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FEDERAL ELECTION COMMISSION

JANUARY 12, 2021 4:10 PM

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January 12, 2021

Lisa J. Stevenson  
Acting General Counsel  
Office of General Counsel  
Federal Election Commission  
1050 First Street, NE  
Washington, D.C. 20463**MUR 7869***Re: Complaint Against Facebook, Inc. Regarding In-Kind Corporate Contributions to  
Biden for President*

Dear Ms. Stevenson:

This letter constitutes a formal complaint filed under 52 U.S.C. § 30109(a)(1) of the Federal Election Campaign Act ("FECA"). It is submitted on my own behalf, and not on behalf of any client or other third-party. Based upon information and belief, as set forth below and in the attached materials, I believe that Facebook, Inc. ("Respondent") has violated FECA and the Commission's Regulations by making corporate in-kind contributions to Biden for President ("Biden"), the principal campaign committee for former Vice President Joe Biden.

Facebook, Inc. may be found at its headquarters located at 1 Hacker Way, Menlo Park, California, 94025.

**I. Background**

Throughout the 2020 Presidential campaign, and in the aftermath of the election, Facebook has engaged in a concerted effort to support and influence the election of Joe Biden as President.

Facebook took unprecedented action to block the URL to a story published by the New York Post in October of 2020, just before the November Presidential election. The story revealed emails discovered on Hunter Biden's computer, which appeared to portray corruption by Joe Biden and his son. The emails appeared to show that Hunter Biden traded on then-Vice President Biden's position in office to extract enormous fees from companies tied to the Chinese government in Ukraine, and to funnel these fees to his father as kickbacks. These emails

suggested that Joe Biden repeatedly has lied in denying any knowledge of, or involvement with, Hunter Biden's activities.

This sort of interference and suppression in the 2020 election on behalf of the Democratic Party is not an isolated incident. Indeed, former Facebook content moderators have attested to Facebook's content moderation decisions taken on behalf of the Democratic Party and designed to elect Joe Biden. These include decisions about what content is allowed and what is blocked, what is promoted and what is suppressed, both user-posted content and ads.<sup>1</sup> On information and belief, Facebook has used the political categorizations of its users to suppress the posts from its conservative and very conservative users, either restricting the overall reach of posts from such users, or restricting the reach of such users to only like-minded followers, both before and after the November 3, 2020 election.<sup>2</sup>

In addition to and in combination with its intentional content moderation in favor of the Biden campaign, Facebook has also contributed to the Biden campaign by erroneously "fact-checking" Conservative, Libertarian, Republican, and Pro-Trump sources and articles, while failing to do the same with Liberal and Democratic ones. Facebook claims that unbiased third party fact-checkers do all of the work, but Facebook exempts "Opinion" articles and posts from Fact-checking. Thus, by withholding 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, Facebook coordinates with left-leaning "fact-checkers" to cast a pall of doubt on all right-leaning sources, while giving a de-facto imprimatur of truth to Democratic-leaning sources and a leftwing worldview. Arguably there could no greater contribution to the Biden campaign than to define the very terms of truth. This throttles conservative news reach with plausible deniability

This coordination extends beyond simply an alignment of worldviews though. Although it's difficult to know without investigation the extent of the coordination, as just one example in October of 2020 Joe Biden's campaign transition team hired Jessica Hertz, Facebook's associate general counsel for regulatory matters.<sup>3</sup> Hertz, will reportedly serve as the Biden transition team's general counsel in charge of ethics and lobbying issues.<sup>4</sup> Ms. Hertz has had substantial prior political ties to Joe Biden, and prior to her work with Facebook, Hertz served as principal deputy counsel to Joe Biden during his tenure as Vice-President.<sup>5</sup>

Indeed, in Biden's Innovation Policy Committee there are "at least eight people who work for Facebook, Amazon, Google and Apple," according to documents reviewed by The New

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<sup>1</sup> <https://ryanhartwig.org>

<sup>2</sup> <https://www.pewresearch.org/internet/2019/01/16/facebook-algorithms-and-personal-data/>

<sup>3</sup> <https://nypost.com/2020/10/01/joe-biden-hires-facebooks-jessica-hertz-for-transition-team/>

<sup>4</sup> *Id.*

<sup>5</sup> <https://democracyinaction.us/2020/chrntran/bidentransition.html>



York Times. Other committee members have close ties to the companies, including economists and lawyers who have advised them, and officials at think tanks funded by them.”<sup>6</sup>

All the aforementioned activity Facebook has continued to provide before, during, and after the November 3, 2020 election, as well as through the certification process of electors, to the voting of electors, and to the certification of the results by Congress. Due to the unique American electoral system, this influence has contributed to the election of Joe Biden by influencing judges, the Electoral College, and Congress itself, all of whom play a part in electing the President to be inaugurated January 20th, 2021. *See U.S. Constitution Amendment XII.*

## II. Analysis

Federal campaign finance law prohibits corporations from making contributions to federal candidates. 52 U.S.C. § 30118(a); 11 C.F.R § 114.2(b). The term “contribution” is defined in relevant part to mean “anything of value made by any person for the purpose of influencing an election,” and includes in-kind contributions such as services. 11 C.F.R. §§ 100.52(a) & 100.52(d)(1).

### a. Facebook’s Active Media Support Constitutes a “Thing of Value.”

Facebook’s actions have provided a thing of value to the Biden campaign. Facebook has provided more media value to the Biden campaign by acting as its undercover media operative than any outright ads ever could. Facebook has taken proactive steps to shield Biden from negative news coverage by blocking its distribution and suppressing those who attempt to share such negative information. Facebook has worked with liberal, democratic, and pro-Biden “fact-checkers” to cast doubt on all conservative, republican, and pro-Trump sources. And all this it has done in coordination with the Biden campaign.

### b. Facebook’s Active Media Support is “For the Purpose of Influencing an Election.”

Facebook has openly supported Joe Biden and demonstrated hostility towards President Trump and other conservatives throughout the Trump Presidency. On information and belief, these connections demonstrate that Facebook’s activities have not been taken independently, but have been done in coordination with the Biden for President Campaign for the purpose of electing Joe Biden the next President of the United States.

## III. Prayer for Relief

Facebook is a partisan actor, run by partisan Democrats, which has used its corporate resources to provide active support for Joe Biden’s campaign in violation of federal law. I therefore respectfully request that the Commission:

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<sup>6</sup> <https://www.nytimes.com/2020/08/10/technology/big-tech-biden-campaign.html>

1. Conduct an immediate investigation into Facebook's illegal in-kind contributions to the Biden campaign;
2. Find reason to believe that Facebook has violated 52 U.S.C. § 30118(a); 11 C.F.R § 114.2(b); and
3. Impose the maximum penalty allowed under the law.

I HEREBY DECLARE and AFFIRM, under the penalties of perjury, that the matters and facts contained herein are true and correct upon information and belief.

Respectfully submitted,

By: 

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*Signed and Sworn to before me:*



