was reviewed internally within Facebook, and the AFP Fact Check designation as ‘false news’  
 11 was reversed.”<sup>23</sup> The Complaint states that Facebook also “restored” the distribution of posts  
 12 from the users who had shared the article.<sup>24</sup>

13 The Complainant in MUR 7825, Liberty Counsel, states that on October 12, 2020, it  
 14 posted an article, published on LifeNews.com, and entitled “Kamala Harris Tried to Put Pro-  
 15 Lifers in Jail Who Exposed Planned Parenthood Selling Baby Parts” (“Liberty Counsel Article”)

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<sup>19</sup> *Id.* at 14-15.

<sup>20</sup> *Id.* at 16; Rachel Malone, *Kamala Harris is the Gun Owner’s Worst Nightmare*, HOUSTON COURANT (Aug. 15, 2020), <https://www.houstoncourant.com/houston-voices/2020/kamala-harris-is-the-gun-owners-worst-nightmare>.

<sup>21</sup> MUR 7812 Compl at 16; *id.*, Ex. 7 (screenshot of “False Information” label as appended to the original Facebook post). The fact-checking article, while responding to some specific statements in the Edwards Article, also more broadly discussed Harris’s position on gun rights or gun control issues and thus had some bearing on the Malone Article.

<sup>22</sup> MUR 7812 Compl. at 16-17; *see id.*, Ex. 6 (screenshot of message from Facebook regarding the reduction in distribution). In other words, their posts would be less likely to appear in the feeds of other users.

<sup>23</sup> *Id.* at 17.

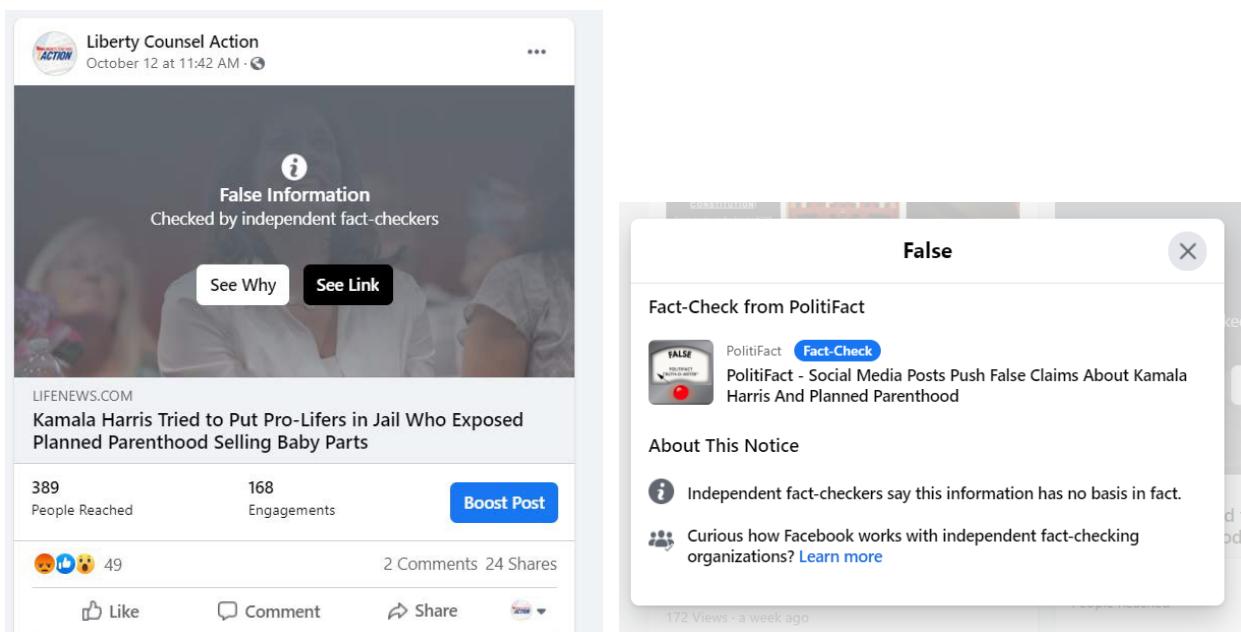
<sup>24</sup> *Id.*

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1 that was also fact checked by Facebook.<sup>25</sup> In a similar fashion as described above, Facebook  
 2 labeled it “False Information” and “Checked by independent fact-checkers” with two links  
 3 labeled “See Why” and “See Link.”<sup>26</sup> The Complaint states that if a user clicked on the “See  
 4 Why” label a window with the title “False” appeared with the title of and a link to an article by  
 5 PolitiFact, another Facebook fact-checking partner, entitled “Social Media Push False Claims  
 6 About Kamala Harris And Planned Parenthood.”<sup>27</sup>



7  
 8 In addition to the three articles above that were the subject of Facebook fact-checking,  
 9 the Complaints in MUR 7825 and MUR 7869 further allege that Facebook blocked or reduced  
 10 the distribution of an article in the *New York Post* (“*New York Post Article*”) that contained

<sup>25</sup> MUR 7825 Compl. at 2; *see id.*, Ex A (image of Liberty Counsel Article); Liberty Counsel, *Kamala Harris Tried to Put Pro-Lifers in Jail Who Exposed Planned Parenthood Selling Baby Parts*, LIFENEWS.COM, (Aug. 14, 2020), <https://www.lifenews.com/2020/08/14/kamala-harris-tried-to-put-pro-lifers-in-jail-who-exposed-planned-parenthood-selling-baby-parts/>.

<sup>26</sup> MUR 7825 Compl. at 2, Ex. B (screenshot of “False Information” label as appended to the original Facebook post).

<sup>27</sup> *Id.* at 3, Ex. C (screenshot of window linking to PolitiFact article which popped up when a user clicked “See Why” on the above reference fact check post).

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1 allegations of impropriety regarding Hunter Biden, the son of then-presidential candidate Joe  
 2 Biden.<sup>28</sup> As referenced by the Complaint in MUR 7825, Facebook tweeted a statement shortly  
 3 after the *New York Post* Article was published announcing that it had deemed the article “eligible  
 4 to be fact checked” and “[i]n the meantime, we are reducing its distribution on our platform.”<sup>29</sup>  
 5 Facebook described this as “part of our standard process to reduce the spread of  
 6 misinformation . . . temporarily reduc[ing] distribution pending fact-checker review.”<sup>30</sup>

7 The Complaints suggest that each of the activities by Facebook described above were  
 8 made for the purpose of assisting the Biden Committee, evidenced by alleged bias exhibited by  
 9 Facebook, its employees, and contractors. For instance, the MUR 7812 Complaint relies on the  
 10 disparity in contributions made by Facebook employees to Democrats compared to Republicans,  
 11 such that “it can reasonably be concluded” that the Facebook’s fact-checking program is “not  
 12 intended to protect the public against ‘false news,’ but rather to ensure that the public is not  
 13 exposed to information critical of the Democratic political candidates.”<sup>31</sup> Similarly, without  
 14 providing any specific support, the MUR 7869 Complaint alleges that Facebook’s blocking of  
 15 the *New York Post* article was “not an isolated incident” and that Facebook selectively fact-

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<sup>28</sup> MUR 7825 Compl. at 4 (alleging that the *New York Post* Article’s distribution was reduced); MUR 7869 Compl. at 1-2 (alleging that the *New York Post* Article was “block[ed]”); *see* Emma-Jo Morris and Gabrielle Fonrouge, *Smoking-gun Email Reveals How Hunter Biden Introduced Ukrainian Businessman to VP Dad*, N.Y. POST (Oct. 14, 2020), <https://nypost.com/2020/10/14/email-reveals-how-hunter-biden-introduced-ukrainian-biz-man-to-dad/>. The MUR 7825 Complaint also notes that the Facebook spokesperson who announced the decrease in the distribution of the *New York Post* Article was “reportedly a former staffer for Democratic PACs.” *Id.*

<sup>29</sup> MUR 7825 Compl. at 4. (citing “Facebook’s announcement of the censorship is at <https://twitter.com/andymstone/status/1316395902479872000>”); @andymstone, Comment to Twitter (Oct. 14, 2020 11:10 AM), <https://twitter.com/andymstone/status/1316395902479872000> (“While I will intentionally not link to the New York Post, I want be clear that this story is eligible to be fact checked by Facebook’s third-party fact checking partners. In the meantime, we are reducing its distribution on our platform.”).

<sup>30</sup> @andymstone, Comment to Twitter (Oct. 14, 2020 1:00 PM), <https://twitter.com/andymstone/status/1316423671314026496> (“This is part of our standard process to reduce the spread of misinformation. We temporarily reduce distribution pending fact-checker review.”).

<sup>31</sup> MUR 7812 Compl. at 18.

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1 checks “Conservative, Libertarian, Republican, and Pro-Trump sources and articles, while failing  
 2 to do the same with Liberal and Democratic ones.”<sup>32</sup> It also points to the website of a former  
 3 “content moderator” employed by Cognizant, a Facebook contractor apparently no longer  
 4 associated with Facebook, who states that some of his co-workers were politically biased and  
 5 may have moderated content in a biased manner.<sup>33</sup>

6 Finally, the MUR 7869 Complaint alleges that Facebook coordinated its activities with  
 7 the Biden Committee, specifically pointing to the Biden transition team’s hiring Jessica Hertz,  
 8 Facebook’s former Associate General Counsel for Regulatory Affairs, as the transition team’s  
 9 General Counsel.<sup>34</sup> The Biden Committee denies any coordination with Facebook.<sup>35</sup>

10 In Response, Facebook states that it launched its third-party fact-checking program in  
 11 December 2016 “to prevent the spread of viral misinformation and help users better understand  
 12 what they see online”<sup>36</sup> because “[m]isinformation is bad for our community and bad for our  
 13 business.”<sup>37</sup> It states that the program identifies potentially false material, via a “generally

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<sup>32</sup> MUR 7869 Compl. at 2. The Complaint also alleges, again without providing any specific support, that “Facebook exempts ‘Opinion’ articles and posts from Fact-checking” but withheld “the opinion designation from Conservative, Libertarian, Republican, and Pro-Trump sources and articles, while granting such designations to Liberal, Democratic, and Pro-Biden sources and articles.” *Id.*

<sup>33</sup> *Id.* at 2 n.1 (citing [www.ryanhartwig.org](http://www.ryanhartwig.org)). The MUR 7869 Complaint cites to the website of Ryan Hartwig, a former content moderator at Cognizant, a Facebook contractor. A video prominently featured on Hartwig’s website is a report created by Project Veritas. *See Project Veritas, Another Facebook Insider Details Political Censorship: Current HR Exec. ‘No one has the White Man’s Back’, YOUTUBE, (Jun. 25, 2020),* <https://www.youtube.com/watch?v=9O8p4zK8ywY>.

The video contains an interview with Hartwig interspersed with short clips from video he secretly recorded of conversations with his coworkers at Cognizant (not Facebook itself). These clips include co-workers making negative statements regarding Trump, as well as conservative co-workers echoing his sentiments of perceived bias.

<sup>34</sup> MUR 7869 Compl. at 2-3. The Complaint also notes that Hertz was formerly “principal deputy counsel to Joe Biden during his tenure as Vice-President.” *Id.*

<sup>35</sup> MUR 7812 Biden Committee Resp. at 3; MUR 7869 Biden Committee Resp. at 4.

<sup>36</sup> MUR 7812 Facebook Resp. at 3, 9.

<sup>37</sup> *Hard Questions: How Is Facebook’s Fact-Checking Program Working?*, FACEBOOK NEWSROOM (June 14, 2018), <https://newsroom.fb.com/news/2018/06/hard-questions-fact-checking/>.

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1 automated” process relying on “computer programs that make predictions about whether content  
 2 may be misinformation based on a range of signals — *e.g.*, whether third-party comments on the  
 3 post include phrases that indicate readers do not believe the content is true, whether Facebook  
 4 users have flagged the content as being potentially false, and whether the post is being shared by  
 5 a user or page that has spread false news before.”<sup>38</sup> Facebook puts the identified posts into a  
 6 queue for fact-checking by their third-party fact-checking partners, who may also independently  
 7 identify content for fact-checking.<sup>39</sup> Facebook asserts that it temporarily reduces the distribution  
 8 of such posts while they are awaiting fact-checking, and, if ultimately deemed to contain false  
 9 content, the post is labeled, showing the fact-check article and its distribution remains reduced.<sup>40</sup>

10 Facebook’s third-party fact-checking partners include the Associated Press, Reuters, and  
 11 *USA Today*, in addition to, as noted above, AFP and PolitiFact. Facebook states that these  
 12 partners “are independent of Facebook and certified through the non-partisan International Fact-  
 13 Checking Network (IFCN).”<sup>41</sup>

14 Facebook asserts that its fact-checking program applies not only to political subjects but  
 15 also other subjects, such as false information relating to mask wearing and COVID-19, false  
 16 stories about the cause of wildfires in California, Oregon, and Washington, and untrue stories  
 17 about celebrities.<sup>42</sup> Further, Facebook states that even among the fact-checking posts regarding

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<sup>38</sup> MUR 7812 Facebook Resp. at 3.

<sup>39</sup> *Id.*; MUR 7825 Facebook Resp. at 3.

<sup>40</sup> MUR 7812 Facebook Resp. at 3; MUR 7825 Facebook Resp. at 3.

<sup>41</sup> MUR 7812 Facebook Resp. at 1, 3, n.1 (citing *Hard Questions: How Is Facebook’s Fact-Checking Program Working?*, FACEBOOK NEWSROOM (June 14, 2018), <https://newsroom.fb.com/news/2018/06/hard-questions-fact-checking/>); MUR 7825 Resp. at 1, 3, n.1 (same).

<sup>42</sup> MUR 7812 Facebook Resp. at 3-4; MUR 7825 Facebook Resp. at 3-4; MUR 7869 Facebook Resp. at 7; *see also* Facebook Community Standards, <https://www.facebook.com/communitystandards/> (stating general rules for content Facebook may find objectionable and take action in response to).

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1 political subjects, the posts “span the political spectrum.”<sup>43</sup> Facebook states that negative  
 2 articles about Republican candidates, including Trump, have also been fact-checked, deemed  
 3 false, and thus subjected to reduction in distribution and labeling as false.<sup>44</sup>

4 Regarding the Complainant in MUR 7812’s other allegations regarding his account being  
 5 disabled, Facebook states that the Complaint “does not assert any alleged FECA violations based  
 6 on these alleged occurrences.”<sup>45</sup> Facebook also points to its “well-publicized rules governing  
 7 conduct on its platform” and that “it may take action against violations of its Community  
 8 Standards in order to ensure the integrity of the user experience on its platform.”<sup>46</sup> Other than  
 9 linking to its Community Standards, Facebook does not provide any further details confirming or  
 10 denying the truth of these allegations or Facebook’s decision-making process underlying the  
 11 disabling of accounts.

12 Finally, in response to the allegation that AFP’s fact-checking in partnership with  
 13 Facebook constitutes a foreign national contribution to the Biden Committee, AFP, a French  
 14 news wire agency akin to the Associated Press or Reuters,<sup>47</sup> explains that in addition to  
 15 providing news stories, and political commentary, in 2017 it began AFP Fact Check, a blog  
 16 consisting of regular posts “seek[ing] to help the public and newsrooms come to informed  
 17 conclusions about information they find online, whether from social media posts, news articles,

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<sup>43</sup> MUR 7812 Facebook Resp. at 3-4; MUR 7825 Facebook Resp. at 3-4; MUR 7869 Facebook Resp. at 7-8.

<sup>44</sup> Such fact-checked articles include claims that Trump stated he will “take away your social security,” that Senator Mitch McConnell is the richest senator while Kentucky is the poorest state,” and that Trump “bailed out Wall Street but not Main Street.” MUR 7812 Facebook Resp. at 4; MUR 7869 Facebook Resp. at 8.

<sup>45</sup> MUR 7812 Facebook Resp. at 2 n.3.

<sup>46</sup> *Id.* (citing *Facebook Community Standards*, <https://www.facebook.com/communitystandards/>).

<sup>47</sup> Encyclopedia Britannica Online, “Agence France-Presse (AFP),” <https://www.britannica.com/topic/Agence-France-Presse> (last checked Apr. 22, 2021).

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1 videos or statements.”<sup>48</sup> Though the AFP Fact Check blog is a 2017 addition to AFP’s work  
 2 product, AFP asserts that “[f]act-checking has been a core element of AFP’s work as a global  
 3 news agency for more than 180 years.”<sup>49</sup>

4 **III. LEGAL ANALYSIS**

5 **A. The Commission Should Find No Reason to Believe that Facebook Made, or**  
 6 **the Biden Committee Knowingly Accepted, Prohibited or Excessive In-Kind**  
 7 **Contributions**

8 The Act and Commission regulations prohibit any corporation from making contributions  
 9 to a candidate’s principal campaign committee.<sup>50</sup> Further, no person shall make contributions to  
 10 any candidate, his or her authorized committee, or their agents with respect to any election for  
 11 federal office which, in the aggregate, exceed \$2,800 during the 2020 election cycle.<sup>51</sup>

12 A “[c]ontribution” is defined to include any gift of money or “anything of value” for the  
 13 purpose of influencing a federal election.<sup>52</sup> The Commission has previously concluded that a  
 14 commercial vendor providing services to political committees does not make a contribution for  
 15 the purpose of influencing an election when its business activity “reflects commercial  
 16 considerations and does not reflect considerations outside the business relationship.”<sup>53</sup> A  
 17 commercial vendor need not make its services available to committees representing all political

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<sup>48</sup> MUR 7812 Compl. at 3 (citing AFP Fact Check, *About Us*, <https://factcheck.afp.com/fact-checking-afp>).

<sup>49</sup> *Id.*

<sup>50</sup> 52 U.S.C. § 30118(a).

<sup>51</sup> *Id.* § 30116(a)(1)(A); 11 C.F.R. § 110.1(b)(1).

<sup>52</sup> 52 U.S.C. § 30101(8)(A); 11 C.F.R. §§ 100.52(a), 100.111(a). “Expenditure” is likewise defined to include “any purchase, payment, distribution, loan, advance, deposit, or gift of money or anything of value, made by any person for the purpose of influencing any election for Federal office.” 52 U.S.C. § 30101(9).

<sup>53</sup> Advisory Op. 2012-31 (AT&T) at 4.

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1 ideologies, but rather may establish objective business criteria to protect commercial viability of  
 2 its business without making contributions to the committees that meet those criteria.<sup>54</sup>

3       The Commission has long considered activity engaged in for *bona fide* commercial  
 4 reasons not to be “for the purpose of influencing an election,” and thus, not a contribution or  
 5 expenditure under section 30118(a).<sup>55</sup> This is true even if a candidate benefitted from the  
 6 commercial activity.<sup>56</sup>

7       Under Commission regulations, expenditures that are coordinated with a candidate, but  
 8 are neither a coordinated communication nor a party coordinated communication are in-kind  
 9 contributions to that candidate.<sup>57</sup> Coordinated means “means made in cooperation, consultation

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<sup>54</sup>       Advisory Op. 2017-06 (Stein and Gottlieb) at 6; *see also* Advisory Op. 2012-28 (CTIA — The Wireless Association) at 3, 8-9 (no contribution to committee where “wireless service providers may decide, due to commercial considerations, to accept proposals from some political committees and not others”); Advisory Op. 2012-26 (Cooper for Congress, *et al.*) at 10 (no contribution to committee where its participation was subject to “objective and commercially reasonable” criteria); Advisory Op. 2004-06 (Meetup) at 1 (explaining that a corporation may provide goods and services to political committees without being considered to have made an in-kind contribution so long as it does so “on the same terms and conditions available to all similarly situated persons in the general public”).

<sup>55</sup>       *See, e.g.*, Factual & Legal Analysis at 4, MUR 6586 (World Wrestling Entertainment, Inc.) (finding that the WWE acted with the “sole intent to defend its business reputation” and not for the purpose of influencing an election when the WWE’s senior vice president sent a letter to a newspaper seeking a retraction of a negative article about Senate candidate Linda McMahon, who owned and served as CEO of the WWE); First Gen. Counsel’s Rpt. at 13, MUR 5474 (Dog Eat Dog Films, *et al.*) (determining that distributors and marketers of *Fahrenheit 9/11* film did so “in connection with bona fide commercial activity and not for the purpose of influencing an election”) (Commission voted to approve no reason to believe recommendations); Advisory Op. 2018-11 (Microsoft Corp.) at 4 (concluding that commercially reasonable efforts “to protect [Microsoft’s] brand reputation” by providing election-sensitive customers with free account security services are not an in-kind contribution).

<sup>56</sup>       *See* Cert. ¶ 5, MUR 3622 (The Clinton/Gore ‘92 Committee) (approving no reason to believe recommendation) (June 6, 1994); First Gen. Counsel’s Rpt. at 16, MUR 3622 (The Clinton/Gore ‘92 Committee) (“[T]he fact that any of these candidates . . . may have received an indirect benefit (dissemination of their political positions) as a result of the sale of these tapes does not convert commercial activity into a corporate contribution.”); Factual & Legal Analysis at 6, MUR 7024 (Van Hollen for Senate, *et al.*) (opining that the “question under the Act is whether the legal services were provided for the purpose of influencing a federal election, not whether they provided a benefit to Van Hollen’s campaign,” and concluding there was no contribution given the “absence of any objective or subjective indication” respondents acted for the purpose of influencing the election).

<sup>57</sup>       11 C.F.R. § 109.20(b).

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1 or concert with, or at the request or suggestion of, a candidate, a candidate's authorized  
 2 committee, or a political party committee.”<sup>58</sup>

3           As explained below, the record before the Commission does not provide a reasonable  
 4 basis to conclude Facebook's alleged actions undertaken in connection with its fact-checking  
 5 program were made for the purpose of influencing a federal election. Neither the Complaint nor  
 6 other available information indicate that Facebook's application of its fact-checking program, as  
 7 alleged, was motivated by something other than a commercial interest.

8           As an initial matter, Facebook's actions appear consistent with its general fact-checking  
 9 program and its asserted commercial purposes. As described above, Facebook apparently  
 10 identified the Edwards, Malone, and Liberty Counsel Articles as potentially containing  
 11 misinformation; its fact-checking partners assessed the articles, determined that they were  
 12 “false,” and appended fact-check articles to explain why the articles were considered  
 13 misinformation.<sup>59</sup> As for Facebook's reduction of the distribution of posts containing the link to  
 14 the *New York Post* article, Facebook states that it similarly identified the article as potentially  
 15 containing misinformation and limited dissemination of the article on its platform while it  
 16 conducted a fact-check.<sup>60</sup> Facebook states that it has assessed that misinformation “is bad for  
 17 our community and bad for our business,” and that it implemented fact-checking procedures “to  
 18 combat misinformation on its platform for independent business reasons,” not “for the purpose of  
 19 influencing any election for Federal office.”<sup>61</sup>

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<sup>58</sup>       *Id.* § 109.20(a).

<sup>59</sup>       See MUR 7812 Compl. at 2-3; MUR 7825 Compl. at 2-3.

<sup>60</sup>       See *supra* notes 27-28 and accompanying text.

<sup>61</sup>       MUR 7812 Facebook Resp. at 2; MUR 7825 Facebook Resp. at 2; MUR 7869 Facebook Resp. at 1-2; *see Hard Questions: How Is Facebook's Fact-Checking Program Working?*, FACEBOOK NEWSROOM (June 14, 2018), <https://newsroom.fb.com/news/2018/06/hard-questions-fact-checking/>.

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1        The Complaints argue that Facebook's purpose was electoral, based on an alleged  
2        imbalance in political contributions made by individual Facebook employees in their personal  
3        capacities to Republican and Democratic campaigns generally, as well as allegations of bias  
4        underlying Facebook's policy decisions governing content selected for fact-checking and  
5        reduced distribution.<sup>62</sup> However, a disparity in contributions by Facebook employees may  
6        reflect the partisan leanings of these employees on their own time, but it does not indicate that  
7        the purpose of Facebook's operations in question was electoral. Further, although the Complaint  
8        in MUR 7869 cites to allegations of bias by a content moderator of a former Facebook  
9        contractor, the available information provided by this individual does not point to any policy or  
10       actions on the part of Facebook itself directing bias in the application of its content moderation.<sup>63</sup>  
11       Accordingly, without more, these statements are of limited value and do not provide indication  
12       of the underlying purpose of Facebook's fact-checking program generally, or specifically  
13       regarding the purpose of its actions that are the subject of the Complaints.<sup>64</sup>

14       Further, the premise that Facebook has undertaken its fact-checking program for the  
15       purpose of influencing an election should be considered in the context of the scope of the overall  
16       program. Facebook states that the political subjects of posts that have been fact-checked "span  
17       the political spectrum," and it submits several examples of negative statements about Trump,  
18       Biden's opponent, that were fact-checked in the same fashion as the negative articles about

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<sup>62</sup>       See *supra* pp. 9-10.

<sup>63</sup>       MUR 7869 Compl. at 1-2; *see supra* note 33 (describing allegations by former content moderator at Facebook contractor Cognizant).

<sup>64</sup>       This conclusion also applies to the Complainant in MUR 7812's allegation that his post was deleted, and his account was disabled. Neither the Complaint nor other available information indicate that Facebook's actions were motivated by an electoral interest rather than applying its Community Standards "in order to ensure the integrity of the user experience on its platform." MUR 7812 Facebook Resp. at 2 n.3.

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1 Biden and Harris at issue here.<sup>65</sup> And, in one instance, relating to the Malone Article, Facebook  
2 apparently reviewed and reversed its determination that the article was false and restored the  
3 ability of users to post the article without any fact-check labeling.<sup>66</sup> Such a decision would  
4 conflict with, not support, the alleged purpose of supporting Biden/Harris's election. On the  
5 other hand, restoring the Malone Article to normal treatment once it was determined not to be  
6 misinformation is consistent with Facebook's asserted purposes and policies. Moreover,  
7 Facebook also states that it applies these same fact-checking policies to various subjects  
8 unrelated to elections, such as misinformation surrounding public health issues including  
9 COVID-19, and false statements about other public figures,<sup>67</sup> adding credibility to Facebook's  
10 position that misinformation about candidates is one type of misinformation it is seeking to  
11 address for business reasons. Further, Facebook's use of third parties to assess the veracity of  
12 posts creates a layer of separation between Facebook and the ultimate content of the fact-  
13 checking that appears on its platform, thereby reducing the potential that Facebook could  
14 unilaterally act in order to favor a particular candidate or be perceived to do so. In sum, the  
15 information concerning the scope and structure of the Facebook's fact-checking program  
16 provides credible support to Facebook's asserted commercial motivation.

17 In addition, there is no indication that Facebook coordinated its activities with Biden or  
18 his campaign. Though the Complainant in MUR 7812 acknowledges that he "know[s] of no  
19 direct evidence" of coordination, he provides what he describes as circumstantial evidence in the  
20 form of: (1) the hiring of Facebook Director and Associate General Counsel Jessica Hertz by the

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<sup>65</sup> See *supra* note 44; *cf.* AFP Resp. at 2 n.7 (noting AFP's fact-checking posts "debunking false claims about Donald Trump, his family, and the Trump campaign").

<sup>66</sup> MUR 7812 Compl. at 17

<sup>67</sup> See *supra* p. 11.

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1 Biden Transition team;<sup>68</sup> (2) a disparity between the amount of contributions Facebook  
2 employees have made in past elections to Democrats compared to Republicans;<sup>69</sup> and (3) the  
3 Biden campaign's alleged highly critical treatment of Facebook, which the Complainant asserts  
4 was a "cover for coordination."<sup>70</sup> The MUR 7869 Complaint similarly points to the hiring of  
5 Hertz, as well as Biden's Innovation Policy Committee including "at least eight people who  
6 work for Facebook, Amazon, Google and Apple."<sup>71</sup> But none of this information provides a  
7 reasonable basis to infer that the Biden Committee coordinated with Facebook regarding the  
8 specific activities alleged in the Complaint.

9 In light of the above, the available information indicates that the actions taken by  
10 Facebook to fact-check and reduce the distribution of potential misinformation appear to reflect  
11 commercial considerations, rather than an effort to influence a federal election. Moreover, there  
12 is no basis to reasonably conclude that Facebook coordinated its activities with the Biden  
13 Committee. Therefore, we recommend that the Commission find no reason to believe that  
14 Facebook violated 52 U.S.C. §§ 30116(a) or 30118(a) by making a prohibited or excessive in-  
15 kind contribution to the Biden Committee and find no reason to believe that the Biden  
16 Committee violated 52 U.S.C. §§ 30116(f) or 30118(a) by knowingly accepting or receiving  
17 such a contribution.

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<sup>68</sup> MUR 7812 Compl. at 20-21.

<sup>69</sup> *Id.* at 18.

<sup>70</sup> *Id.* at 20-21.

<sup>71</sup> See also MUR 7869 Compl. at 2-3 (internal citation omitted). But see MUR 7869 Biden Committee Resp. at 1-2 (noting that the Innovation Policy Committee included over 700 members and was a "volunteer group advising the Committee").

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1                   **B. The Commission Should Find No Reason to Believe that Facebook Made**  
 2                   **Unreported Independent Expenditures Supporting the Biden Committee**

3                   In the alternative to the allegation that Facebook's activities resulted in Facebook making

4                   in-kind contributions to the Biden Committee, the Complaint in MUR 7812 alleges that

5                   Facebook "was conducting an Independent Expenditure in support of Kamala Harris for Vice

6                   President by removing anti-Harris posts or posting favorable articles about candidate Harris."<sup>72</sup>

7                   An "independent expenditure" is an expenditure "for a communication expressly

8                   advocating the election or defeat of a clearly identified candidate" that is not coordinated with

9                   the candidate or the candidate's committee.<sup>73</sup> The term "expressly advocating" means any

10                   communication that: (1) uses phrases or words such as "vote for," "elect," "defeat," etc., "which

11                   in context can have no other reasonable meaning than to urge the election or defeat of one or

12                   more clearly identified candidate(s)"; or (2) "[w]hen taken as a whole and with limited reference

13                   to external events, such as the proximity to the election, could only be interpreted by a

14                   reasonable person as containing advocacy of the election or defeat of one or more clearly

15                   identified candidate(s)."<sup>74</sup>

16                   Every person (other than a political committee) who makes independent expenditures in

17                   an aggregate amount or value in excess of \$250 during a calendar year shall file a statement with

18                   the Commission.<sup>75</sup> The Act further requires that all "public communications" by a person that

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<sup>72</sup>                   MUR 7812 Compl. at 22.

<sup>73</sup>                   11 C.F.R. § 100.16(a) (definition of independent expenditure); *see also* 52 U.S.C. § 30101(17) (same).

<sup>74</sup>                   11 C.F.R. § 100.22(a)-(b).

<sup>75</sup>                   52 U.S.C. § 30104(c)(1); *see also* 11 C.F.R. § 114.10(b) (independent expenditure reporting requirements for corporations and labor organizations).

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1 expressly advocates the election or defeat of a federal candidate must contain appropriate  
 2 disclaimers.<sup>76</sup>

3 The only communication discussed in the MUR 7812 Complaint is the AFP fact-  
 4 checking article. While the Complaint disputes the accuracy and fairness of the AFP fact-  
 5 checking article in comparison to the Edwards Article, it does not point to any instance of the  
 6 AFP fact-checking article expressly advocating for Harris (or Biden), nor has our review  
 7 revealed any such statements.<sup>77</sup> Instead, the AFP fact-checking article discusses Harris's  
 8 positions and statements regarding gun ownership, gun violence, and Second Amendment rights  
 9 generally.

10 Absent express advocacy, the AFP fact-checking article does not constitute an  
 11 independent expenditure. Accordingly, we recommend that the Commission find no reason to  
 12 believe that Facebook violated 52 U.S.C. § 30104(c)(1) by failing to report independent  
 13 expenditures, or 52 U.S.C. § 30120(a) by failing to provide required disclaimers on independent  
 14 expenditures.

15 **C. The Commission Should Find No Reason to Believe that AFP Made a  
 16 Prohibited Foreign National Contribution**

17 MUR 7812 alleges that AFP, a fact-checking partner of Facebook, made prohibited in-  
 18 kind foreign national contributions to the Biden Committee, by publishing the fact-check article  
 19 that was appended to the Edwards Article.<sup>78</sup> The Act and Commission regulations prohibit any

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<sup>76</sup> 52 U.S.C. § 30120(a); 11 C.F.R. § 110.11(a)(2). “Public communications” include “general public political advertising,” which includes communications over the Internet when those communications are “placed for a fee on another person’s Web site.” 11 C.F.R. § 100.26.

<sup>77</sup> See MUR 7812 Compl. at 5-8; Ian Timberlake, *Kamala Harris does not oppose gun ownership or the Second Amendment*, AFP FACT CHECK (Aug. 28, 2020), <https://factcheck.afp.com/kamala-harris-does-not-oppose-gun-ownership-or-second-amendment>.

<sup>78</sup> MUR 7812 Compl. at 22-23.

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1     “foreign national” from directly or indirectly making a contribution or donation of money or  
 2     other thing of value, or an expenditure, independent expenditure, or disbursement, in connection  
 3     with a federal, state, or local election.<sup>79</sup>

4           At the outset, the Complaint does not allege and there is no information to suggest that  
 5     AFP acted in coordination with the Biden Committee, and thus there is no basis to conclude that  
 6     a contribution resulted from AFP’s activities. Moreover, there is no information to suggest that  
 7     AFP acted with the purpose of influencing the election of Biden, Harris, or any other candidate.  
 8     Rather, AFP asserts that its activities are part of its journalistic efforts “to seek[] the truth by  
 9     questioning sources and verifying the facts.”<sup>80</sup> Further supporting AFP’s assertion that its  
 10    purpose was journalistic and not supporting Biden’s or Harris’s election, AFP identifies  
 11    numerous articles on the AFP Fact-Check Blog that “debunked false claims about Donald  
 12    Trump, his family, and the Trump campaign.”<sup>81</sup> Finally, even if AFP’s activities were otherwise  
 13    considered contributions under the Act, notwithstanding AFP’s status as a foreign national, it  
 14    appears that the media exemption would likely apply to AFP.<sup>82</sup>

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<sup>79</sup>       52 U.S.C. § 30121(a)(1); 11 C.F.R. § 110.20(b), (c), (e), (f). Courts have upheld the provisions of the Act prohibiting foreign national contributions and independent expenditures on the ground that the government “has a compelling interest for purposes of First Amendment analysis in limiting the participation of foreign citizens in activities of American democratic self-government, and in thereby preventing foreign influence over the U.S. political process.” *Bluman v. FEC*, 800 F. Supp. 2d 281, 288 (D.D.C. 2011), *aff’d* 132 S. Ct. 1087 (2012); *see United States v. Singh*, 924 F.3d 1030, 1041–44 (9th Cir. 2019).

<sup>80</sup>       AFP Resp. at 2; *see also id.* at 1 (stating that “its mission is to provide accurate, balanced, and impartial coverage of news wherever and whenever it happens in the world”).

<sup>81</sup>       *Id.* at 2 (citing W.G. Dunlop, *Altered Image of Hitler Used to Criticize Trump*, AFP FACT CHECK, (June 3, 2020), <https://factcheck.afp.com/alterred-image-hitter-used-criticize-trump>; *Photo of 2018 Swiss Music Festival Falsely Shared as Florida Trump Rally*, AFP FACT CHECK (Oct. 19, 2020), <https://factcheck.afp.com/photo-2018-swiss-music-festival-falsely-shared-florida-trump-rally>; Ian Timberlake, *Video Misleadingly Edited to Make Trump Appear Disoriented*, AFP FACT CHECK (Sept. 9, 2020), <https://factcheck.afp.com/video-misleadingly-edited-make-trump-appear-disoriented>; Louis Baudoin-Laarman, *Melania Trump Targeted with False Claims on White House Rose Garden Redesign*, AFP FACT CHECK (Aug. 28, 2020), <https://factcheck.afp.com/melania-trump-targeted-false-claims-white-house-rose-garden-redesign>).

<sup>82</sup>       The Act exempts from the definition of expenditure, “any news story, commentary, or editorial distributed through the facilities of any broadcasting station, newspaper, magazine, or other periodical publication, unless such

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1        Accordingly, we recommend that the Commission find no reason to believe that AFP  
 2        violated 52 U.S.C. § 30121 by making prohibited foreign national contributions to the Biden  
 3        Committee.

4        **V.        RECOMMENDATIONS**

5            1.        Find no reason to believe that Facebook, Inc., violated 52 U.S.C. §§ 30116(a),  
 6        30118(a) by making excessive or prohibited in-kind corporate contributions;

7            2.        Find no reason to believe that Facebook, Inc., violated 52 U.S.C. §§ 30104(c)(1),  
 8        30120(a) by failing to report or provide required disclaimers on independent  
 9        expenditures;

10          3.        Find no reason to believe that the Biden for President and Andrea Wise in her  
 11        official capacity as treasurer violated 52 U.S.C. §§ 30116(f), 30118(a) by  
 12        knowingly accepting or receiving prohibited corporate or excessive contributions;

13          4.        Find no reason to believe that Agence France-Presse violated the 52 U.S.C.  
 14        § 30121 by making prohibited foreign national contributions;

15          5.        Approve the attached Factual and Legal Analysis;

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facilities are owned or controlled by any political party, political committee, or candidate.” 52 U.S.C. § 30101(9)(B)(i); *see also* 11 C.F.R. § 100.132. Commission regulations contain a parallel exemption to the definition of contribution. *Id.* § 100.73.

To determine whether the media exemption applies, the Commission first assesses whether the entity that engaged in the challenged activity is a press entity. *See, e.g.*, AO 2010-08; Advisory Op. 2005-16 (Fired Up!) (“AO 2005-16”); Advisory Op. 1996-16 (Bloomberg). The Commission then determines the scope of the exemption by applying the two-part analysis presented in *Reader's Digest Ass'n v. FEC*: (1) is the entity owned or controlled by a political party, political committee, or candidate; and (2) is the entity acting within its “legitimate press function” in conducting the activity that is the subject of the complaint. *See Reader's Digest Ass'n v. FEC*, 509 F. Supp. 1210, 1215 (S.D.N.Y. 1981); Advisory Op. 2016-01 (Ethiq). To determine whether the press entity is acting within its legitimate press function, the Commission considers whether the entity’s materials are available to the general public and whether the materials are comparable in form to those ordinarily issued by the entity. AO 2010-08 at 6 (Citizens United).

First, it appears that AFP is a “press entity.” AFP states that it “traces its roots to 1835, when its precursor was founded as the world’s first international news agency” and that it is now “a leading global news agency” whose mission is “to provide accurate, balanced, and impartial coverage of news wherever and whenever it happens in the world.” AFP Resp. at 1. Second, AFP asserts that it is not owned by a political party, political committee, or candidate and there is no suggestion in the Complaints or indication in the record to the contrary. Third, it appears that AFP was acting within its “legitimate press function.” There is no dispute that the fact-checking article was accessible to the public via the link on Facebook or on AFP Fact Check’s blog, nor that it appeared in the blog alongside myriad similar fact-checking articles posted over since 2017. Moreover, the article appears to include original commentary, an activity specifically protected by the Act’s statutory text. *See* 52 U.S.C. § 30101(9)(B)(i) (providing that the exemption applies to “any news story, commentary, or editorial”).

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6. Approve the appropriate letters; and
7. Close the file.

Lisa J. Stevenson  
Acting General Counsel

July 8, 2021

Date

Charles Kitcher

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Charles Kitcher  
Acting Associate General Counsel  
for Enforcement

Claudio Paiva

Claudio J. Pavia  
Acting Assistant General Counsel

Nicholas Mueller <sup>CP</sup>

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Nicholas O. Mueller  
Attorney