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.¹

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 integrity² of the Covered Information³ 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.⁴

² The Order defines "Integrity" to mean "the protection of information from unauthorized destruction, corruption, or falsification." Ex. 3 (2020 Order), Definition J.

1

¹ Ex. 48 (Oct. 29, 2021, notice).

³ 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.

⁴ 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.
- 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.⁶
- 6. Protiviti's assessment team included specialists in technology and social media, data analytics, privacy regulation, and compliance program governance.⁷
- 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.8
- 8. For the initial six-month assessment, more than professionals at Protiviti worked over hours. As part of this work, they submitted more than requests to independently obtain and review evidence (including more than policies, procedures, reports, training materials, and other documents). In addition, Protiviti conducted more than 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 sample tests to assess the operating effectiveness of Facebook's safeguards.9
- 9. Protiviti did not rely primarily on Facebook management assertions or attestations in conducting the Assessment.¹⁰
- 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.¹¹

| 11. | Specifically, Protiviti | | |
|-----|-------------------------|--|----|
| | | | |
| | | | |
| | | | 15 |
| | | | |
| | | | |

⁵ Ex. 67 (June 10, 2020, letter).

⁶ Ex. 68 (June 18, 2020, letter).

⁷ Ex. 4 (Protiviti's June 21, 2021, Independent Privacy Program Assessment Report) at 1.

⁸ Ex. 4 at 1.

⁹ Ex. 4 at 1.

¹⁰ Ex. 4 at 1.

¹¹ Ex. 4 at 11.

Protiviti also conducted operating effectiveness assessments on determine if they achieved their Specifically, Protiviti developed procedures to determine whether high- and medium-13. 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. Facebook executives acknowledged the value of the Assessor's work.¹⁶ 15. At his deposition, Facebook Chief Executive Officer Mark Zuckerberg testified, 16.

¹² Ex. 4 at 11.

¹³ Ex. 4 at 11.

¹⁴ Ex. 4 at 11.

¹⁵ Ex. 4 at 13.

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

¹⁷ Ex. 43 at 53:6-11.

| 17. | Sheryl Sandberg was Facebook's Chief Operating Officer. 18 |
|---|--|
| 18. | At her deposition, Sandberg explained, |
| | |
| | 19 |
| II. | Independent Assessor's Findings Concerning Respondent's Privacy Program |
| 19. privac | Protiviti (the "Assessor") submitted a report of its initial assessment of Facebook's y program for the period from October 25, 2020, through April 22, 2021. ²⁰ |
| | The Assessor observed that "the overall scope of the program and structure into which the program is organized is logical and appropriately comprehensive. As a the key foundational elements necessary for an effective program are now in place, gh their maturity and completeness vary |
| | The Assessor found, however, "the gaps and weaknesses noted within our review astrate that substantial additional work is required, and additional investments must be in order for the program to mature"."22 |
| 22. | In total, the Assessor identified individual gaps and weaknesses |
| 23. | When asked at her deposition |
| respon | Facebook Chief Operating Officer Sheryl Sandberg |
| | |
| | 4 |
| 24. | At her deposition, Facebook Chief Operating Officer Sheryl Sandberg stated, |
| | 25 |
| | |
| | |
| ¹⁹ Ex. 4 ²⁰ Ex. 4 ²¹ Ex. 4 ²² Ex. 4 ²³ Ex. 4 ²⁴ Ex. 4 | at 3. at 3. |

| 25. | At her deposition, Facebook Chief Operating Officer Sheryl Sandberg stated, |
|--|--|
| | 26 |
| 26. estab | The Assessor's key thematic observations included the need for Facebook to fully lish and mature an independent standard-setting and oversight function. |
| | |
| | 7 |
| 27. | The Assessor further observed the need for the Company to establish a "risk and control." |
| mind | set" of "showing your work." |
| | |
| | |
| | |
| 28. | In addition, the Assessor observed that, |
| 26. | the Company should do more . Specifically, |
| | ugh Facebook "employs large numbers of highly specialized resources who use process nation techniques, artificial intelligence and machine learning, and other forms of data |
| analy | ," there are "significant further opportunities that should be |
| priori | itized and accelerated" for Facebook |
| 29. | The Assessor concluded that, |
| 3. | |
| | a. |
| | |
| 26 Fx | 47 at 152:3-5. |
| ²⁷ Ex. ²⁸ Ex. | 4 at 3-4. 4 at 4. |
| ²⁹ Ex. | 4 at 4. |

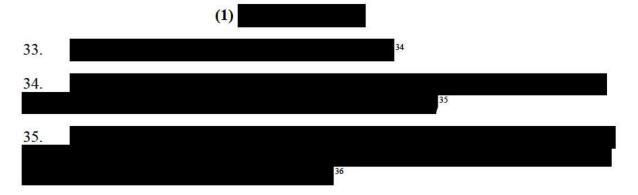


A. Risk Assessments & Remediation

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."³¹
- 31. In response to Part VII.D, Facebook established, within its Risk Assessments and Remediation Control Domain, an annual "Privacy Risk Assessment (PRA)" process.³²
- 32. Facebook started its first annual Privacy Risk Assessment ("PRA 1.0") and completed it in October 2020.³³



31 Ex. 3, Part VII.D.

6

³⁰ Ex. 4 at 5.

³² Ex. 4 at 40.

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

³⁴ Ex. 15 (

³⁵ Ex. 49 (

³⁶ Ex. 49 at 3.

```
36.
37.
38.
41.
42.
43.
```

³⁷ Ex. 13 (

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.

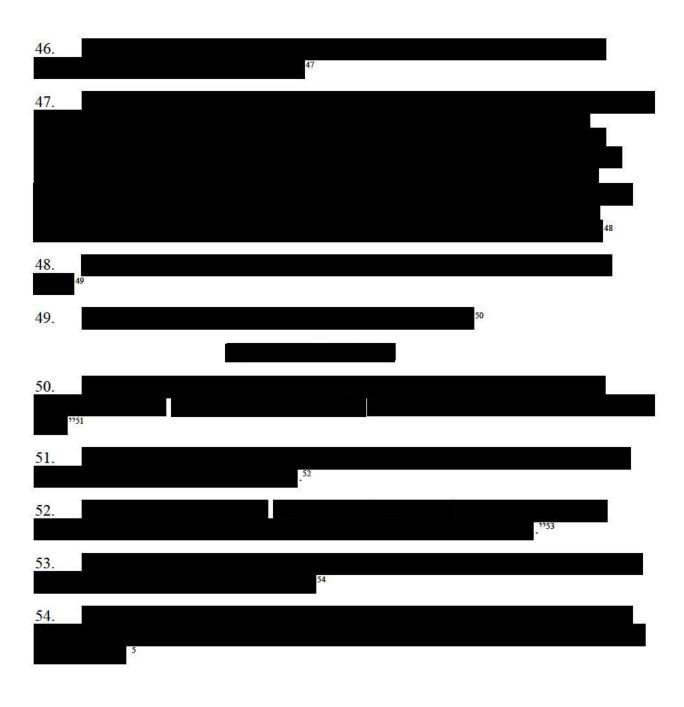
⁴² Ex. 6 at 46 (Nov. 19, 2021 resp. to Oct. 1, 2021 request 1).

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).



⁴⁷ Ex. 15 at 8. ⁴⁸ Ex. 13, row 397.

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

⁵⁰ Ex. 49 at 6.

⁵¹ Ex. 49 at 12-16.

⁵² Ex. 15 at 9.

⁵³ Ex. 15 at 8. ⁵⁴ Ex. 15 at 9.

⁵⁵ Ex. 49 at 13.

```
55.
56.
57.
58.
61.
62.
63.
```

⁵⁶ Ex. 15 at 9; Ex. 49 at 12-13. ⁵⁷ Ex. 15 at 9; Ex. 49 at 12.

⁵⁸ Ex. 49 at 12.

⁵⁹ Ex. 49 at 13.

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

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

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

⁶³ Ex. 49 at 14.

⁶⁴ Ex. 49 at 16.

```
67.
      As described by Facebook's Chief Privacy Officer, testifying on behalf of Facebook,
68.
69.
70.
71.
72.
      Facebook admitted
73.
74.
```

⁶⁵ Ex. 49 at 16.

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

⁶⁷ Ex. 13, Column E.

⁶⁸ Ex. 13, Columns E, G.

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

⁷⁰ Ex. 49 at 11.

⁷¹ Ex. 16 at 108:13-109:6.

⁷² Ex. 15 at 11.

⁷³ Ex. 15 at 11.

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

⁷⁵ Ex. 15 at 11.

| 75. | | | | |
|-----------------|-------------------------------|----|----|-----|
| | | | 76 | |
| 76 . | | | | .77 |
| 77. | | | 78 | |
| 7 8. | Facebook admitted that | | 8 | 79 |
| 79. | 80 | | | 33 |
| 80. | The Assessor determined that, | | 81 | |
| 81. | .82 | | | |
| 82. | | | | |
| 83. | | | 83 | |
| 65. | 4 | | | |
| 84. | 85 | | | |
| 85. | | 86 | | |
| | - | _ | | |

 $^{^{76}}$ Ex. 50 (Risk Reduction Analysis Report) at 6; Ex. 15 at 12. 77 Ex. 50 at 6.

⁷⁸ Ex. 50 at 5.

⁷⁹ Ex. 6 at 49 (Nov. 19, 2021 resp. to Oct. 1, 2021 request 5). ⁸⁰ Ex. 16 at 122:3-12.

⁸¹ Ex. 4 at 48. ⁸² Ex. 16 at 122:13-17.

⁸³ Ex. 50 at 3; Ex. 15 at 12.

⁸⁴ Ex. 16 at 117:13-16. ⁸⁵ Ex. 50 at 7.

⁸⁶ Ex. 50 at 7.

b) (1) The Assessor determined that 86. 87. The Assessor noted 88. The Assessor also found that 90. The Assessor found 91. The Assessor also found 92. The Assessor 93. Facebook agreed that ⁸⁷ Ex. 4 at 43. 88 Ex. 4 at 44. 89 Ex. 4 at 44. ⁹⁰ Ex. 4 at 44; Ex. 6 at 46 (Nov. 19, 2021 resp. to Oct. 1, 2021 request 1). ⁹¹ Ex. 4 at 44; Ex. 6 at 46 (Nov. 19, 2021 resp. to Oct. 1, 2021 request 1). ⁹² Ex. 4 at 44. ⁹³ Ex. 4 at 44. ⁹⁴ Ex. 4 at 44. 95 Ex. 17 at 19 (Dec. 23, 2021 resp. to Dec. 3, 2021 request 1).

Facebook added that 95. Facebook explained 96. 97. Facebook's corporate designee testified that 98. acebook's Chief Privacy Officer, testifying on behalf of Facebook, agreed that Facebook's Chief Privacy Officer, on behalf of Facebook, testified that Facebook agreed 100. Facebook's Chief Privacy Officer, testifying on behalf of Facebook, added that 101. As part of its second annual risk assessment ("PRA 2021"), 102. Facebook's Chief Privacy Officer, on behalf of Facebook, testified

⁹⁶ Ex. 17 at 19 (Dec. 23, 2021 resp. to Dec. 3, 2021 request 1).

⁹⁷ Ex. 6 at 46-47 (Nov. 19, 2021 resp. to Oct. 1, 2021 request 1).

⁹⁸ Ex. 16 at 50:13-51:9.

⁹⁹ Ex. 16 at 55:20-56:9.

¹⁰⁰ Ex. 16 at 58:7-14.

¹⁰¹ Ex. 17 at 19 (Dec. 23, 2021 resp. to Dec. 3, 2021 request 1).

¹⁰² Ex. 16 at 49:8-50:12.

¹⁰³ Ex. 17 at 20 (Dec. 23, 2021 resp. to Dec. 3, 2021 request 1).

¹⁰⁴ Ex. 16 at 73:15-74:5.

| 104. | | |
|--------|--|-------------|
| Facebo | book's Chief Privacy Officer, testifying on behalf of Facebook, ag | reed 105 |
| 105. | Facebook's Chief Privacy Officer also agreed that | |
| | 106 | |
| 106. | Facebook's Chief Privacy Officer | |
| | 107 | |
| 107. | The Assessor found that | |
| | | 08 |
| 108. | For example, | |
| | 109 | |
| 109. | Facebook | |
| | | 10 |
| | (2) | |
| 110. | The Assessor also identified | 11 |
| 111. | For example, the Assessor found | e e |

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

| 112. | Additionally, the Assessor found | |
|--|--|------------------------------------|
| | 113 | |
| 113. | The Assessor also noted that | |
| | 114 | |
| 114. | Facebook admitted that | 115 |
| 115. | Facebook added that | 116 |
| | (3) | |
| 116. identi | fied | (see supra ¶¶ 50-62), the Assessor |
| 117. | | 18 |
| 118. | The Assessor determined that | 119 |
| 119. | The Assessor also found that | |
| 120. | The Assessor determined | |
| 121. | The Assessor also determined | 122 |
| | | |
| | 4 at 45. 4 at 45. | |
| ¹¹⁵ Ex. ¹¹⁶ Ex. ¹¹⁷ Ex. | 14 at 19 (Jan. 11, 2022 resp. to Dec. 3, 2021 request 8). 14 at 19 (Jan. 11, 2022 resp. to Dec. 3, 2021 request 8). 4 at 45. | |
| ¹¹⁹ Ex. ¹²⁰ Ex. | 4 at 45. 4 at 45. 4 at 45. 4 at 45. | |
| | 4 at 45-46. | |

| 123. The Assessor also found 25 124. For example, the Assessor concluded that | |
|---|------|
| | |
| 200.000 | |
| 125. The Assessor further determined that | - |
| 126. For example, the Assessor | |
| 127. Nevertheless, the Assessor found | |
| 128. Facebook admitted that | .130 |
| 129. The Assessor also found | ľ |

¹²³ Ex. 4 at 45. ¹²⁴ Ex. 4 at 45-46.

¹²⁵ Ex. 4 at 45-46. 126 Ex. 4 at 46. 127 Ex. 4 at 46. 128 Ex. 4 at 46-47. 129 Ex. 4 at 47. 130 Ex. 14 at 21 (Jan. 11, 2022 resp. to Dec. 3, 2021 request 9). 131 Ex. 4 at 47.

```
The Assessor determined
130.
      Additionally, Facebook
131.
132.
      The Assessor concluded
133.
      Facebook admitted
134.
                           (4)
135.
      As the Assessor concluded,
                          [see supra \P 71-81],
136.
      The Assessor added
      As a practical matter, the Assessor determined
137.
      For example, the Assessor noted
138.
```

¹³² Ex. 4 at 47.

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

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

¹³⁵ Ex. 4 at 48.

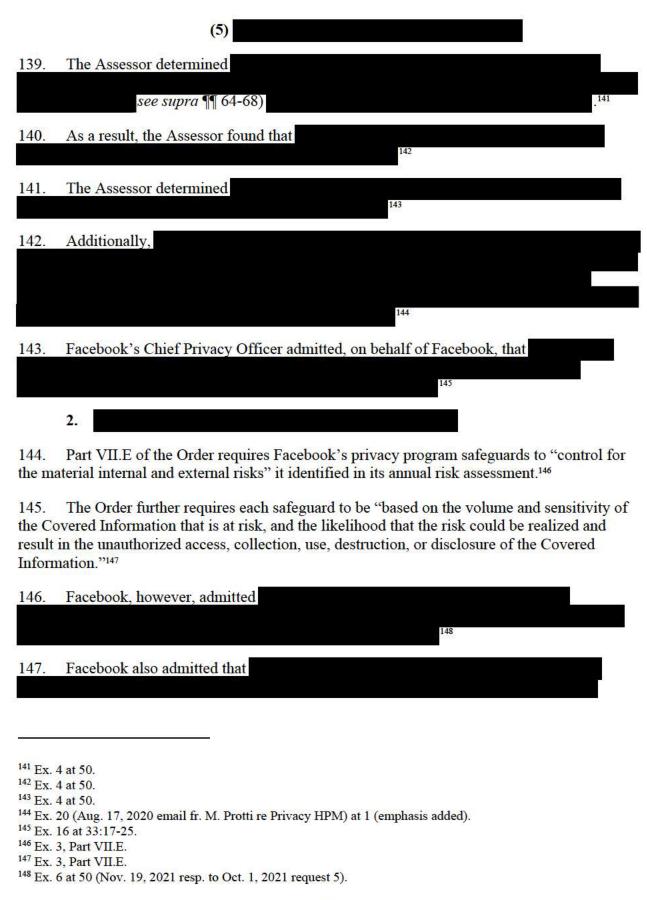
¹³⁶ Ex. 14 at 22 (Jan. 11, 2022 resp. to Dec. 3, 2021 request 10).

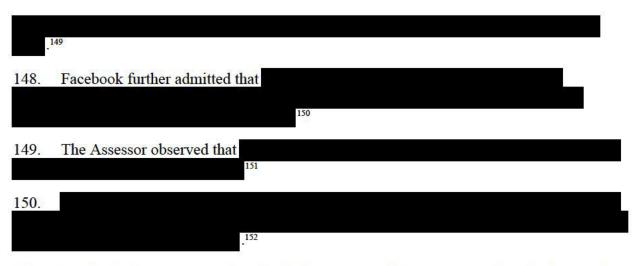
¹³⁷ Ex. 4 at 48 (emphasis added).

¹³⁸ Ex. 4 at 48.

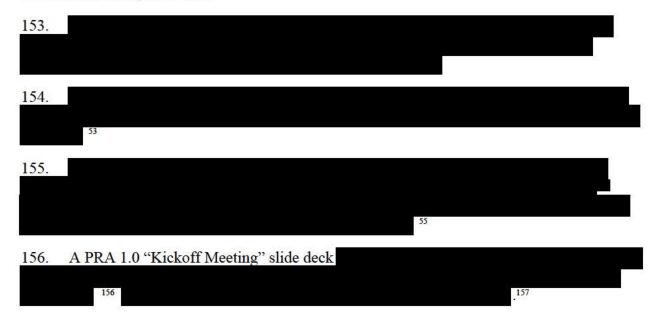
¹³⁹ Ex. 4 at 48-49.

¹⁴⁰ Ex. 4 at 48-49.





- 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.



¹⁴⁹ Ex. 16 at 109:20-111:14.

¹⁵⁰ Ex. 16 at 106:19-108:7.

¹⁵¹ Ex. 4 at 43.

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

¹⁵³ Ex. 69 (FBCO-ASSESS-XV-00014622) at 2.

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

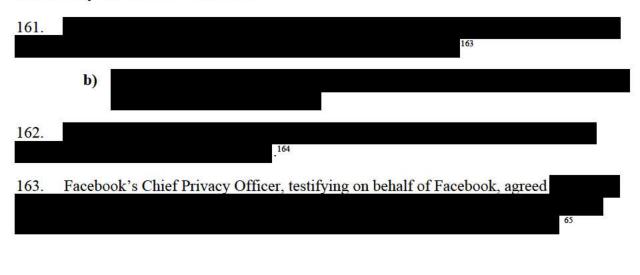
¹⁵⁵ Ex. 19 at 2.

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

¹⁵⁷ Ex. 74 at 12-13.



- 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, [and] new or more efficient technological or operational methods to control for risks." [and] new or more efficient technological or operational methods to control
- 160. At a minimum, Facebook must evaluate the Privacy Program once annually and modify it as necessary based on the evaluation. 162



¹⁵⁸ Ex. 75 (

¹⁵⁹ Ex. 16 at 33:3-16.

¹⁶⁰ 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.

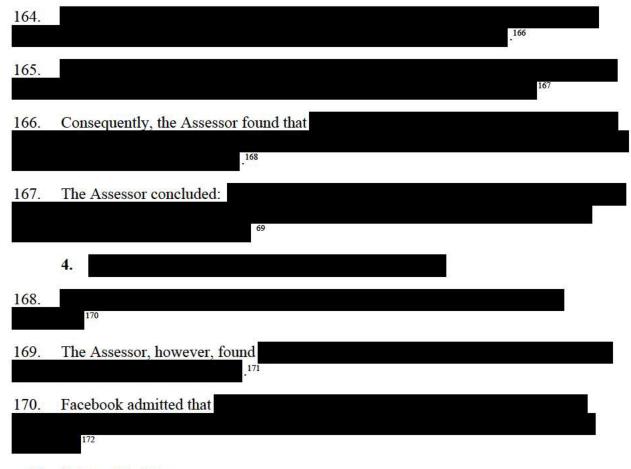
¹⁶¹ Ex. 3, Part VII.J.

¹⁶² Ex. 3, Part VII.J.

¹⁶³ Ex. 4 at 49.

¹⁶⁴ Ex. 4 at 49.

¹⁶⁵ Ex. 16 at 140:1-17.



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).¹⁷³

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

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

¹⁶⁸ Ex. 4 at 49.

¹⁶⁹ Ex. 4 at 49.

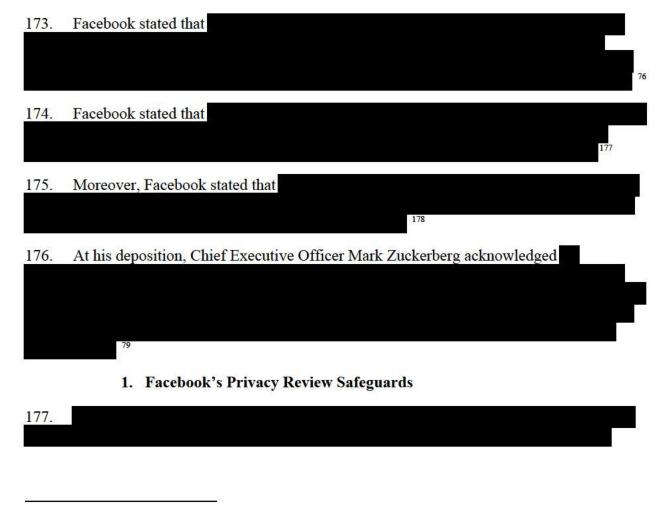
¹⁷⁰ Ex. 4 at 50; Ex. 14 at 25 (Jan. 11, 2022 resp. to Dec. 3, 2021 request 11).

¹⁷¹ Ex. 4 at 50.

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

¹⁷³ 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, 174 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 alternates were not implemented. 175



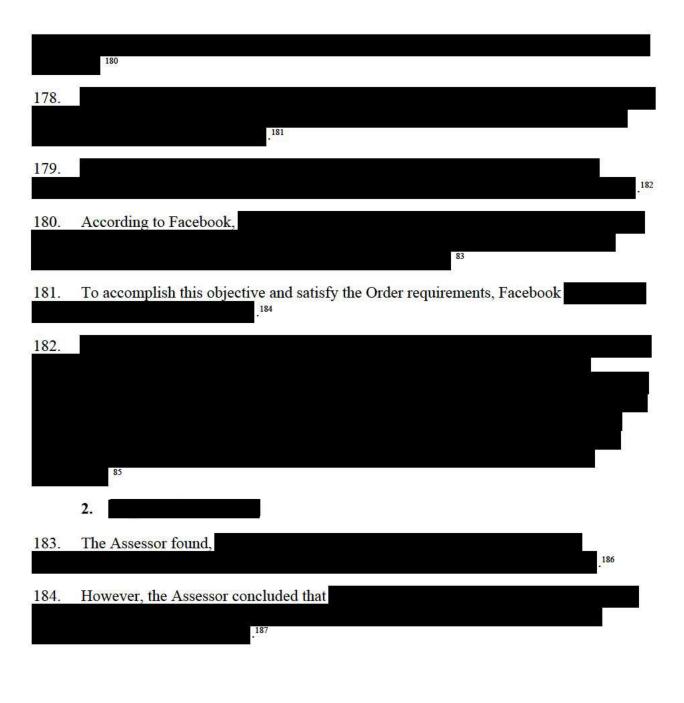
¹⁷⁴ For example, a completely new product, service, or practice that has not been previously subject to a privacy review; a material change in the sharing of Covered Information with a Facebook-owned affiliate; a modified product, service, or practice that includes a material change in the collection, 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.

Ex. 3, Part VII.E.2.b.
 Ex. 11 (Oct. 24, 2020 Compliance Report) at 15.

¹⁷⁷ Ex. 11 at 15.

¹⁷⁸ Ex. 11 at 15.

¹⁷⁹ Ex. 43 at 75:5-16.



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

¹⁸¹ Ex. 79 at 12:10-13:1.

¹⁸² Ex. 79 at 13:2-6.

¹⁸³ Ex. 11 at 15.

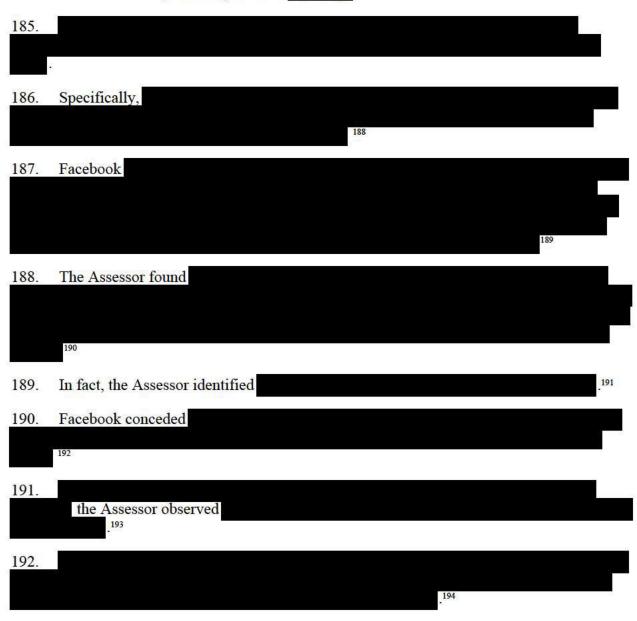
¹⁸⁴ Ex. 5 at 13, 18, 20 (Oct. 29, 2021 resp. to Aug. 27, 2021 requests 1, 12, and 19); Ex. 6 at 9-11 (Nov. 19, 2021 resp. to Aug. 27, 2021 request 2).

¹⁸⁵ 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).

¹⁸⁶ Ex. 4 at 73.

¹⁸⁷ Ex. 4 at 73.

a) Privacy Review



¹⁸⁸ 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.

¹⁸⁹Ex. 4 at 4, 73; Ex. 79 at 16:8-17:4.

¹⁹⁰ Ex. 4 at 4, 73.

¹⁹¹ Ex. 4 at 4, 73.

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

¹⁹³ Ex. 4 at 74.

¹⁹⁴ Ex. 79 at 17:13-25.

| 193. | .195 |
|----------------|---|
| 194. | 196 |
| 195. respon | The project owner is often a product manager, typically embedded in a product team sible for the given product or project. ¹⁹⁷ |
| 196. | |
| | 198 |
| 197. | .199 |
| 198. | 200 |
| 199. | |
| | 201 |
| 200. | |
| | 202 |
| 201. | The Assessor found |
| | |
| | |

¹⁹⁵ Ex. 79 at 17:6-12.

 ¹⁹⁶ Ex. 79 at 13:7-15.
 197 Product teams are the first-line teams that develop, deploy and update Facebook's products and services. Ex. 79 at 18:1-11.

198 Ex. 4 at 74.

199 Ex. 4 at 74.

200 Ex. 79 at 20:2-21:19.

201 Ex. 79 at 21:20-24:5.

202 Ex. 4 at 75.

²⁰³ Ex. 4 at 75.

```
The Assessor found
202.
         During the assessment, Facebook
203.
204.
205. Facebook acknowledged
206.
207. The Assessor identified
208.
209.
210.
211. The Assessor concluded that,
<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.
```

213 Facebook acknowledged 213. The Assessor found 214. 215. 216. 217. 218.

²¹³ Ex. 4 at 75-76.

²¹⁴ Ex. 4 at 75-76.

²¹⁶ Ex. 79 at 59:23-60:3.

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

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

²¹⁹ Ex. 79 at 27:19-28:13.

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

²²¹ Ex. 79 at 29:21-30:4.

| 219. | | .222 | | | | |
|------------|----------------------------|------|------|------|-----|-----|
| 220. | 223 | | | | | |
| 221. | | 224 | | | Š | |
| 222. | | | | | 2 | 225 |
| 223. | | | | .226 | 8 | |
| 224. | | | | | 227 | |
| 225. | The Assessor reported that | | | | E | 2 |
| 12/12/2014 | 228 | | | | | |
| 226. | | | .229 | | 25 | |
| 227. | | 230 | | | | |
| 228. | | | .231 | | | |

²²² Ex. 79 at 33:19-34:4.

²²³ Ex. 79 at 30:18-31:8, 31:19-32:11.

²²⁴ Ex. 79 at 30:18-31:8, 31:19-32:11.

²²⁵ Ex. 79 at 33:9-34:4.

²²⁶ Ex. 79 at 34:5-19.

²²⁷ Ex. 79 at 34:5-19.

²²⁸ Ex. 4 at 5; Ex. 79 at 28:14-25.

²²⁹ Ex. 4 at 76-77.

²³⁰ Ex. 4 at 76-77.

²³¹ Ex. 4 at 76.

```
229.
230.
231.
232.
                                the Assessor found
233.
234. Facebook conceded that
235.
236.
237.
<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.
238
                             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 | | 5 |
|------|--------------|-------|------------|
| | | | |
| i i | | | 242 |
| 239. | | | |
| | | | |
| | | | |
| | | 243 | |
| 240. | | | |
| | | | |
| | 244 | | |
| 241. | | | |
|). | 6 | 245 | |
| 242. | Facebook | 246 | |
| | | 9 | |
| 243. | Facebook | **247 | |
| 244. | - | | |
| 244. | | | |
| | | 248 | ,s |
| 0.45 | T 1 | | |
| 245. | For example, | | $.^{249}f$ |
| 246. | | | |
| Z40. | | .250 | |
| | | | |

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

²⁴⁴ Ex. 79 at 43:12-44:24.

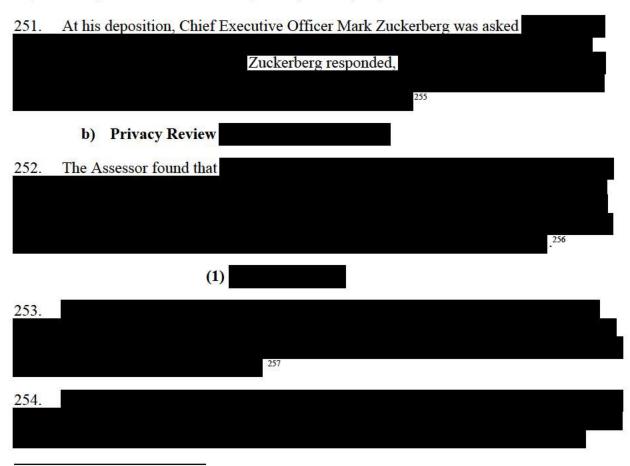
²⁴⁵ Ex. 79 at 44:25-45:12. ²⁴⁶ Ex. 79 at 47:12-19.

²⁴⁷ Ex. 79 at 35:19-22.

²⁴⁸ Ex. 79 at 36:3-8, 36:9-15. 249 Ex. 79 at 46:12-47:11. 250 Ex. 79 at 35:23-36:2.



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." 254



²⁵¹ Ex. 79 at 36:16-37:9.

²⁵² Ex. 6 at 19-20 (Nov. 19, 2021 resp. to Aug. 27, 2021 request 23).

²⁵³ Ex. 6 at 19-20 (Nov. 19, 2021 resp. to Aug. 27, 2021 request 23).

²⁵⁴ Ex. 3, Part VII.E.2.a.

²⁵⁵ Ex. 43 at 220:4-18.

²⁵⁶ Ex. 4 at 73, 78.

²⁵⁷ Ex. 4 at 78-79.

| | 258 |
|--|---|
| 255. | |
| | |
| S.C. | 259 |
| 256. | The Assessor noted that |
| 6 | 60 |
| 257. | Specifically, |
| 258. | Rather, |
| 259. | At the December 2021 Rule 30(b)(6) deposition regarding Privacy Review, Facebook's ate designee described |
| | ccording to Facebook's witness, |
| 260. | The Assessor noted that |
| 2 61. | The Assessor found that |
| | .265 |
| 262. | For example, in some cases, the Assessor |
| 259 Ex. 7 260 Ex. 4 261 Ex. 4 262 Ex. 7 263 Ex. 7 264 Ex. 4 | at 78-79; Ex. 79 at 64:21-65:10. 9 at 65:12-66:16. at 78. at 78-79. 9 at 66:17-67:10. 9 at 68:5-69:11. at 78-79. at 78-79. |

266

(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.²⁶⁷



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.²⁷²

```
269.
273.
```

²⁶⁶ Ex. 4 at 79.

²⁶⁷ Ex. 3, Parts II, IV, V, VI, VII.E.4, VII.E.5.

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

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

²⁷⁰ Ex. 4 at 77.

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

²⁷² Ex. 3, Part VII.E.3.

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

```
274
         At the time of the assessment,
272.
         In addition, the Assessor found
273.
274. Moreover, Facebook
275.
       Facebook agreed that,
276.
277.
         The Assessor observed that
278.
<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).
```

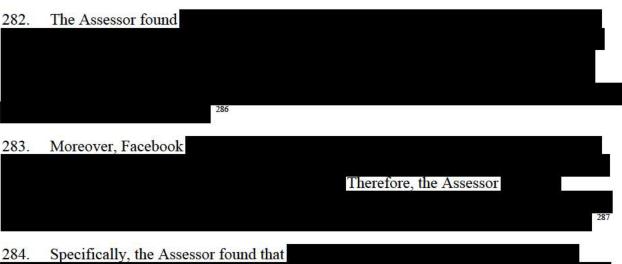
²⁸² Ex. 4 at 80.

279. In some cases, the Assessor

280. Facebook conceded

(4) 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).²⁸⁵



.288

285. The Assessor also found

²⁸³ Ex. 4 at 80.

²⁸⁴ Ex. 6 at 31-32 (Nov. 19, 2021 resp. to Aug. 27, 2021 request 10).

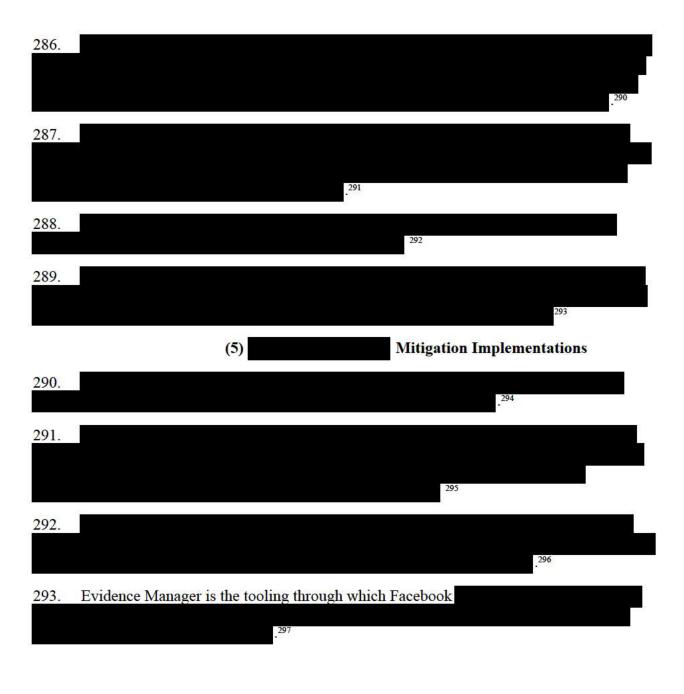
²⁸⁵ Ex. 3, Part VII.E.2.a.

²⁸⁶ Ex. 4 at 80.

²⁸⁷ Ex. 4 at 80.

²⁸⁸ Ex. 4 at 79.

²⁸⁹ Ex. 4 at 79.



²⁹¹ 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.

²⁹² Ex. 79 at 70:22-25

²⁹³ Ex. 79 at 71:12-72:25.

²⁹⁴ 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).
²⁹⁵ Ex. 79 at 80:17-81:11.

²⁹⁶ Ex. 79 at 88:7-13.

²⁹⁷ Ex. 79 at 81:12-23.



²⁹⁸ Ex. 4 at 81.

²⁹⁹ Ex. 4 at 81; Ex. 79 at 89:9-91:22.

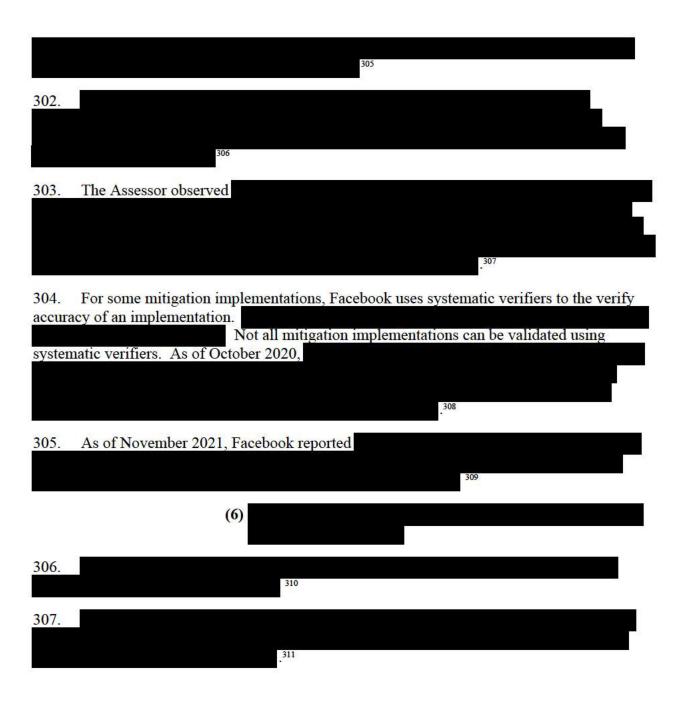
³⁰⁰ Ex. 4 at 81.

³⁰¹ 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.

302 Ex. 79 at 82:4-83:14.

303 Ex. 79 at 83:15-25.

³⁰⁴ Ex. 4 at 86.



³⁰⁵ Ex. 4 at 86.

³⁰⁶ Ex. 4 at 86.

³⁰⁷ Ex. 4 at 81.

³⁰⁸ Ex. 79 at 98:1-100:21.

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

³¹⁰ Ex. 4 at 87-88; Ex. 79 at 86:12-16.

³¹¹ Ex. 4 at 87-88.

| 308. | |
|------|----------------------------------|
| | 312 |
| 309. | 13 |
| 310. | In fact, the Assessor noted that |
| 311. | 315 |
| 312. | |
| 313. | .316 |
| | .317 |
| | (7) |
| 314. | The Assessor found that |
| 315. | Facebook reported that |
| | |

³¹² Ex. 79 at 86:4-11.

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

```
319
      Moreover,
316.
      For example, the Assessor observed
317.
                    However, the Assessor
      The Assessor was unable to
319.
                                                          the Assessor found
      Additionally, the Assessor observed
320.
      Facebook conceded
321.
                                                                          It further
admitted that,
      On October 29, 2021, Facebook reported
322.
```

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

³²⁰ Ex. 4 at 81.

³²¹ Ex. 4 at 81.

³²² Ex. 4 at 73, 78.

³²³ Ex. 4 at 85-86, 88.

³²⁴ Ex. 4 at 86-87.

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

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

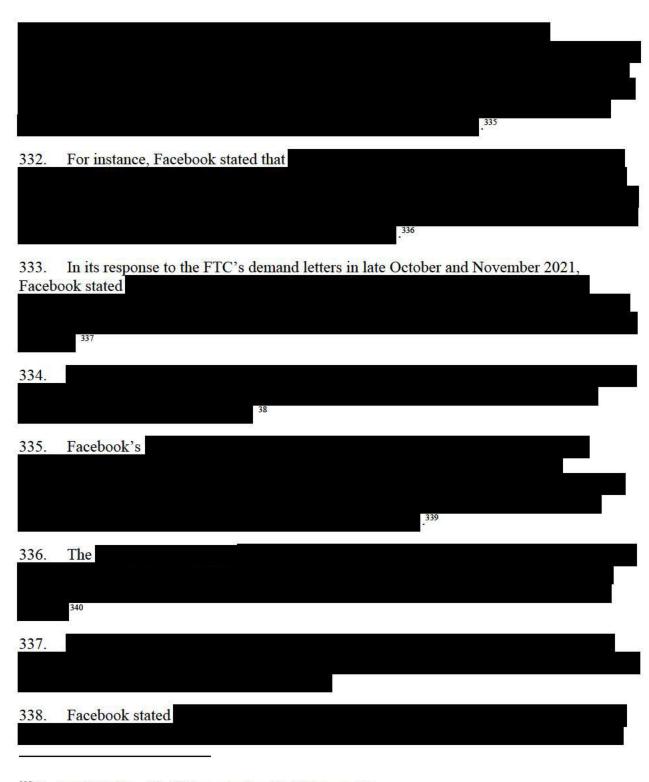
| 323. | Facebook | also reporte | 1 | .327 | |
|-------------------|------------|----------------|-------------------------------------|------|--------------|
| 324. | During th | ne assessment | , | | |
| 325. | Facebook | c provided the | Assessor | | 329 |
| 326. | 1 | | | | |
| | | 330 | | | |
| 327. | The Asse | essor observed | I that, | | .331 |
| | 4. | Priva | cy Review | | - |
| 328. | | 332 | | | , |
| 329. of period | safeguards | | cy Review contro hich were imple | | |
| 330. | 8 | 334 | | | |
| 331. | | | | | |
| | | | | | |

 $^{^{327}}$ Ex. 5 at 20-21 (Oct. 29, 2021 resp. to Aug. 27, 2021 request 19). 328 Ex. 4 at 86.

³²⁹ Ex. 4 at 86. ³³⁰ Ex. 4 at 86.

³³¹ Ex. 4 at 88.

³³² Ex. 4 at 88. ³³³ Ex. 4 at 65; Ex. 6 at 29-30 (Nov. 19, 2021 resp. to Aug. 27, 2021 request 9). ³³⁴ Ex. 6 at 29-30 (Nov. 19, 2021 resp. to Aug. 27, 2021 request 9).



³³⁵ Ex. 6 at 29-30 (Nov. 19, 2021 resp. to Aug. 27, 2021 request 9).

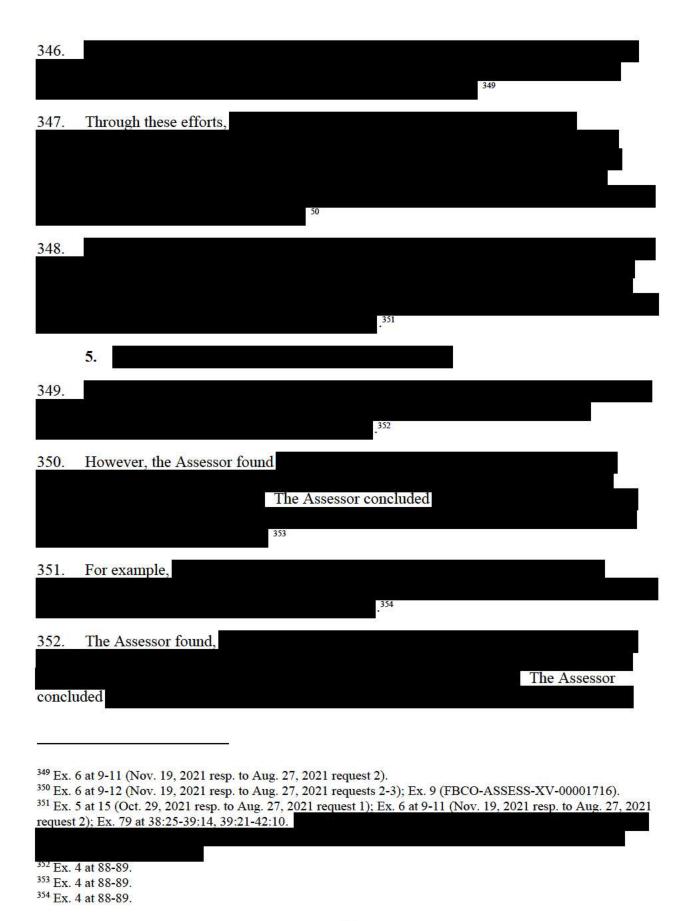
³³⁶ Ex. 6 at 29-30 (Nov. 19, 2021 resp. to Aug. 27, 2021 request 9).

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).

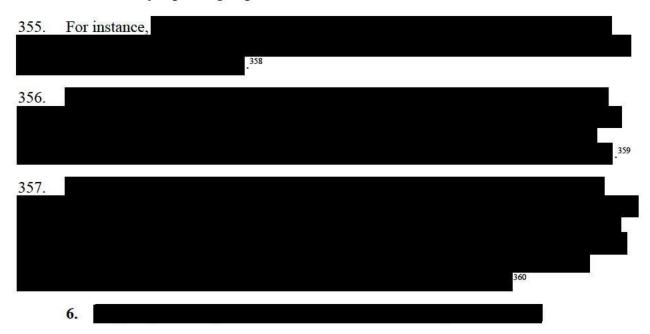
³⁴⁰ Ex. 6 at 18-19 (Nov. 19, 2021 resp. to Aug. 27, 2021 request 21).

| | 341 |
|--|---|
| 339. | Specifically, |
| | .342 |
| 340. | |
| ŭ. | 343 |
| 341. | |
| | .344 |
| 342. | Facebook |
| | .345 |
| 343. | Through this review, |
| "lookb | In or about the summer or fall of 2021, Facebook began using to conduct retroactive, "after-the-fact" checks as part of its effort to ensure that all hanges that should have completed Privacy Review went through that process. These back" efforts reached back in time to September 2020 but did not pull in all code changes ad occurred at Facebook. ³⁴⁷ |
| 345. | |
| | |
| 2 | 348 |
| | |
| 241 | |
| ³⁴² Ex. 6 | 5 at 17-18 (Nov. 19, 2021 resp. to Aug. 27, 2021 requests 13, 18). 5 at 17-18 (Nov. 19, 2021 resp. to Aug. 27, 2021 requests 13, 18). 5 at 17-18 (Nov. 19, 2021 resp. to Aug. 27, 2021 requests 13, 18). |
| ³⁴⁴ Ex. 6 ³⁴⁵ Ex. 6 | 5 at 17-18 (Nov. 19, 2021 resp. to Aug. 27, 2021 requests 13, 18). 5 at 9-12 (Nov. 19, 2021 resp. to Aug. 27, 2021 requests 2, 3). |
| ³⁴⁷ Ex. 7 | 6 at 9-12 (Nov. 19, 2021 resp. to Aug. 27, 2021 requests 2, 3). 79 at 37:25-39:20. 79 at 47:20-48:21. |



.355

- 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.³⁵⁶
- 354. However, there was no direct link between these processes; Facebook acknowledged they were administered by separate groups.³⁵⁷



358. In late December 2020, Facebook executive 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. . . .

```
" further wrote:
```

³⁵⁵ Ex. 4 at 88-89.

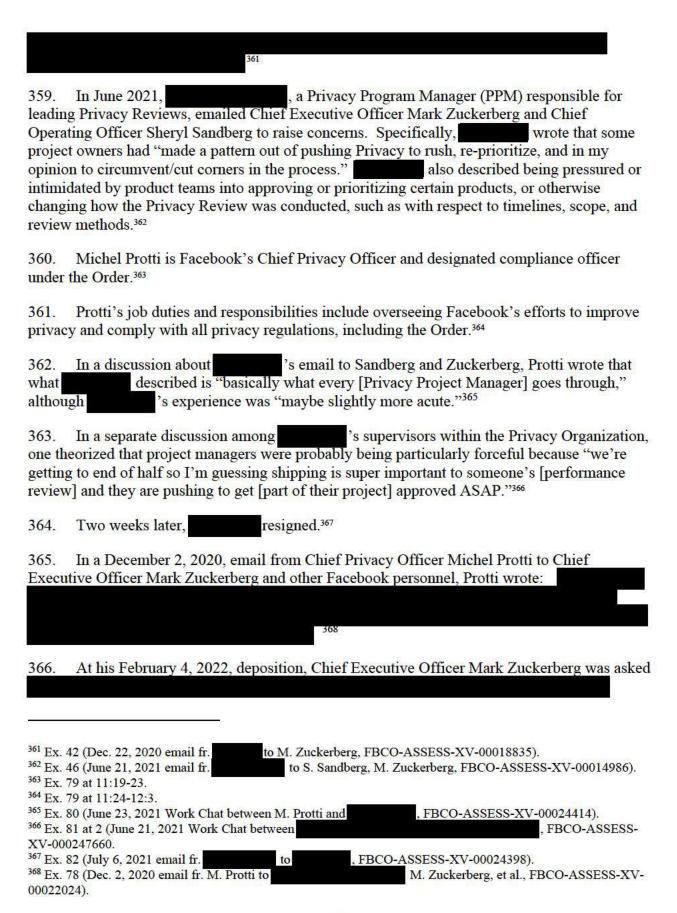
³⁵⁶ Ex. 7 at 25-26 (Dec. 3, 2021 resp. to Aug. 27, 2021 request 25).

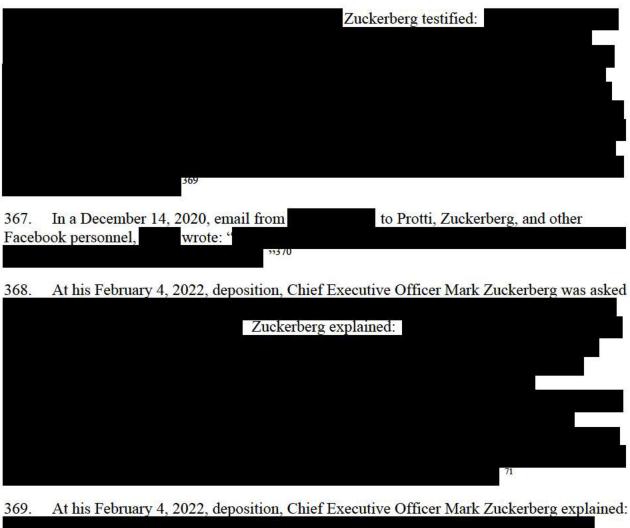
³⁵⁷ Ex. 7 at 25-26 (Dec. 3, 2021 resp. to Aug. 27, 2021 request 25).

³⁵⁸ Ex. 4 at 89

³⁵⁹ Ex. 7 at 25-26 (Dec. 3, 2021 resp. to Aug. 27, 2021 request 25).

³⁶⁰ Ex. 7 at 25-26 (Dec. 3, 2021 resp. to Aug. 27, 2021 request 25).





At his February 4, 2022, deposition, Chief Executive Officer Mark Zuckerberg explained

370. At his February 4, 2022, deposition, Facebook Chief Executive Officer Mark Zuckerberg was asked, "Do you have any sense for how far along you are in tracking the various systems?" Zuckerberg responded, "I don't have a number. I don't have a number. But I do think we're making quite a good amount of progress, it's just that there's . . . a long tail. . . . Because I think the main systems, normally you prioritize the main systems first and that would cover a lot of the use cases, but for something like this, you know, when you're trying to answer questions, you're

³⁶⁹ Ex. 43 at 231:23-232:23.

³⁷⁰ Ex. 78 (Dec. 14, 2020 email from ASSESS-XV-00022013 to 00022014).

³⁷¹ Ex. 43 at 233:18-234:13.

³⁷² Ex. 43 at 227:21-228:18.

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."³⁷³

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.³⁷⁴
- 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.³⁷⁵
- 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.³⁷⁶
- 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

³⁷³ Ex. 43 at 228:23-229:2.

³⁷⁴ Ex. 3, Parts VII.D. & E.

³⁷⁵ Ex. 3, Part VII.D.

³⁷⁶ 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.³⁷⁷

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.³⁷⁸
- 376. Most third-party developers utilize Public APIs, which are available to all developers on the Company's developer platforms for Facebook and Oculus.³⁷⁹
- 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.³⁸⁰
- 378. Use of the Public APIs is governed by Facebook's mandatory Platform Product Terms.³⁸¹
- 379. Developers on the Oculus developer platform must agree to the Oculus Developer Data Use policy.³⁸²
- 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.³⁸³
- 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.³⁸⁴
- 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.³⁸⁵
- 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

³⁷⁷ Ex. 3, Part VII. E.1.

³⁷⁸ 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.

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

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

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

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

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

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

³⁸⁵ 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.³⁸⁶

- 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.³⁸⁷
- 385. Publicly available information may also include any information the user has chosen to designate as public through their settings.³⁸⁸
- 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.³⁸⁹
- 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.³⁹⁰
- 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.³⁹¹
- 389. The App Review process occurs when a third-party app first seeks API permissions. 392



³⁸⁶ Ex. 79 at 115:7-116:6.

³⁸⁷ Ex. 79 at 115:7-116:6.

³⁸⁸ Ex. 79 at 115:7-116:6.

³⁸⁹ Ex. 79 at 117-118:1.

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

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

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

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

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

2.

392. The Assessor identified

393.

a)

394. The Assessor observed that

397

395.

398

396.

Throughout its report, the Assessor referred to Covered Third Parties that obtained or

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.³⁹⁹

397.

.400

398. The Assessor found that
.7401

399. Facebook completed an initial risk assessment of E1 Covered Third Parties in or about August 2021.402

400. Facebook finished implementing the automated process for its formal risk assessment of E1 Covered Third Parties on or about October 18, 2021.⁴⁰³

395 Ex. 4 at 150.
396 Ex. 4 at 150.
397 Ex. 4 at 152.
398 Ex. 4 at 152.
399 Ex. 4 at 152.
400 Ex. 4 at 152.
401 Ex. 4 at 152.

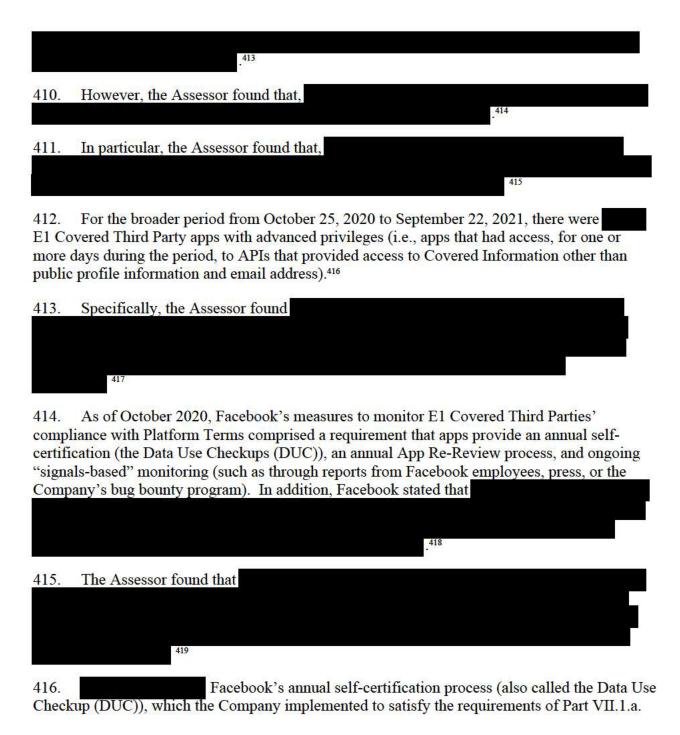
⁴⁰² Ex. 79 at 135:22-136:2 ⁴⁰³ Ex. 79 at 136:19-137:17, 139:11-21.

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

| 402. frame | Facebook began using the risk-tier designations in its newly developed risk assessment work for E1 Covered Third Parties to subject apps in higher-risk tiers to |
|--|---|
| follow Protec | After assigning E1 Covered Third Party apps into risk-tier designations pursuant to the developed risk assessment framework, Facebook began subjecting higher-risk apps to the ving monitoring measures: a detailed questionnaire that Facebook called the Data etion Assessment (DPA); an enhanced privacy policy review (for apps in the highest-risk aly); and an enhanced version of App Re-Review (for all E1 Covered Third Party Apps). |
| 404. for ap | Facebook began sending Data Protection Assessment (DPA) questionnaires to developer ps in higher-risk tiers on Facebook's platform on August 9, 2021, |
| 405. tier or | Facebook began conducting enhanced privacy policy reviews on apps in the highest-risk or about August 16, 2021. ⁴⁰⁸ |
| 406. Septer | Facebook began conducting enhanced App Re-Reviews on apps on or about mber 7, 2021, for apps on the Facebook platform and |
| 407. | 410 |
| | b) |
| 408. | 2,411 the Assessor found |
| 409. | Specifically, the Assessor found |
| | |
| ⁴⁰⁶ Ex. ⁴⁰⁷ Ex. ⁴⁰⁸ Ex. ⁴⁰⁹ Ex. ⁴¹⁰ Ex. | 79 at 141:1-142:13. 79 at 142-14-143:15. 79 at 144:20-146:3. 79 at 146:9-147:6. 79 at 149:23-151:25. 79 at 161:11-163:18. 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.").

⁴¹² Ex. 4 at 150, 152.



⁴¹³ Ex. 4 at 150, 152.

⁴¹⁴ Ex. 4 at 151-52.

⁴¹⁵ Ex. 4 at 151-52.

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

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

⁴¹⁸ Ex. 79 at 132:14-134:17.

⁴¹⁹ Ex. 4 at 152-53.

of the Order, 420 asks all E1 Covered Third Parties to certify that they adhere to the Platform Terms

- 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.⁴²²
- 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"⁴²³
- 419. , the Assessor noted
- 420. The Assessor found that
- 421. At his February 4, 2022, deposition, Facebook Chief Executive Officer Mark Zuckerberg was asked "Do you agree with Protiviti's observation that
 - " Zuckerberg responded,
- 422. Later at his February 4, 2022 deposition, Chief Executive Officer Mark Zuckerberg stated,
- 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

⁴²⁰ 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").

⁴²¹ 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.

⁴²² Ex. 79 at 126:4-13.

⁴²³ Ex. 3, Parts VII.D. & E.

⁴²⁴ Ex. 4 at 151-52.

⁴²⁵ Ex. 4 at 151-52.

⁴²⁶ Ex. 43 at 213:16-21.

⁴²⁷ 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."428

c)

424. The Assessor found

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."⁴³⁰

426.

- 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.⁴³²
- 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.⁴³³



⁴²⁸ Ex. 43 at 193:4-20.

⁴²⁹ Ex. 4 at 152.

⁴³⁰ Ex. 3, Part VII.E.1.c.

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

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

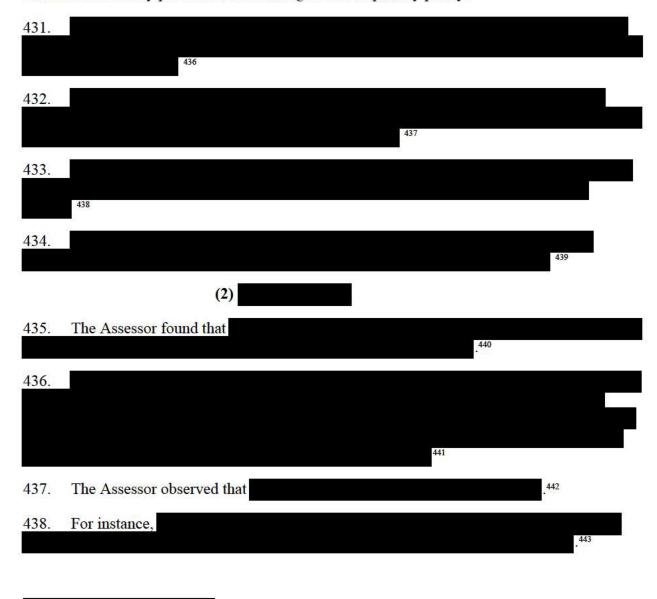
⁴³³ Ex. 6 at 40-43 (Nov. 19, 2021 resp. to Sept 22, 2021 request 3).

⁴³⁴ Ex. 4 at 151.

d)

(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.⁴³⁵



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

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

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

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

Ex. 4 at 133, Ex. 5 at 20-27 (Oct. 29, 2021 Tesp. to Sept. 1, 2021 Teques

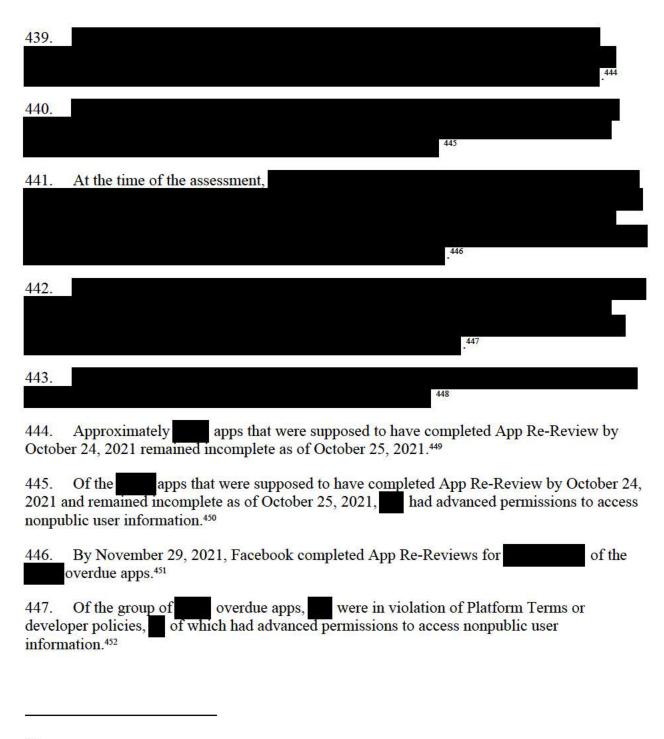
⁴³⁹ Ex. 5 at 26-27 (Oct. 29, 2021 resp. to Sept. 1, 2021 request 1).

⁴⁴⁰ Ex. 4 at 150.

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

⁴⁴² Ex. 4 at 150.

⁴⁴³ Ex. 4 at 153-54.



⁴⁴⁴ Ex. 4 at 153-54.

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

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

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

⁴⁴⁸ Ex. 4 at 153-54.

⁴⁴⁹ 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.

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

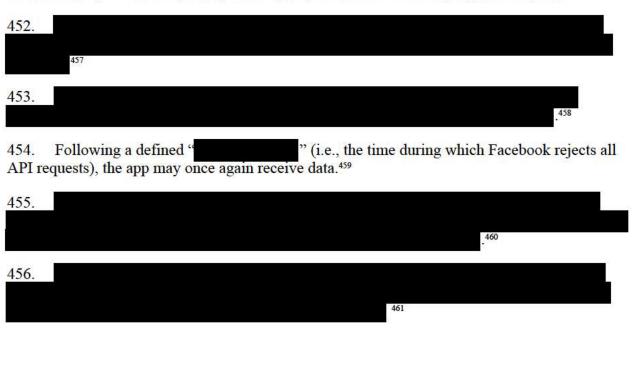
⁴⁵¹ Ex. 7 at 16-19 (Dec. 3, 2021 resp. to Sept. 22, 2021 request 6).

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

- 448. As of November 29, 2021, Facebook had taken enforcement action resulting in suspension or termination of access to one or more categories of Covered Information against of the overdue apps after October 24, 2021, and lost access to Covered Information in the period between October 24, 2021, and the delayed completion of their App Re-Review.⁴⁵³
- Additionally, as of December 3, 2021, Facebook still had not completed App Re-Review apps, due to technical issues with Facebook's software. 454

(3) Automated Rate-Limiting

- 450. Facebook uses the concept of rate-limiting as a preventive control that inhibits third-party apps from reaching a defined limit for the number of calls to an API in a given period. 455
- 451. Rate limits exist across APIs and are set based on the nature of the API and the nature of the app accessing it. Facebook sets automated levels at which, when an app reaches that level, its access is cut off for the period, and its ability to call that API is cut off for that period.⁴⁵⁶



⁴⁵³ Ex. 7 at 16-19 (Dec. 3, 2021 resp. to Sept. 22, 2021 request 6).

n.48, 47 (Oct. 29, 2021 resp. to Sept. 22, 2021 request 11).

⁴⁵⁴ Ex. 7 at 16-19 (Dec. 3, 2021 resp. to Sept. 22, 2021 request 6).

⁴⁵⁵ Ex. 79 at 170:13-20.

⁴⁵⁶ Ex. 79 at 170:21-171:4.

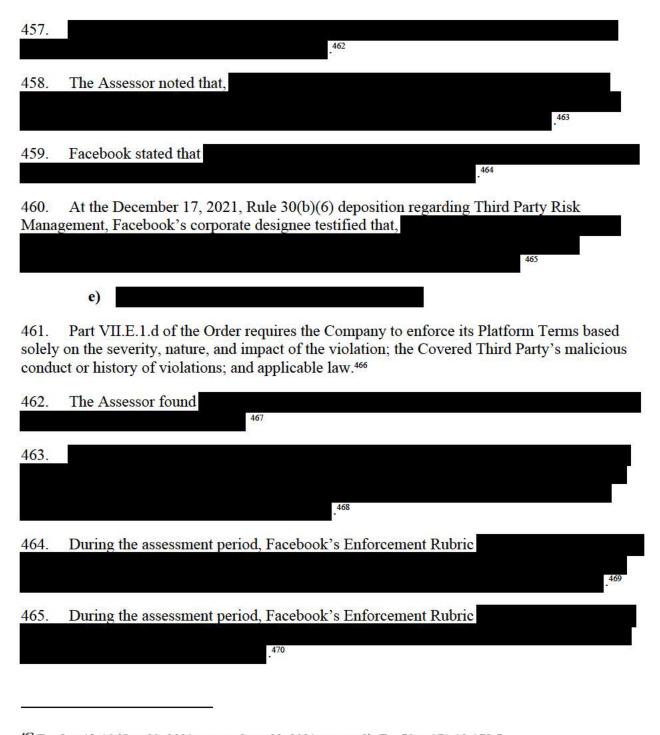
⁴⁵⁷ Ex. 4 at 160; Ex. 5 at 46 (Oct. 29, 2021 resp. to Sept. 22, 2021 request 8).

⁴⁵⁸ Ex. 4 at 160; Exh. 5 at 46 (Oct. 29, 2021 resp. to Sept. 22, 2021 request 8).

⁴⁵⁹ Ex. 5 at 45-46 (Oct. 29, 2021 resp. to Sept. 22, 2021 request 8); Ex. 79 at 171:5-11.

⁴⁶⁰ Ex. 5 at 47 (Oct. 29, 2021 resp. to Sept. 22, 2021 request 11).

Ex. 5 at 46



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

⁴⁶³ Ex. 4 at 160.

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

⁴⁶⁵ Ex. 79 at 172:9-17.

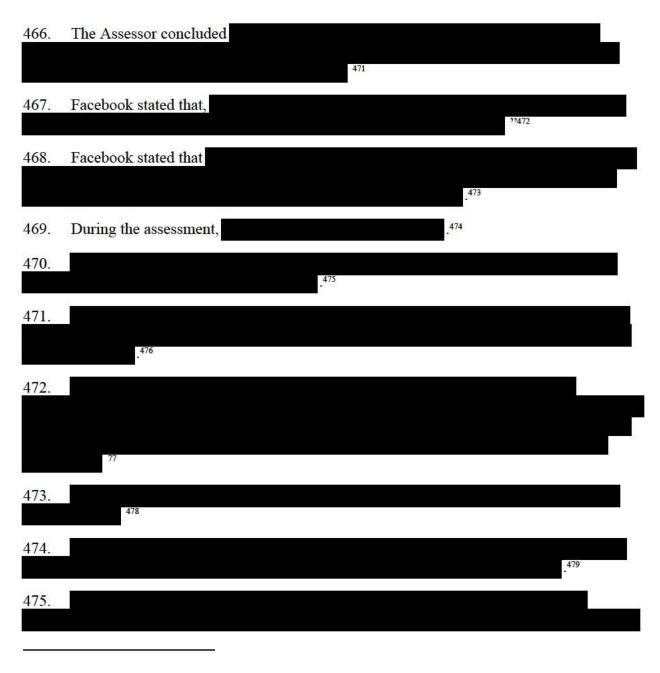
⁴⁶⁶ Ex. 3, Part VII.E.1.d.

⁴⁶⁷ Ex. 4 at 158.

⁴⁶⁸ Ex. 79 at 163:19-164:4.

⁴⁶⁹ 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.

⁴⁷⁰ Ex. 79 at 164:12-165:8.



⁴⁷¹ Ex. 4 at 158.

⁴⁷² 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).

⁴⁷³ 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).

⁴⁷⁴ 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).

⁴⁷⁵ 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).

⁴⁷⁶ Ex. 4 at 158.

⁴⁷⁷ 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).

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

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

```
476.
477.
478.
479.
480.
481.
482.
483.
         488
```

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

⁴⁸¹ Ex. 4 at 102-04.

⁴⁸² Ex. 4 at 102-04.

⁴⁸³ Ex. 4 at 102-04.

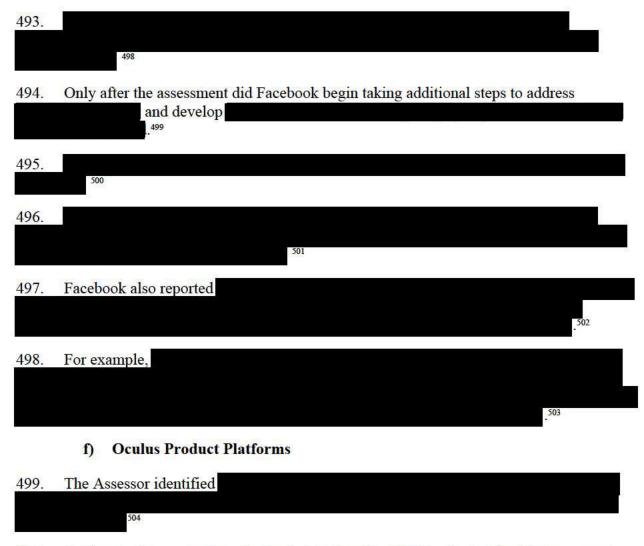
⁴⁸⁴ Ex. 6 at 33-35 (Nov. 19, 2021 resp. to Sept. 16, 2021 request 1).

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

⁴⁸⁶ Ex. 6 at 33-35 (Nov. 19, 2021 resp. to Sept. 16, 2021 request 1). ⁴⁸⁷ Ex. 6 at 33-35 (Nov. 19, 2021 resp. to Sept. 16, 2021 request 1)

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

```
484.
                                 489
485.
         During testing, the Assessor
486.
487.
         Facebook explained
        In the course of responding to the FTC's requests, Facebook
488.
489.
        In response to the FTC's requests, Facebook
490.
        More broadly, the Assessor found,
         During its testing, for example, the Assessor found
492.
                        497
<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.
```



- 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.⁵⁰⁵
- 501. The majority of applications available for use on Oculus are developed and maintained by third-party developers. 506

⁴⁹⁸ Ex. 79 at 167:2-168:2.

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

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

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

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

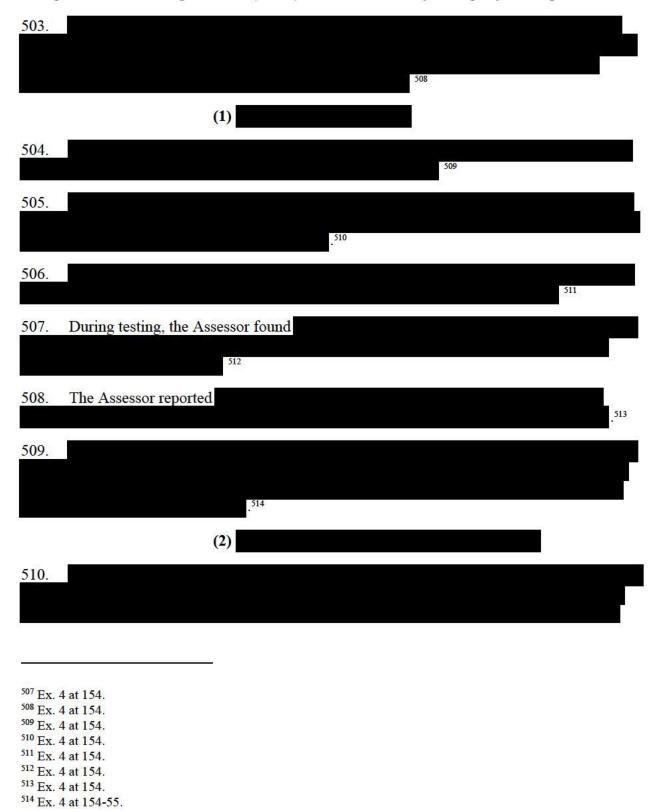
⁵⁰³ Ex. 5 at 29-30 (Oct. 29, 2021 resp. to Sept. 1, 2021 request 5).

⁵⁰⁴ Ex. 4 at 154.

⁵⁰⁵ Ex. 4 at 154.

⁵⁰⁶ 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. 507





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.

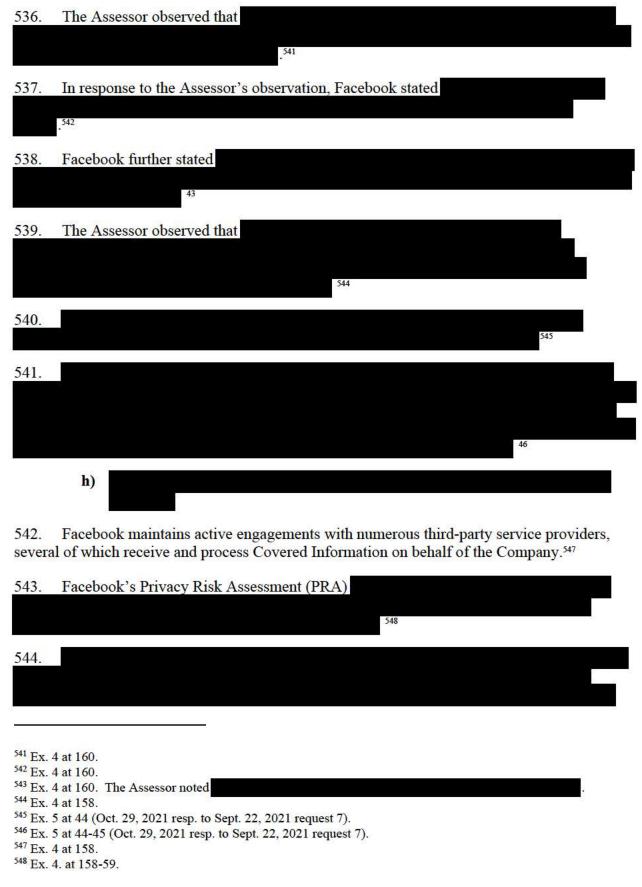
⁵²⁰ Ex. 4 at 155.

⁵²¹ Ex. 4 at 155. ⁵²² Ex. 4 at 156.

⁵²³ Ex. 4 at 156.

| | (3) | | | |
|--------------------|--|----------|-----|-------|
| 519. | | | | |
| | 524 | | | |
| 520. | | | | |
| | | | u. | |
| | 525 | | | į. |
| 501 | | | | |
| 521. | | | | |
| | | 526 | | |
| Section 201 | 5 | ,i | | |
| 522. | | | | |
| | 527 | | 630 | |
| | 321 | | | |
| 523. | The Assessor observed | | | |
| | | 528 | 530 | |
| | 40 | <u>-</u> | | |
| | (4) | | | |
| 524. | | | | |
| | | | | |
| | | .529 | | 10) |
| 525. | During testing, the Assessor noted that, | | | |
| 323. | During testing, the Assessor noted that, | | | ľ |
| | | 530 | | |
| | | | | |
| 526. | The Assessor independently tested | | | |
| | 531 | | | |
| , | • | | | |
| 527. | The Assessor reported that, | | | |
| | | | | . N . |
| | | | | 532 |
| | | | | 332 |
| | | | | |
| 504 | | | | |
| 524 Ex. 525 Ex. | 4 at 156. 4 at 156. | | | |
| 526 Ex. | 4 at 156. | | | |
| 527 Ex. | 4 at 156. | | | |
| 529 Fx | 4 at 156. 4 at 157. | | | |
| 530 Ex. | 4 at 157. | | | |
| ⁵³¹ Ex. | 4 at 157. | | | |
| EX | 4 at 157. | | | |

528. g) 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.534 530. The Assessor found that The Assessor observed that, 531. During operating effectiveness testing, the Assessor found For example, 533. 534. The Assessor noted 535. 533 Ex. 4 at 157. ⁵³⁴ Ex. 5 at 44 (Oct. 29, 2021 resp. to Sept. 22, 2021 request 7). 535 Ex. 4 at 157. ⁵³⁶ Ex. 4 at 157. 537 Ex. 4 at 157-58. 538 Ex. 4 at 159. 539 Ex. 4 at 160. 540 Ex. 4 at 160.



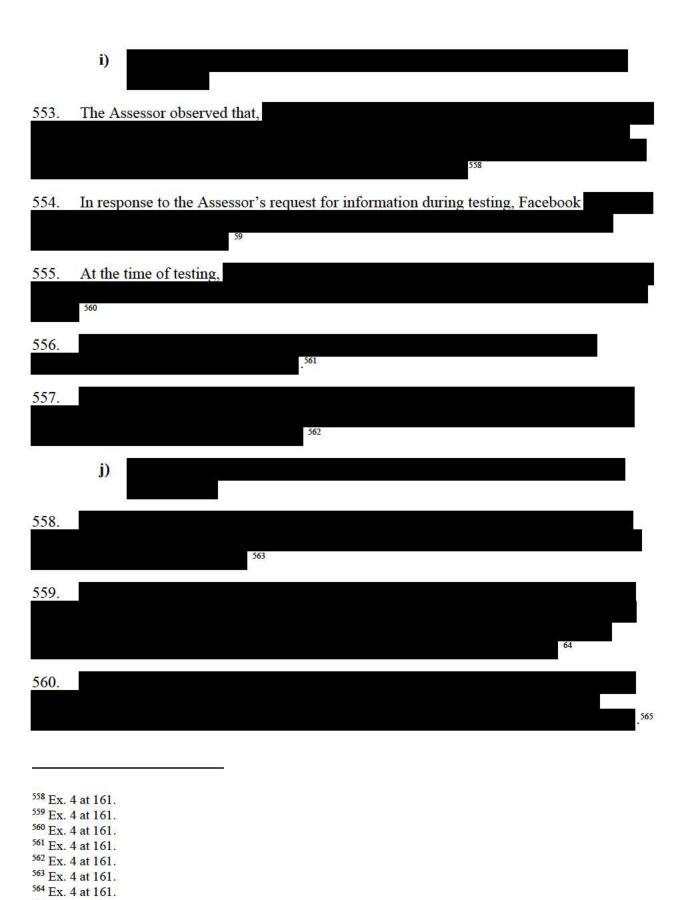
| | 549 | |
|------|-----------------------------|-----|
| 545. | The Assessor observed that, | |
| | .550 | |
| 546. | The Assessor concluded | |
| 547. | >>552 | |
| 548. | | |
| | | 553 |
| 549. | | 79 |
| | 54 | |
| 550. | | 555 |
| 551. | Facebook further reported | 556 |
| 552. | Facebook reported that, | 557 |
| | | |

⁵⁴⁹ Ex. 4. at 159.

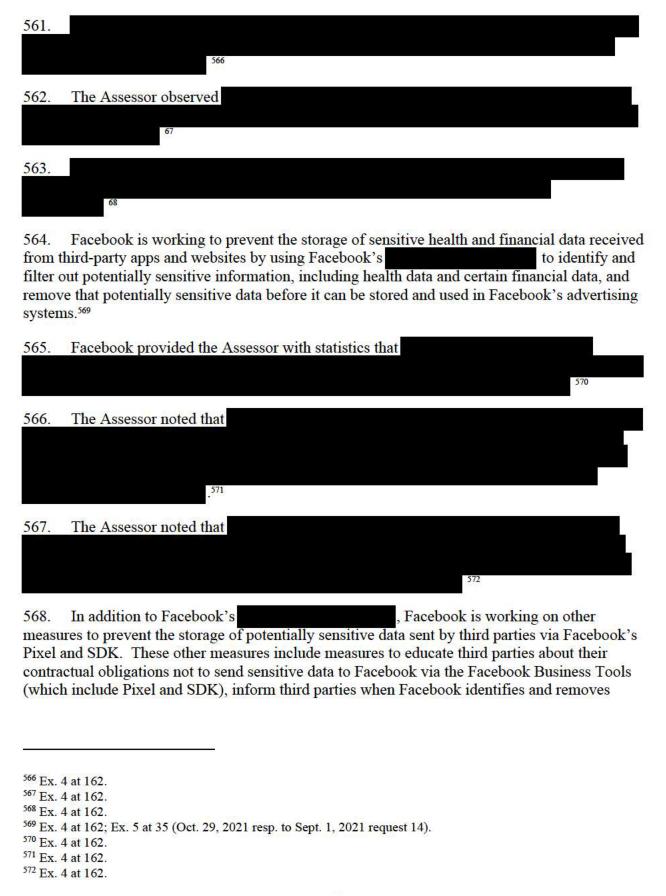
⁵⁵⁰ Ex. 4. at 159.

⁵⁵¹ Ex. 4 at 159.

⁵⁵² Ex. 10 at 4-6 (Oct. 15, 2021 resp. to Sept. 1, 2021 request 8). 553 Ex. 10 at 4-6 (Oct. 15, 2021 resp. to Sept. 1, 2021 request 8). 554 Ex. 10 at 4-6 (Oct. 15, 2021 resp. to Sept. 1, 2021 request 8). 555 Ex. 10 at 4-6 (Oct. 15, 2021 resp. to Sept. 1, 2021 request 8). 556 Ex. 10 at 4-6 (Oct. 15, 2021 resp. to Sept. 1, 2021 request 8). 557 Ex. 10 at 4-6 (Oct. 15, 2021 resp. to Sept. 1, 2021 request 8).



565 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.⁵⁷³

569. When Facebook's 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).⁵⁷⁴

570.

.575

571.

572. Specifically, Facebook stated that its systems "are designed to drop even potentially sensitive information that they detect

573. The Company further explained,

578

⁵⁷³ Ex. 5 at 34 (Oct. 29, 2021 resp. to Sept. 1, 2021 request 14).

⁵⁷⁴ Ex. 5 at 35 (Oct. 29, 2021 resp. to Sept. 1, 2021 request 14).

⁵⁷⁵ Ex. 5 at 41 (Oct. 29, 2021 resp. to Sept. 1, 2021 request 15).

⁵⁷⁶ Ex. 5 at 41 (Oct. 29, 2021 resp. to Sept. 1, 2021 request 15).

⁵⁷⁷ Ex. 5 at 41 (Oct. 29, 2021 resp. to Sept. 1, 2021 request 15).

⁵⁷⁸ Ex. 5 at 41 (Oct. 29, 2021 resp. to Sept. 1, 2021 request 15).

D. Incident Management

574. 575. 576. During testing, however, the Assessor discovered that 578. 579. During testing, however, the Assessor found 580. 581.

⁵⁷⁹ Ex. 4 at 102; Ex. 10 at 7 (Oct. 15, 2021 resp. to Sept. 16, 2021 requests 3-5).

⁵⁸⁰ Ex. 4 at 102; Ex. 10 at 7 (Oct. 15, 2021 resp. to Sept. 16, 2021 requests 3-5).

⁵⁸¹ Ex. 10 at 7 (Oct. 15, 2021 resp. to Sept. 16, 2021 requests 3-5).

⁵⁸² Ex. 4 at 112; Ex. 10 at 7 (Oct. 15, 2021 resp. to Sept. 16, 2021 requests 3-5).

⁵⁸³ Ex. 10 at 7 (Oct. 15, 2021 resp. to Sept. 16, 2021 requests 3-5). ⁵⁸⁴ Ex. 4 at 112; Ex. 10 at 8 (Oct. 15, 2021 resp. to Sept. 16, 2021 requests 3-5).

⁵⁸⁵ Ex. 4 at 112.

582. The Assessor stated that

87

583.

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.⁵⁸⁹



586. The Assessor concluded that

⁵⁸⁶ Ex. 10 at 8 (Oct. 15, 2021 resp. to Sept. 16, 2021 requests 3-5).

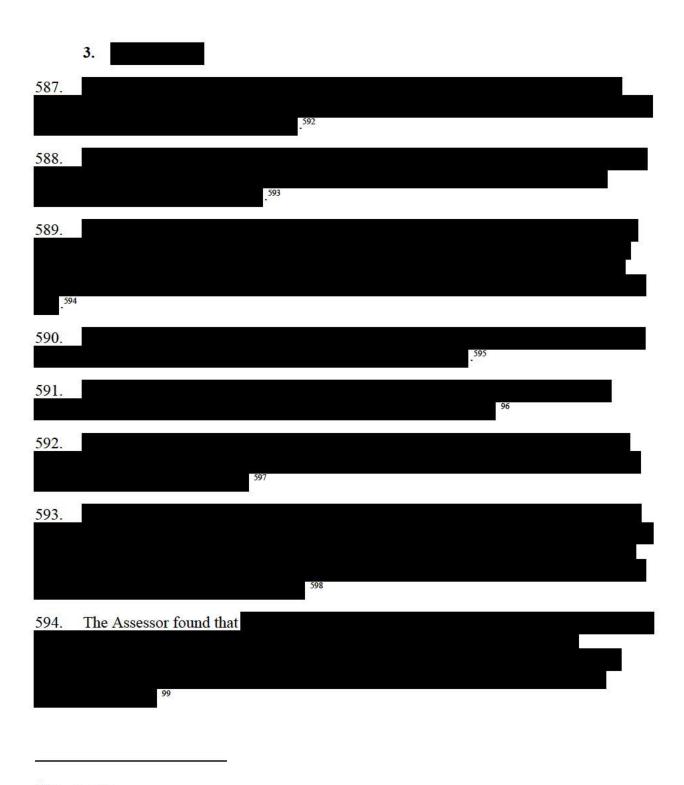
⁵⁸⁷ Ex. 4 at 112.

⁵⁸⁸ Ex. 10 at 8-9 (Oct. 15, 2021 resp. to Sept. 16, 2021 requests 3-5).

⁵⁸⁹ Ex. 4 at 113, 233.

⁵⁹⁰ Ex. 4 at 113.

⁵⁹¹ Ex. 4 at 113.



⁵⁹² Ex. 4 at 103.

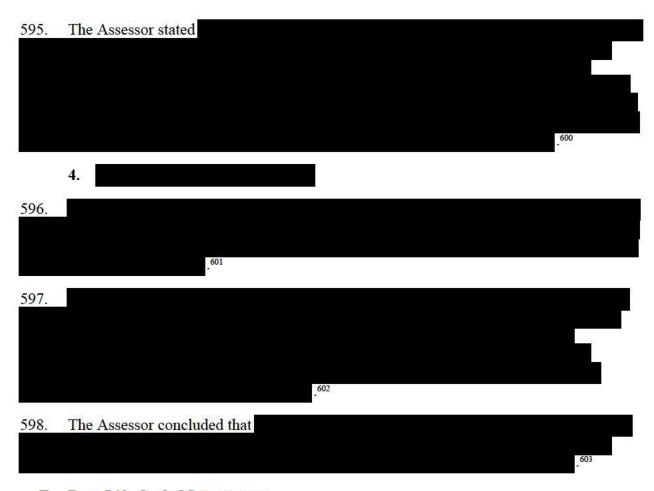
⁵⁹³ Ex. 4 at 103.

⁵⁹⁴ Ex. 4 at 103, 111. ⁵⁹⁵ Ex. 4 at 103, 111.

⁵⁹⁶ Ex. 4 at 111.

⁵⁹⁷ Ex. 4 at 111. ⁵⁹⁸ Ex. 4 at 111.

⁵⁹⁹ Ex. 4 at 111.



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.⁶⁰⁴

600 Ex. 4 at 111.

⁶⁰¹ Ex. 4 at 112.

⁶⁰² Ex. 4 at 112, 232.

⁶⁰³ Ex. 4 at 112.

⁶⁰⁴ 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). 605
- 601. To that end, Facebook organized a central team to oversee its data management programs and verify its compliance with pertinent Order provisions.⁶⁰⁶
- 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.⁶⁰⁷

| 603. Purpos | At the time of the assessment, Facebook kept of its data in General se Production Data Stores and its Data Warehouse (collectively, "General Purpose Data").608 |
|----------------|---|
| 604. purpos | Facebook kept in Special Purpose Data Stores, which serve various ses. |
| 605. | 10 |
| | Facebook's Rule 30(b)(6) corporate designee on topics relating to the explained that an API (application programming interface) is rically how one software program or set of infrastructure talks to another program or tructure." |
| 607. | APIs are the authorized means by which third parties can access Facebook data. ⁶¹² |
| 608. | .613 |
| 605 Ex. | |

⁶⁰⁷ Ex. 83 (Dec. 17, 2021 R. 30(b)(6) Michael Patrick Clark Dep. Tr.) at 19:5-21:11.

⁶⁰⁸ 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.

 $^{^{609}}$ 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.

⁶¹⁰ Ex. 83 at 26:11-23.

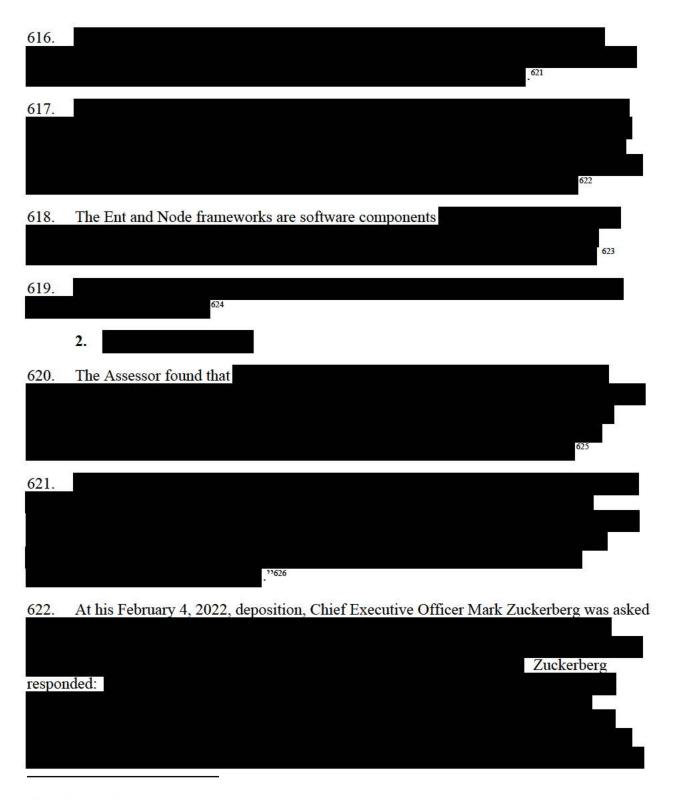
⁶¹¹ Ex. 83 at 34:1-5.

⁶¹² Ex. 83 at 35:2-5.

⁶¹³ Ex. 83 at 26:11-23.

| 609. | At Facebook, |
|--------|---|
| | |
| | 614 |
| 610. | The Ent and Node frameworks are written in different software languages, so there are ences in the software itself. |
| differ | ences in the software fiself. |
| 611. | At Facebook, |
| | .616 |
| 612. | Facebook's Rule 30(b)(6) corporate designee witness on topics relating to explained that |
| | According to Facebook's corporate designee, |
| | 17 |
| 613. | Facebook's Rule 30(b)(6) corporate designee stated that [618] |
| 614. | |
| | |
| | 619 |
| 615. | According to Facebook's Rule 30(b)(6) corporate designee, |
| | |
| | |
| | 20 |
| | |

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.



⁶²¹ Ex. 4 at 228-229.

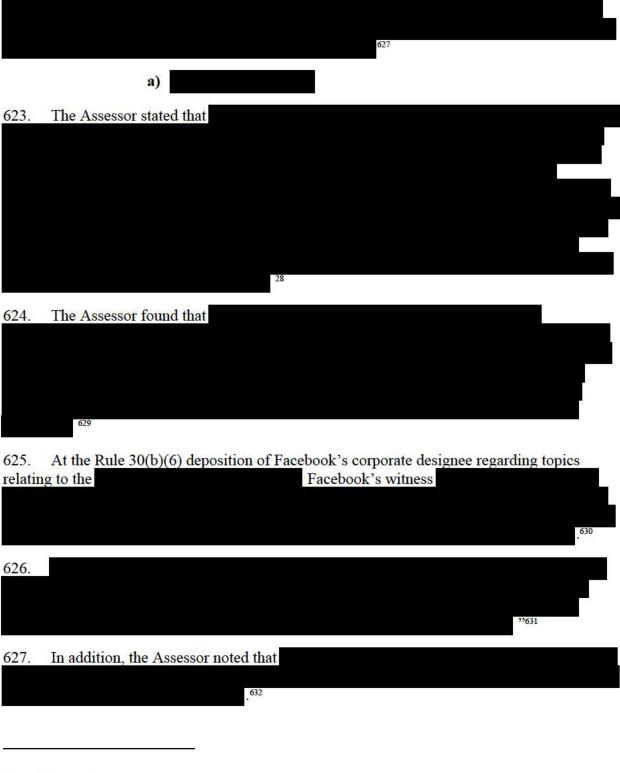
⁶²² Ex. 4 at 228.

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.



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 | |
|--------|--------------------------------------|------------------------|
| | | The Assessor concluded |
| | | |
| | 633 | |
| 629. | The Assessor also observed that | |
| | | |
| | 34 | |
| 630. | The Assessor observed | |
| | | The Assessor |
| stated | | .635 |
| 631. | Moreover, the Assessor observed that | |
| | | |
| | | |
| | 636 | |
| 632. | The Assessor concluded that | |
| | | 637 |
| 633. | The Assessor identified | • |
| 055. | The Assessor Identified | |
| | | 638 |
| 634. | The Assessor also noted | |
| | | |
| | | |
| | | |
| | | |

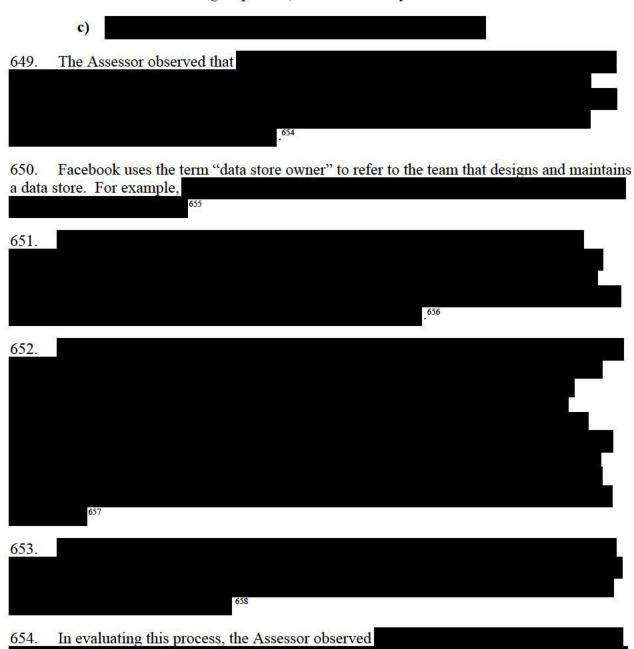
⁶³³ Ex. 4 at 95. 634 Ex. 4 at 95. 635 Ex. 4 at 95. 636 Ex. 4 at 95. 637 Ex. 4 at 95. 638 Ex. 4 at 95.

```
; the Assessor stated,
        The Assessor also stated that
635.
                     The Assessor observed
                                      The Assessor noted
        The Assessor stated that,
636.
         641
        According to the Assessor,
638.
        The Assessor stated,
639.
        The Assessor found that
640.
639 Ex. 4 at 95-96.
<sup>640</sup> Ex. 4 at 96.
641 Ex. 4 at 96.
642 Ex. 4 at 96.
643 Ex. 4 at 96.
<sup>644</sup> Ex. 4 at 96.
<sup>645</sup> Ex. 4 at 94, 96.
```

| 641. | The Assessor observed that |
|-------|--|
| | 646 |
| 642. | |
| | |
| | 647 |
| 643. | The Assessor stated |
| | 648 |
| 644. | |
| Asses | sor concluded that |
| C15 | .649 |
| 645. | The Assessor confirmed |
| | pecifically, the Assessor found |
| | |
| 646 | 650 |
| 646. | The Assessor concluded that |
| C 4.7 | 651 |
| 647. | At his February 4, 2022, deposition, Chief Executive Officer Mark Zuckerberg was asked |
| | Zuckerberg responded When asked |
| | Zuckerberg responded, |
| | 652 |

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.

648. At his February 4, 2022, deposition, Chief Executive Officer Mark Zuckerberg was asked, "Is your goal to eventually have a complete inventory of all data assets and data objects within data stores?" Zuckerberg responded, "I think in theory." 653



⁶⁵³ Ex. 43 at 224:13-16.

⁶⁵⁴ Ex. 4 at 93-94.

⁶⁵⁵ Ex. 83 at 24:16-22, 24:23-25:12.

⁶⁵⁶ Ex. 6 at 32-33 (Nov. 19, 2021 resp. to Aug. 27, 2021 request 28).

⁶⁵⁷ Ex. 4 at 97.

⁶⁵⁸ Ex. 5 at 23-24 (Oct. 29, 2021 resp. to Aug. 27, 2021 request 27).



- 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.⁶⁶⁵
- 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.

⁶⁵⁹ Ex. 4 at 97-98; Ex. 5 at 23 (Oct. 29, 2021 resp. to Aug 27, 2021 request 27).

⁶⁶⁰ Ex. 5 at 24 (Oct. 29, 2021 resp. to Aug. 27, 2021 request 27).

⁶⁶¹ Ex. 4 at 97-98; Ex. 83 at 97:20-101:19.

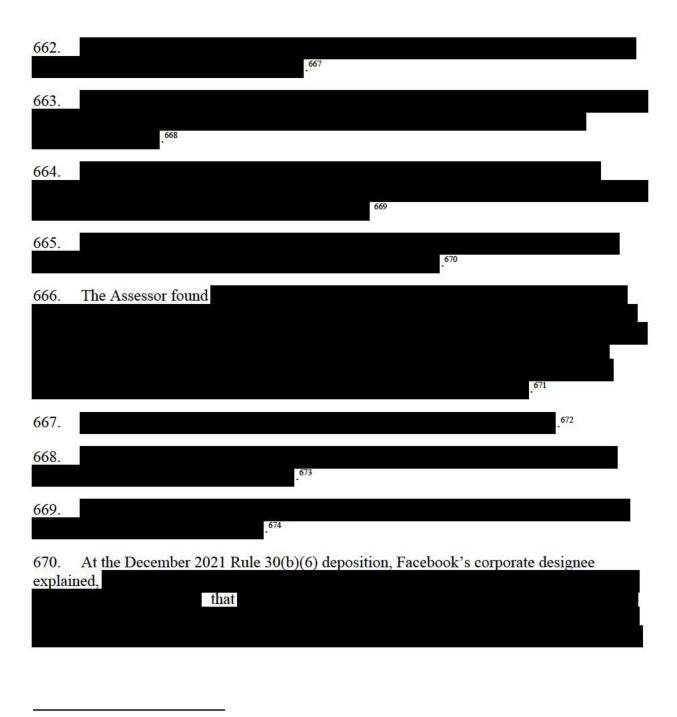
⁶⁶² Ex. 4 at 97-98.

⁶⁶³ Ex. 5 at 25 (Oct. 29, 2021 resp. to Aug. 27, 2021 request 27).

⁶⁶⁴ Ex. 5 at 25 (Oct. 29, 2021 resp. to Aug. 27, 2021 request 27).

⁶⁶⁵ Ex. 3, Part III.

⁶⁶⁶ Ex. 3, Part VII.E.



⁶⁶⁷ Ex. 4 at 98-99.

⁶⁶⁸ 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).

⁶⁶⁹ Ex. 6 at 32-33 (Nov. 19, 2021 resp. to Aug. 27, 2021 request 28); Ex. 83 at 46:19-47:18.

⁶⁷⁰ 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).

⁶⁷¹ Ex. 4 at 98.

⁶⁷² 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).

⁶⁷³ Ex. 83 at 42:21-24.

⁶⁷⁴ Ex. 7 at 6 (Dec. 3, 2021 resp. to Aug. 27, 2021 requests 29-30).

| | | The witness further stated | 675 |
|-------------------|------------------------------|----------------------------|-----|
| 6 7 1. | 76 | | |
| 672. | 677 | | |
| 673. | The Assessor explained that, | | 678 |
| 674. | | | .67 |
| 675. | | | 680 |
| 676. | 681 | | |
| 677. | The Assessor concluded that, | 682 | |
| 678. | The Assessor found that | | 683 |

⁶⁷⁵ Ex. 83 at 49:24-51:1. 676 Ex. 83 at 31:18-21.

⁶⁷⁷ Ex. 83 at 31:18-21. 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 99.

⁶⁸³ Ex. 4 at 98-99.

```
679.
        The Assessor observed that
       Based on Facebook's review of the data stores onboarded to its Data Deletion program as
of December 2021, the Company reported there were Special Purpose Data Stores that
        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,
683.
       The Assessor found that,
       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
                                                        via an API more than 30 days after a user
deleted such information. 689
685.
684 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.
688 Ex. 4 at 98-99.
689 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. | 691 | |
|------|---------------------------------|-----|
| 687. | The Assessor stated | L |
| | 692 | Ş |
| 688. | Facebook conceded | |
| | 693 | |
| 689. | Facebook further explained | 175 |
| | 694 | |
| 690. | Specifically, Facebook reported | |
| 691. | 696 | |
| 692. | | |
| | 697 | |
| 693. | Facebook's safeguard | 8 |
| 694. | The Assessor found that | |
| | | |
| | | |

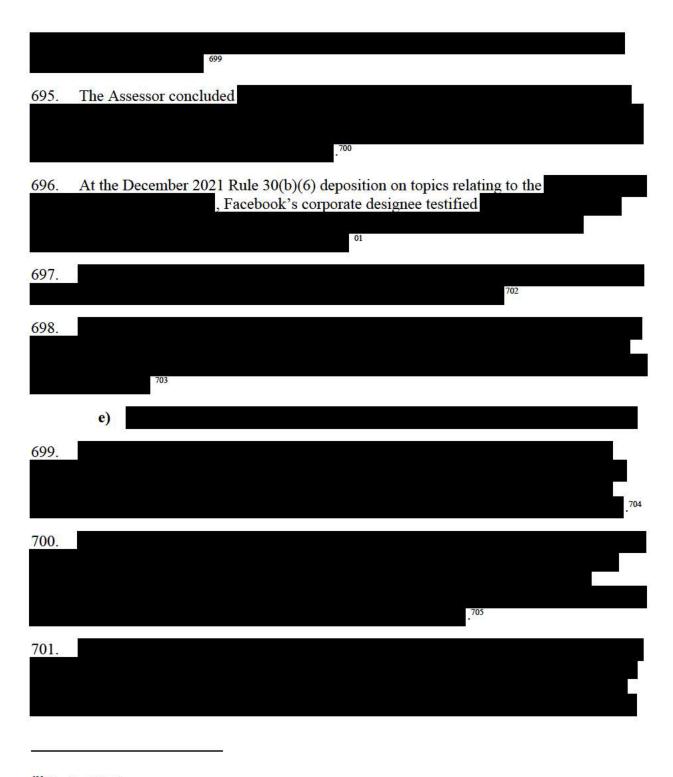
⁶⁹¹ Ex. 6 at 32-33 (Nov. 19, 2021 resp. to Aug. 27, 2021 request 28).

⁶⁹² Ex. 4 at 98-99.

⁶⁹³ Ex. 6 at 32-33 (Nov. 19, 2021 resp. to Aug. 27, 2021 request 28). 694 Ex. 6 at 32-33 (Nov. 19, 2021 resp. to Aug. 27, 2021 request 28). 695 Ex. 6 at 32-33 (Nov. 19, 2021 resp. to Aug. 27, 2021 request 28).

⁶⁹⁶ Ex. 83 at 52:19-21. ⁶⁹⁷ Ex. 4 at 98-99.

⁶⁹⁸ Ex. 4 at 98.



⁶⁹⁹ Ex. 4 at 98-99.

⁷⁰⁰ Ex. 4 at 94, 98.

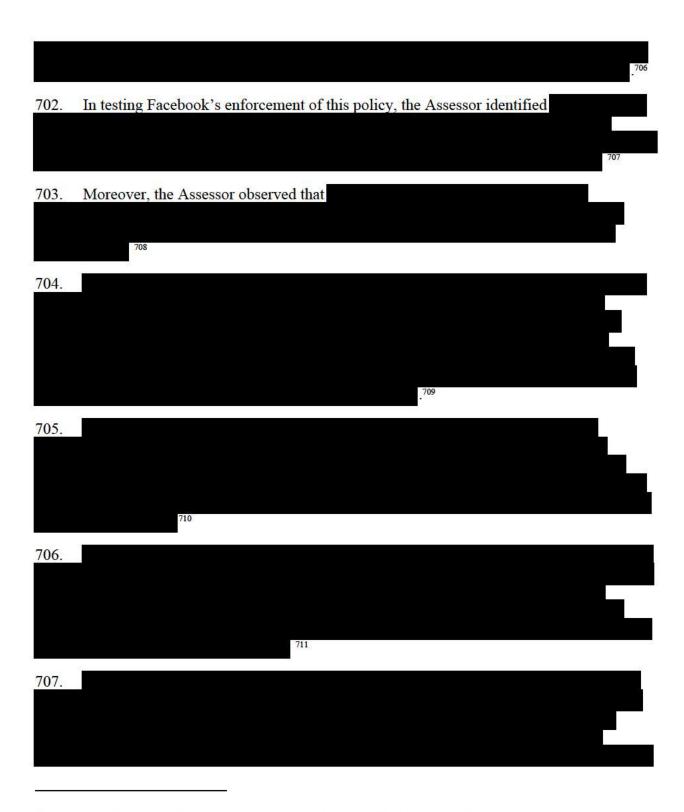
⁷⁰¹ Ex. 83 at 118-120:14.

⁷⁰² 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).

703 Ex. 6 at 32-33 (Nov. 19, 2021 resp. to Aug. 27, 2021 request 28); Ex. 83 at 113:4-116:16.

⁷⁰⁴ Ex. 5 at 25-26 (Oct. 29, 2021 resp. to Aug. 27, 2021 request 32).

⁷⁰⁵ Ex. 6 at 32-33 (Nov. 19, 2021 resp. to Aug. 27, 2021 request 28).



⁷⁰⁶ Ex. 5 at 25-26 (Oct. 29, 2021 resp. to Aug. 27, 2021 request 32); Ex. 4 at 100.

⁷⁰⁸ Ex. 4 at 100; Ex. 5 at 25 (Oct. 29, 2021 resp. to Aug. 27, 2021 request 32).

⁷⁰⁹ Ex. 6 at 32-33 (Nov. 19, 2021 resp. to Aug. 27, 2021 request 28). ⁷¹⁰ Ex. 6 at 32-33 (Nov. 19, 2021 resp. to Aug. 27, 2021 request 28).

⁷¹¹ Ex. 4 at 99.

.712

F. Security for Privacy

1. Facebook's Use of Third-Party Cloud Service Providers



⁷¹² 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).

⁷¹³ Ex. 4 at 90, 114; Ex. 17 at 10-11 (Dec. 23, 2021 resp. to Nov. 4, 2021 request 1).

⁷¹⁴ Ex. 4 at 118.

⁷¹⁵ Ex. 17 at 10-11 (Dec. 23, 2021 resp. to Nov. 4, 2021 request 1).

⁷¹⁶ Ex. 17 at 10-11 (Dec. 23, 2021 resp. to Nov. 4, 2021 request 1).

⁷¹⁷ Ex. 17 at 11 (Dec. 23, 2021 resp. to Nov. 4, 2021 request 1).

⁷¹⁸ Ex. 17 at 11 (Dec. 23, 2021 resp. to Nov. 4, 2021 request 1).

⁷¹⁹ Ex. 17 at 12 (Dec. 23, 2021 resp. to Nov. 4, 2021 request 1).



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."⁷²⁷

```
723.

.728

724.

.729
```

⁷²⁰ Ex. 17 at 12 (Dec. 23, 2021 resp. to Nov. 4, 2021 request 1).

⁷²¹ Ex. 17 at 13 (Dec. 23, 2021 resp. to Nov. 4, 2021 request 1).

⁷²² Ex. 17 at 13 (Dec. 23, 2021 resp. to Nov. 4, 2021 request 1).

⁷²³ Ex. 17 at 10 (Dec. 23, 2021 resp. to Nov. 4, 2021 request 1).

⁷²⁴ Ex. 17 at 13, 17 (Dec. 23, 2021 resp. to Nov. 4, 2021 requests 1, 4).

⁷²⁵ Ex. 17 at 17 (Dec. 23, 2021 resp. to Nov. 4, 2021 request 4).

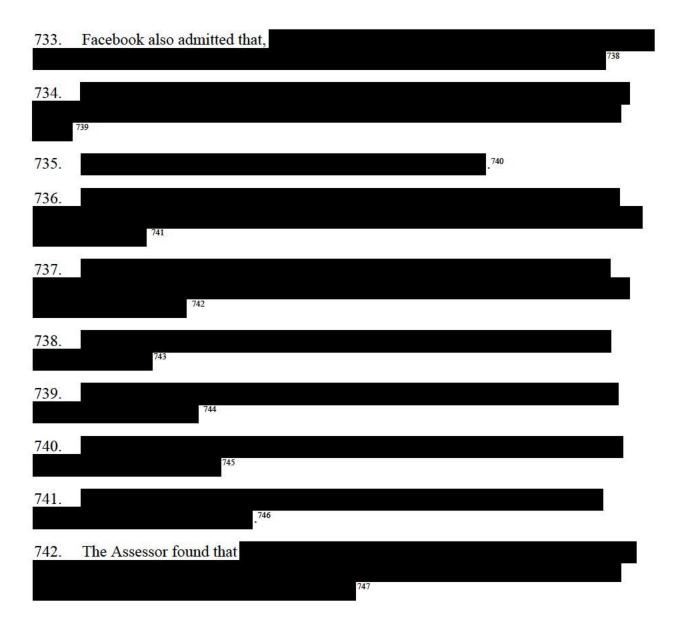
⁷²⁶ Ex. 4 at 120-22.

⁷²⁷ Ex. 3, Part VII.E.3.

⁷²⁸ Ex. 22 (Feb. 24, 2021 email fr. M. Protti to M. Zuckerberg re FTC Assessment Update).

⁷²⁹ Ex. 22.

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 After significant back and forth (including with FTC), we have agreed that the scope for Security controls In the same February 2021 email, Facebook's Chief Privacy Officer **(1)** Facebook uses a service called CloudTrail to "capture logs of activity" occurring on cloud servers used by Facebook.733 Facebook also uses a service called GuardDuty to 729. 730. The Assessor, however, found that, 731. Facebook admitted that, ⁷³⁰ Ex. 22. ⁷³¹ Ex. 22. 732 Ex. 4 at 114. ⁷³³ Ex. 17 at 14 (Dec. 23, 2021 resp. to Nov. 24, 2021 request 2). ⁷³⁴ Ex. 17 at 14 (Dec. 23, 2021 resp. to Nov. 24, 2021 request 2). ⁷³⁵ Ex. 17 at 14 (Dec. 23, 2021 resp. to Nov. 24, 2021 request 2). ⁷³⁶ Ex. 4 at 120-21. ⁷³⁷ Ex. 17 at 14 (Dec. 23, 2021 resp. to Nov. 24, 2021 request 2).



⁷³⁸ Ex. 17 at 14 (Dec. 23, 2021 resp. to Nov. 24, 2021 request 2).

⁷³⁹ Ex. 17 at 14 & n.27 (Dec. 23, 2021 resp. to Nov. 24, 2021 request 2).

⁷⁴⁰ 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).

⁷⁴¹ Ex. 10 at 2 (Oct. 15, 2021 resp. to Aug. 19, 2021 request 2).

⁷⁴² Ex. 10 at 2 (Oct. 15, 2021 resp. to Aug. 19, 2021 request 2).

⁷⁴³ Ex. 10 at 2 (Oct. 15, 2021 resp. to Aug. 19, 2021 request 2).

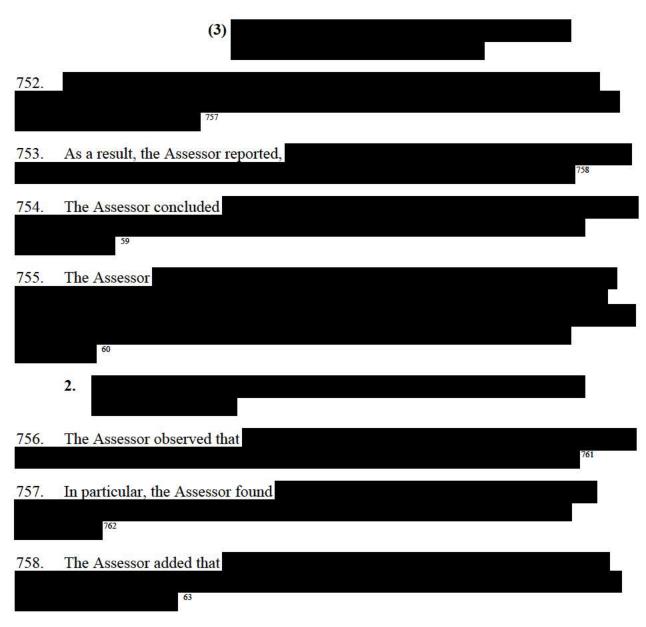
⁷⁴⁴ Ex. 10 at 2 (Oct. 15, 2021 resp. to Aug. 19, 2021 request 2).

⁷⁴⁵ Ex. 10 at 2 (Oct. 15, 2021 resp. to Aug. 19, 2021 request 2).

⁷⁴⁶ Ex. 10 at 2 (Oct. 15, 2021 resp. to Aug. 19, 2021 request 2).

⁷⁴⁷ Ex. 4 at 121.

| | (2) |
|---------------------------------------|--|
| 743. | The Assessor identified 748 |
| 744. | In particular, the Assessor |
| | 749 |
| 745. | The Assessor also found |
| 746. | The Assessor found, |
| | .751 |
| 74 <mark>7</mark> . | The Assessor found, |
| | 752 |
| 748. | Facebook admitted ."753 |
| 749. | Additionally, the Assessor determined that |
| | 22754 |
| 750. | 755 |
| and the same | |
| 751. | The Assessor concluded: |
| | 756 |
| | |
| | |
| ⁷⁴⁸ Ex. | at 121. |
| ⁷⁴⁹ Ex. | at 121. |
| ⁷⁵⁰ Ex. ⁷⁵¹ Ex. | |
| 752 Ex. | |
| ⁷⁵³ Ex. | 7 at 17 (Dec. 23, 2021 resp. to Nov. 24, 2021 request 4). |
| | at 121. 7 at 16 (Dec. 23, 2021 resp. to Nov. 24, 2021 request 4). |
| 756 Ex | |



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

⁷⁵⁷ Ex. 4 at 121.

⁷⁵⁸ Ex. 4 at 121; Ex. 17 at 16 (Dec. 23, 2021 resp. to Nov. 24, 2021 request 5).

⁷⁵⁹ Ex. 4 at 121.

⁷⁶⁰ Ex. 4 at 121.

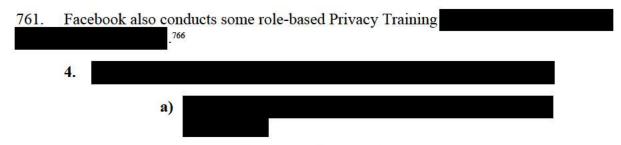
⁷⁶¹ Ex. 4 at 121-22.

⁷⁶² Ex. 4 at 122.

⁷⁶³ Ex. 4 at 122.

external risks identified . . . and safeguards implemented . . . that includes training on the requirements of this Order."⁷⁶⁴

760. In response to Part VII.G., Facebook's developed an Annual Privacy Training Program and a New Hire Privacy Training Program to provide "foundational training on the Order's requirements, as well as appropriate privacy practices and privacy-related expectations and commitments" to all its personnel.⁷⁶⁵



(1) 2020 Annual Privacy Training

762. According to the Assessor, on Training to all existing personnel 2020, Facebook deployed its first Annual Privacy

763. The Assessor stated that,

764. The Assessor also stated that Facebook personnel were expected to complete the 2020 Annual Privacy Training within days. 769

765. According to the Assessor,

766.

767. However, not all of Facebook's personnel timely completed the privacy trainings in 2020.⁷⁷²

⁷⁶⁴ Ex. 3, Part VII.G.

⁷⁶⁵ Ex. 4 at 26.

⁷⁶⁶ Ex. 4 at 27.

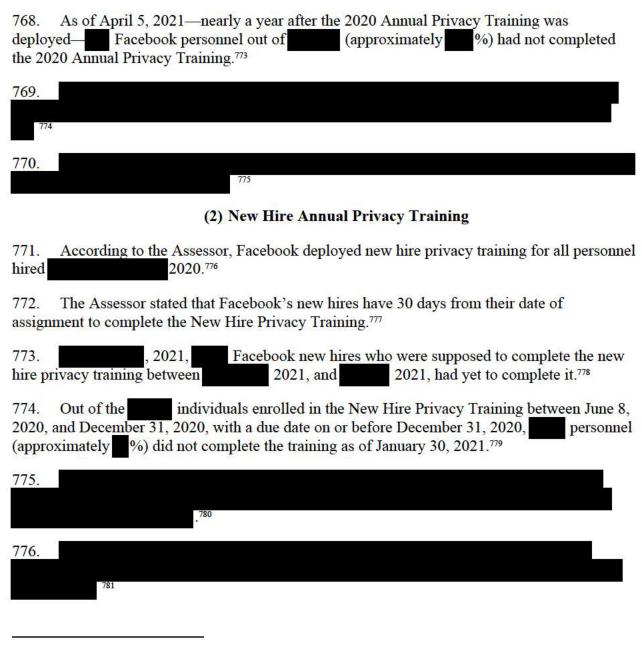
⁷⁶⁷ Ex. 4 at 26.

⁷⁶⁸ Ex. 4 at 26.

⁷⁶⁹ Ex. 4 at 26.

⁷⁷⁰ Ex. 4 at 26. ⁷⁷¹ Ex. 4 at 26.

⁷⁷² Ex. 4 at 29; Ex. 30 at 9-10 (Jan. 21, 2022 resp. to Dec. 2, 2021 request 1).



⁷⁷³ 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.").

⁷⁷⁴ Ex 4 at 29.

⁷⁷⁵ Ex. 4 at 29 n.6.

⁷⁷⁶ Ex. 4 at 27.

⁷⁷⁷ 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.").

⁷⁷⁸ Ex. 4 at 29.

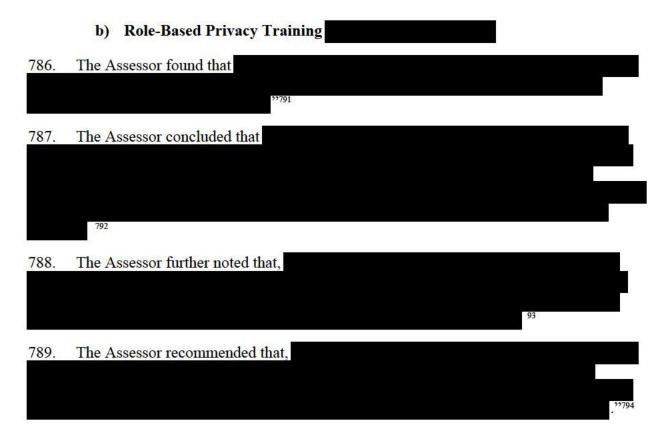
⁷⁷⁹ Ex. 4 at 29; Ex. 30 at 10 (Jan. 21, 2022 resp. to Dec. 2, 2021 request 3) (Facebook "agrees with the cited portion of the Assessment to the extent that the figures regarding completion of the New Hire Privacy Training listed in the Assessment were accurate as of January 30, 2021").

⁷⁸⁰ Ex. 4 at 29.

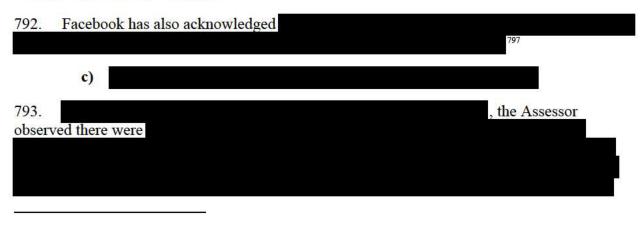
⁷⁸¹ Ex. 4 at 29.

(3) Assessor's Recommendations

| 777. | The Assessor found that |
|---|--|
| | 782 |
| 778. | |
| | .783 |
| 77 9. | |
| 5): | 84 |
| 780. | The Assessor observed that |
| | |
| | 85 |
| 781. | 786 |
| 782. | 787 |
| | |
| 792 | |
| 783. | 788 |
| 783. 784. | 788 The Assessor found |
| ¥3. | The Assessor found |
| 784. | The Assessor found 789 |
| 784. | The Assessor found The Assessor determined that |
| 784. 785. | The Assessor found The Assessor determined that 789 |
| 784. 785. | The Assessor found The Assessor determined that 789 The Assessor determined that 790 at 29. |
| 784. 785. 782 Ex. 4 783 Ex. 4 784 Ex. 4 | The Assessor found The Assessor determined that 790 at 29. at 29. at 29. at 29. |
| 784. 785. 782 Ex. 4 783 Ex. 4 784 Ex. 4 785 Ex. 4 | The Assessor found The Assessor determined that The Assessor determined that The Assessor determined that The Assessor determined that The Assessor determined that |
| 784. 785. 782 Ex. 4 783 Ex. 4 784 Ex. 4 785 Ex. 4 786 Ex. 4 | The Assessor found The Assessor determined that The Assessor determined that The Assessor determined that The Assessor determined that The Assessor determined that |
| 784. 785. 782 Ex. 4 783 Ex. 4 784 Ex. 4 785 Ex. 4 786 Ex. 4 | The Assessor found The Assessor determined that The Assessor determined that at 29. |



- 790. Facebook acknowledged that "role-based trainings were typically managed by individual teams and not always centrally tracked or enforced."
- 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.⁷⁹⁶



⁷⁹¹ Ex. 4 at 29.

⁷⁹² Ex. 4 at 30.

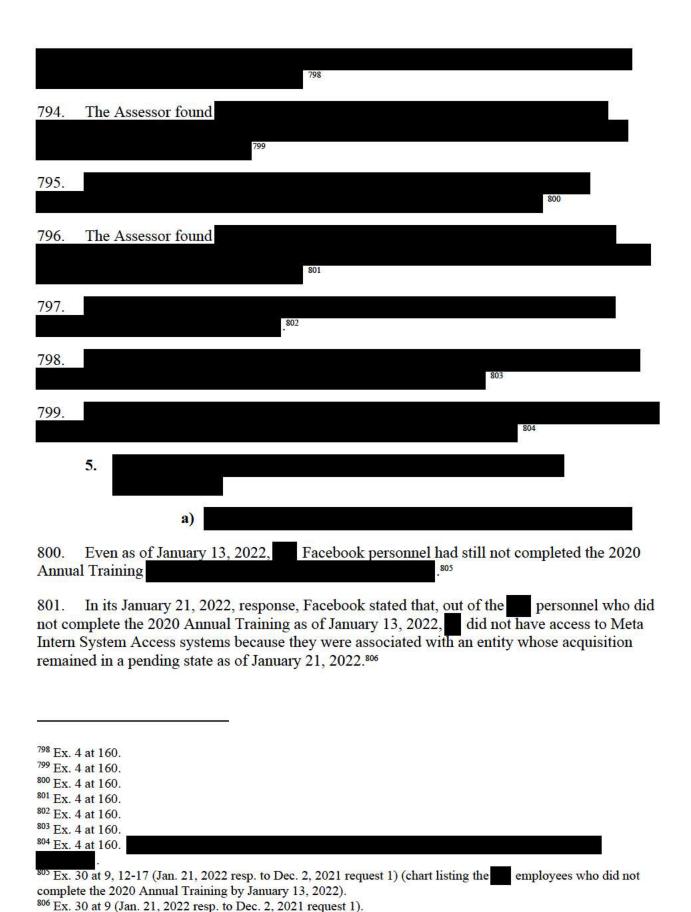
⁷⁹³ Ex. 4 at 30.

⁷⁹⁴ Ex. 4 at 30.

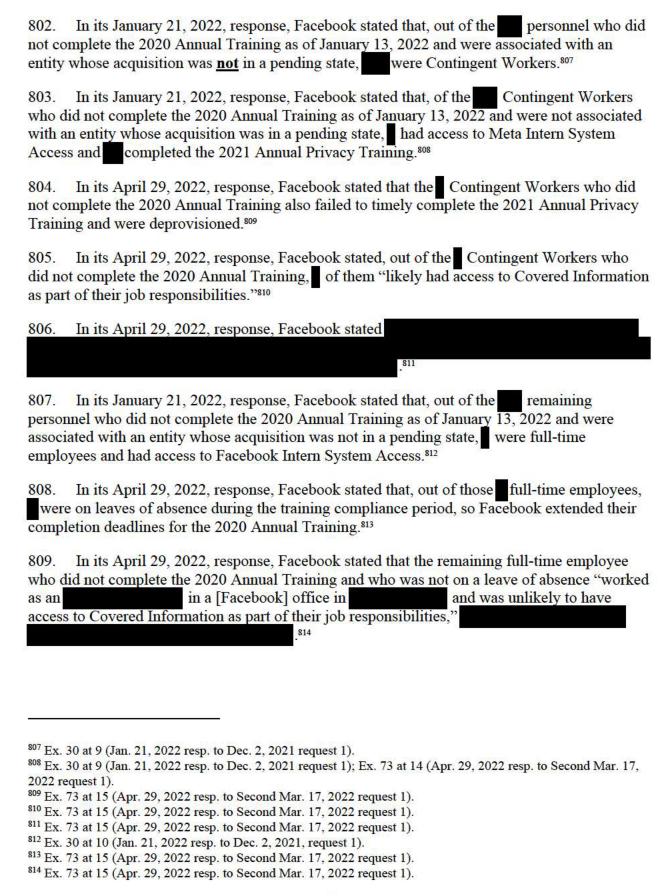
⁷⁹⁵ Ex. 30 at 5 (Jan. 21, 2022 resp. to Dec. 2, 2021 requests 7 and 8).

⁷⁹⁶ Ex. 30 at 5 (Jan. 21, 2022 resp. to Dec. 2, 2021 requests 7 and 8).

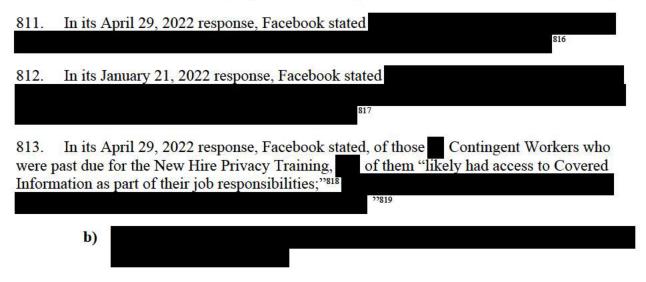
⁷⁹⁷ Ex. 7 at 28 (Dec. 3, 2021 resp. to Oct. 1, 2021 request 10).



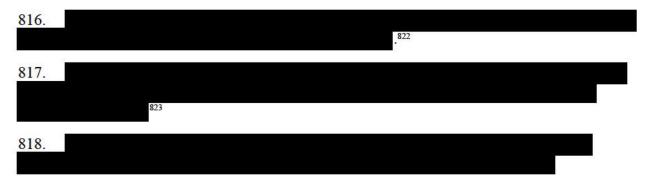
¹⁰²



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.⁸¹⁵



- 814. On September 28, 2021, Facebook deployed the 2021 Annual Privacy Training to the entire company.⁸²⁰
- 815. All Company "learners" were required to complete the 2021 Annual Privacy Training by November 29, 2021.821



⁸¹⁵ Ex. 73 at 15 (Apr. 29, 2022 resp. to Second Mar. 17, 2022 request 1).

⁸¹⁶ Ex. 73 at 15 (Apr. 29, 2022 resp. to Second Mar. 17, 2022 request 1).

⁸¹⁷ Ex. 30 at 10 and 18-25 (Jan. 21, 2022 resp. to Dec. 2, 2021 request 3) (chart listing the new hire privacy training as of January 13, 2022).

⁸¹⁸ Ex. 73 at 16 (Apr. 29, 2022 resp. to Second Mar. 17, 2022 request 2).

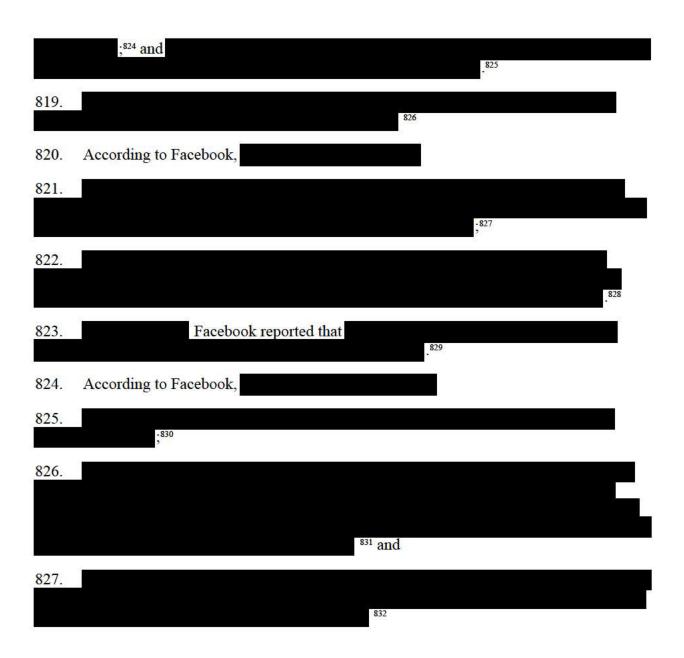
⁸¹⁹ Ex. 73 at 16 (Apr. 29, 2022 resp. to Second Mar. 17, 2022 request 2).

⁸²⁰ Ex. 30 at 3 (Jan. 21, 2022 resp. to Dec. 2, 2021 request 2).

⁸²¹ Ex. 30 at 3 (Jan. 21, 2022 resp. to Dec. 2, 2021 request 2).

⁸²² Ex. 30 at 3 (Jan. 21, 2022 resp. to Dec. 2, 2021 request 2).

⁸²³ Ex. 30 at 3 (Jan. 21, 2022 resp. to Dec. 2, 2021 request 2).



⁸²⁴ Ex. 30 at 3 (Jan. 21, 2022 resp. to Dec. 2, 2021 request 2).

⁸²⁵ Ex. 30 at 3 (Jan. 21, 2022 resp. to Dec. 2, 2021 request 2).

⁸²⁶ Ex. 30 at 3 (Jan. 21, 2022 resp. to Dec. 2, 2021 request 2).

⁸²⁷ Ex. 30 at 3 (Jan. 21, 2022 resp. to Dec. 2, 2021 request 2).

⁸²⁸ Ex. 30 at 3 (Jan. 21, 2022 resp. to Dec. 2, 2021 request 2).

⁸²⁹ Ex. 30 at 3 (Jan. 21, 2022 resp. to Dec. 2, 2021 request 2). 830 Ex. 30 at 4 (Jan. 21, 2022 resp. to Dec. 2, 2021 request 2).

⁸³¹ Ex. 30 at 4 (Jan. 21, 2022 resp. to Dec. 2, 2021 request 2).

⁸³² 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.⁸³³ 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.⁸³⁴
- 829. Access to Facebook Intern System Access may also provide access to Covered Information.⁸³⁵
- 830. In its April 29, 2022, response, Facebook stated that, between January 21, 2022 and March 24, 2022, Facebook identified "learners" as past due for the 2021 Annual Privacy Training. 836
- 831. In its April 29, 2022, response, Facebook stated that, of the "learners" who did not complete the 2021 Annual Privacy Training by January 21, 2022, were full-time employees and were Contingent Workers.⁸³⁷
- 832. In its April 29, 2022, response, Facebook stated
- 833. In its April 29, 2022, response, Facebook stated that, of the past-due "learners," completed the 2021 Annual Privacy Training between January 22, 2022, and March 24, 2022, leaving learners who did not complete the 2021 Annual Privacy Training by March 24, 2022.839
- 834. In its April 29, 2022, response, Facebook stated that, of the learners who were past due on the 2021 Annual Privacy Training as of March 24, 2022, are full-time employees with Facebook Intern System Access on a leave of absence during the pendency of the 2021 Annual Privacy Training.⁸⁴⁰
- 835. In its April 29, 2022, response, Facebook stated, of the 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, employees "likely had access to Covered Information as part of their job responsibilities;"

⁸³³ Ex. 30 at 9 n.7 (Jan. 21, 2022 resp. to Dec. 2, 2021 request 1).

⁸³⁴ Ex. 30 at 9 n.7 (Jan. 21, 2022 resp. to Dec. 2, 2021 request 1).

⁸³⁵ Ex. 30 at 9 n.7 (Jan. 21, 2022 resp. to Dec. 2, 2021 request 1).

⁸³⁶ Ex. 73 at 18 (Apr. 29, 2022 resp. to Mar. 24, 2022, request 8).

⁸³⁷ Ex. 73 at 18 (Apr. 29, 2022 resp. to Mar. 24, 2022 request 8).

⁸³⁸ Ex. 73 at 19 (Apr. 29, 2022 resp. to Mar. 24, 2022 request 8).

⁸³⁹ Ex. 73 at 18 (Apr. 29, 2022 resp. to Mar. 24, 2022 request 8), 23-25 (

⁸⁴⁰ Ex. 73 at 19 (Apr. 29, 2022 resp. to Mar. 24, 2022 request 8).

⁸⁴¹ Ex. 73 at 19 (Apr. 29, 2022 resp. to Mar. 24, 2022 request 8).

| | In its April 29, 2022, response, Facebook stated that, of the learners who were on the 2021 Annual Privacy Training as of March 24, 2022, are Contingent Work from have Facebook Intern System Access. ⁸⁴² | _ |
|---|--|-------------------|
| - | of these Contingent Workers who were past due on the 2021 Annual Privating and "likely had access to Covered Information of their job responsibilities;" Facebook granted this Contingent Worker an extension we of absence. ⁸⁴³ | on as |
| 838. | In its April 29, 2022, response, Facebook stated | |
| | 844 | 1 23 ² |
| 839. | As of November 8, 2021, Facebook reported that it had set up a | |
| traini | to ensure that new hires complete the New Hire ing. 845 | Privacy |
| 840. | , Facebook reported that | |
| | 846 | |
| 841. | 847 | |
| es et a | • . | |
| 842. | 848 | |
| 843. | 849 | 73 |
| 844. | Facebook reported on | |
| | | |
| | 50 | |
| 845. | 851 | |
| | | |
| 843 Ex. 844 Ex. 845 Ex. 846 Ex. 847 Ex. | . 73 at 19 (Apr. 29, 2022 resp. to Mar. 24, 2022 request 8) 73 at 19 (Apr. 29, 2022 resp. to Mar. 24, 2022 request 8) 73 at 19 (Apr. 29, 2022 resp. to Mar. 24, 2022 request 8) 30 at 4 (Jan. 21, 2022 resp. to Dec. 2, 2021 request 4) 30 at 4 (Jan. 21, 2022 resp. to Dec. 2, 2021 request 4) 30 at 4 (Jan. 21, 2022 resp. to Dec. 2, 2021 request 4) 30 at 4 (Jan. 21, 2022 resp. to Dec. 2, 2021 request 4) 30 at 4 (Jan. 21, 2022 resp. to Dec. 2, 2021 request 4). | |
| ⁸⁴⁹ Ex. ⁸⁵⁰ Ex. | . 30 at 4 (Jan. 21, 2022 resp. to Dec. 2, 2021 request 4). . 30 at 4 (Jan. 21, 2022 resp. to Dec. 2, 2021 request 4). | |
| 851 Ev | 30 at 5 (Ian 21 2022 resp. to Dec. 2 2021 request 4) | |

| 846. | Facebook reported that |
|--|--|
| | 852 |
| 847. | Facebook also reported that |
| | 77853 |
| 848. | Facebook also reported that |
| 849. | Additionally, Facebook stated |
| | In its April 29, 2022, response, Facebook stated that, during the period from January 13, to March 24, 2022, personnel were marked as one or more days past due for the New Privacy Training. ⁸⁵⁶ |
| 851. the Ne Work | In its April 29, 2022, response, Facebook stated that, of the ew Hire Privacy Training, are full-time employees and are Contingent ers. 857 |
| 852. person Traini | In its April 29, 2022, response, Facebook stated that, as of March 24, 2022, mel (full-time and Contingent Workers) remain past due on the New Hire Privacy ang. 858 |
| | In its April 29, 2022, response, Facebook stated that, of the past due on the New Privacy Training as of March 24, 2022, have Facebook Intern System Access—of are full-time employees and are Contingent Workers. ⁸⁵⁹ |
| 854. were j | In its April 29, 2022, response, Facebook stated that, of the full-time employees who past due on the New Hire Privacy Training, |
| | |
| 853 Ex. 854 Ex. 855 Ex. 856 Ex. 857 Ex. 858 Ex. | 30 at 5 (Jan. 21, 2022 resp. to Dec. 2, 2021 request 4). 30 at 5 (Jan. 21, 2022 resp. to Dec. 2, 2021 request 4). 30 at 5 (Jan. 21, 2022 resp. to Dec. 2, 2021 request 4). 30 at 5 (Jan. 21, 2022 resp. to Dec. 2, 2021 request 4). 30 at 5 (Jan. 21, 2022 resp. to Dec. 2, 2021 request 4). 73 at 19 (Apr. 29, 2022 resp. to Mar. 24, 2022 request 9). 73 at 19 (Apr. 29, 2022 resp. to Mar. 24, 2022 request 9). 73 at 20 (Apr. 29, 2022 resp. to Mar. 24, 2022 request 9). 73 at 20 (Apr. 29, 2022 resp. to Mar. 24, 2022 request 9), 26-29 (|

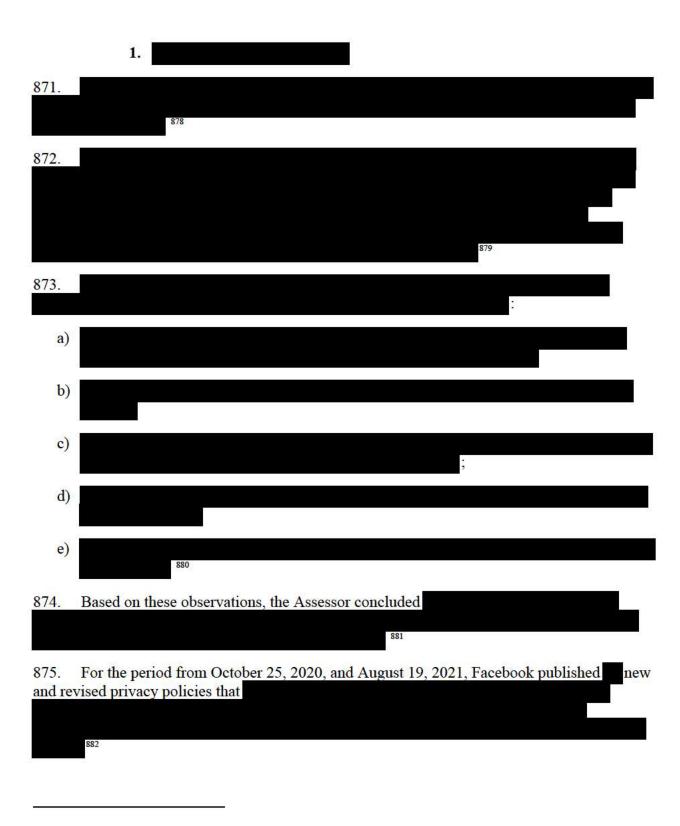
860 In its April 29, 2022, response, Facebook stated that, of the Contingent Workers who were past due on the New Hire Privacy Training, "likely had access to Covered Information as part of their job responsibilities": 2 861 In its April 29, 2022, response, Facebook stated that, of those Contingent Workers who 856. "likely" had access to Covered Information, " remain active and have since taken the New Hire Training" and "is no longer a Contingent Worker" at Facebook. 862 Facebook Intern System Access is revoked for all learners 858. 859. Since the Assessment, Facebook has introduced additional role-based training, including a training entitled "Privacy Review Process for [('PMs')]."866 861. Facebook reserves the term "mandatory" for trainings that are "actively monitored as part of a formal audit."868 860 Ex. 73 at 20 (Apr. 29, 2022 resp. to Mar. 24, 2022 request 9). 861 Ex. 73 at 20 (Apr. 29, 2022 resp. to Mar. 24, 2022 request 9). 862 Ex. 73 at 20 (Apr. 29, 2022 resp. to Mar. 24, 2022 request 9). 863 Ex. 73 at 20 (Apr. 29, 2022 resp. to Mar. 24, 2022 request 9). 864 Ex. 30 at 6 (Jan. 21, 2022 resp. Dec. 2, 2021 requests 7 and 8). 865 Ex. 30 at 6 (Jan. 21, 2022 resp. Dec. 2, 2021 requests 7 and 8). 866 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).

867 Ex. 73 at 9 (Apr. 29, 2022 resp. to Mar. 17, 2022 request 9).
 868 Ex. 73 at 9 (Apr. 29, 2022 resp. to Mar. 17, 2022 request 9).

¹⁰⁹

```
863.
864.
        Facebook also provides training to
865.
        Facebook's Data Policy team provides training and guidance to
        Facebook also offers other trainings to
867.
          874
        Facebook provides onboarding training to the Privacy Policy team that covers a wide
868.
array of topics, including Privacy Review,
        Facebook also provides training to the Privacy Technical Audit team
869.
   H. Transparency, Notice, and Choice
        Facebook developed a control domain called Transparency, Notice, and Choice,
870.
869 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).
871 Ex. 73 at 11 (Apr. 29, 2022 resp. to Mar. 17, 2022 request 10).
872 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).
874 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).
877 Ex. 4 at 123.
```



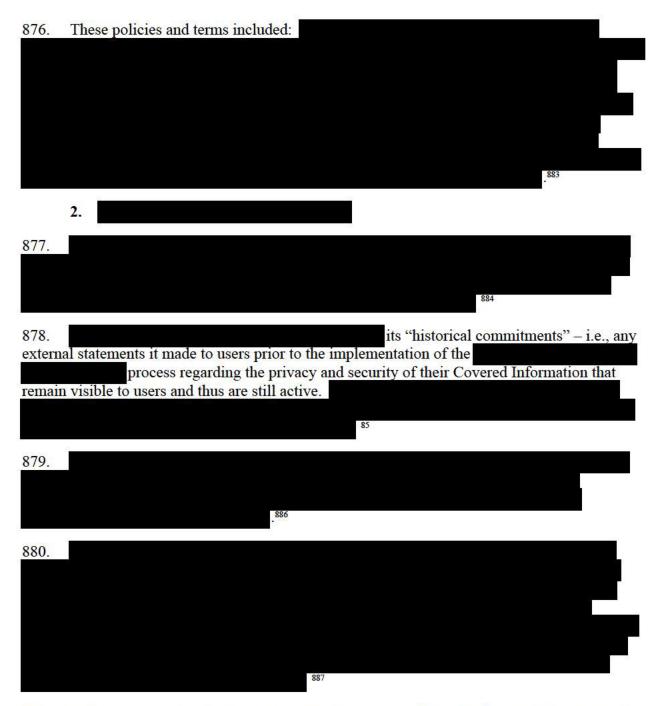
⁸⁷⁸ Ex. 4 at 123; Ex. 6 at 7-8 (Nov. 19, 2021 resp. to Aug. 19, 2021 request 18).

⁸⁷⁹ Ex. 4 at 128, 132.

⁸⁸⁰ Ex. 4 at 133.

⁸⁸¹ Ex. 4 at 133.

⁸⁸² Ex. 6 at 7-9 (Nov. 19, 2021 resp. to Aug. 19, 2021 request 18).



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

⁸⁸³ Ex. 6 at 7-9 (Nov. 19, 2021 resp. to Aug. 19, 2021 request 18).

⁸⁸⁴ Ex. 4 at 125, 129.

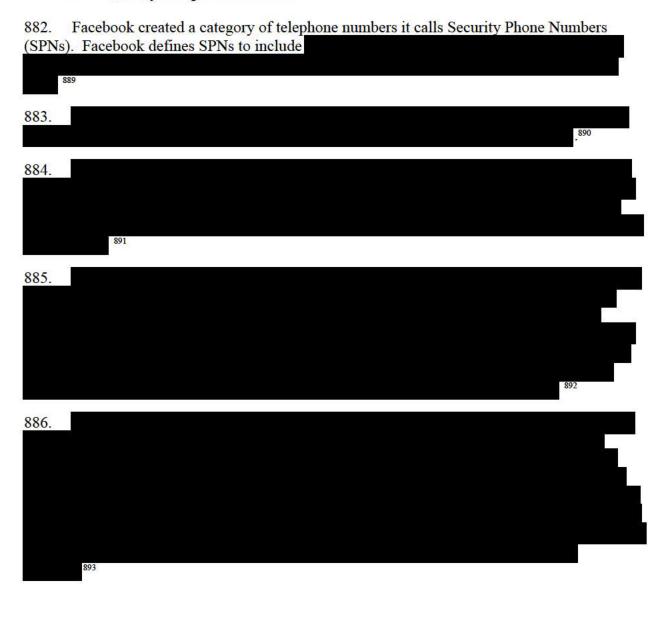
⁸⁸⁵ Ex. 4 at 125, 129.

⁸⁸⁶ Ex. 4 at 129-130.

⁸⁸⁷ 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."888

3. Security Telephone Numbers



⁸⁸⁸ Ex. 43 at 75:5-16.

⁸⁸⁹ Ex. 6 at 4 (Nov. 19, 2021 resp. to Aug 19, 2021 request 16).

⁸⁹⁰ Ex. 4 at 130.

⁸⁹¹ Ex. 6 at 4 (Nov. 19, 2021 resp. to Aug 19, 2021 request 16).

⁸⁹² Ex. 4 at 125, 131; Ex. 6 at 4 (Nov. 19, 2021 resp. to Aug 19, 2021 request 16).

⁸⁹³ Ex. 4 at 125, 131; Ex. 6 at 4 (Nov. 19, 2021 resp. to Aug 19, 2021 request 16).

```
887.
      The Assessor found
888.
      Specifically, the Assessor observed
889.
                           The Assessor concluded
890.
891.
892.
      The Assessor found that
```

⁸⁹⁴ Ex. 4 at 125.

⁸⁹⁵ Ex. 4 at 128.

⁸⁹⁶ Ex. 4 at 131. 897 Ex. 4 at 125, 131.

⁸⁹⁸ Ex. 4 at 132.

899 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. 894. The Assessor found that, The Assessor found that 896. The Assessor concluded

⁸⁹⁹ Ex. 4 at 132.

⁹⁰⁰ Ex. 4 at 132.

⁹⁰¹ Ex. 4 at 133, 215.

⁹⁰² Ex. 4 at 133.

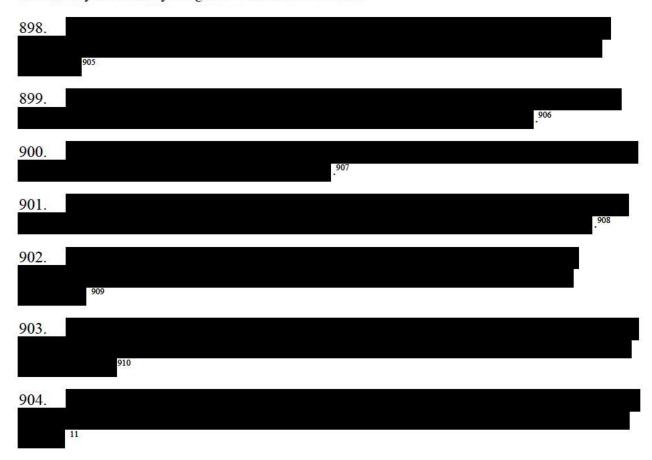
⁹⁰³ Ex. 4 at 133.

I. Compliance Monitoring, Enforcement, and Reporting

1.

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."904



⁹⁰⁴ Ex. 3, Part VII.F.

⁹⁰⁵ Ex. 70 (

⁹⁰⁶ Ex. 4 at 52; Ex. 70 at 3.

⁹⁰⁷ Ex. 4 at 52-53; Ex. 70 at 3.

⁹⁰⁸ Ex. 70 at 3.

⁹⁰⁹ Ex. 4 at 52; Ex. 70 at 3.

⁹¹⁰ Ex. 70 at 3; Ex. 4 at 52.

⁹¹¹ Ex. 70 at 3; Ex. 4 at 53.

```
905.
906.
          b)
907.
908.
909.
       The Assessor noted that
910.
911. As part of its first Privacy Risk Assessment,
```

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).

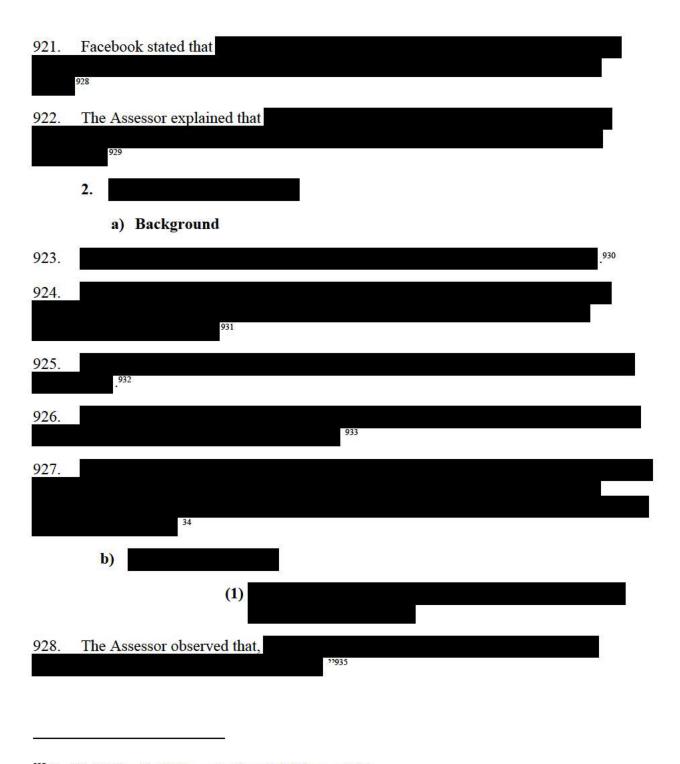
⁹¹⁵ Ex. 30 at 7 (Jan. 21, 2022 resp. to Nov. 24, 2021 request 11).

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, | | |
|---|--|--------|------|
| | | 919 | |
| 913. | The Assessor stated | | |
| 914. | The Assessor found that | 921 | |
| 915. | The Assessor determined that | | 922 |
| 916. | The Assessor also observed that, | | .923 |
| | (3) | | |
| 917. | The Assessor observed that | .**924 | |
| 918. | The Assessor also observe | | |
| 919. | The Assessor explained that | | |
| 920. | The Assessor added that | | 927 |
| | | | |
| 919 Ex. 4 920 Ex. 4 921 Ex. 4 922 Ex. 4 923 Ex. 4 924 Ex. 4 925 Ex. 4 926 Ex. 4 927 Ex. 4 | 4 at 59. 4 at 59. 4 at 59. 4 at 60. 4 at 60. 4 at 60. 4 at 60. | | |



⁹²⁸ Ex. 30 at 8 (Jan. 21, 2022 resp. to Nov. 24, 2021 request 12).

⁹²⁹ Ex. 4 at 61.

⁹³⁰ Ex. 29 (Internal Access Abuse

Employment Law Runbook).

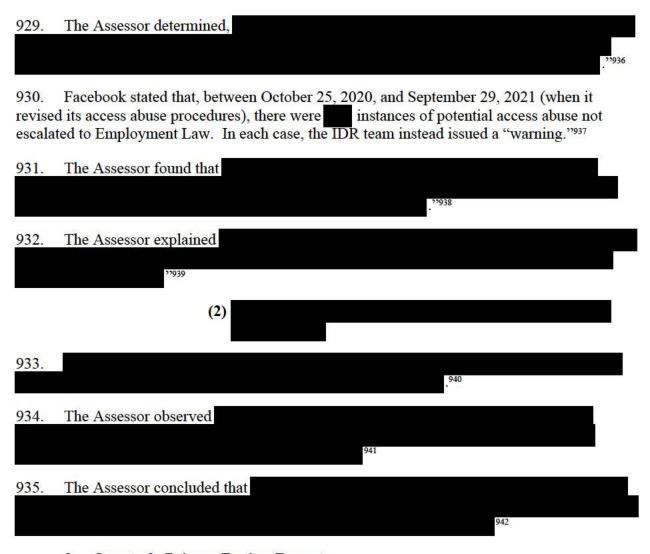
⁹³¹ Ex. 29 at 19.

⁹³² Ex. 4 at 61 & n.44.

⁹³³ Ex. 29 at 19.

⁹³⁴ Ex. 71 at 3-4.

⁹³⁵ Ex. 4 at 61.



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

⁹³⁶ Ex. 4 at 61; Ex. 76 at 8 (Apr. 15, 2022 resp. to Mar. 17, 2022 (Set 11) request 2).

⁹³⁷ Ex. 76 at 8 (Apr. 15, 2022 resp. to Mar. 17, 2022 (Set 11) request 2).

⁹³⁸ Ex. 4 at 61.

⁹³⁹ Ex. 4 at 61; see also Exs. 29, 71.

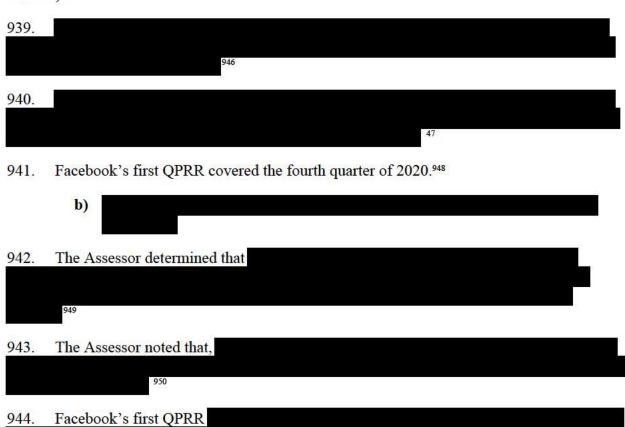
⁹⁴⁰ Ex. 4 at 61.

⁹⁴¹ Ex. 4 at 61.

⁹⁴² 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.⁹⁴³

- 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.⁹⁴⁴
- 938. Facebook created a "Quarterly Privacy Review Report Preparation Process" (QPRR Process).945



⁹⁴³ Ex. 3 at 10.

⁹⁴⁴ Ex. 3 at 10.

⁹⁴⁵ Ex. 72.

⁹⁴⁶ Ex. 4 at 62; Ex. 72 at 7 ("Step 1").

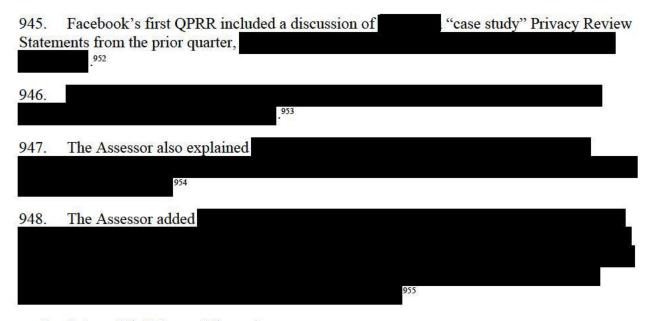
⁹⁴⁷ Ex. 4 at 62; Ex. 72 at 7 ("Step 2").

⁹⁴⁸ Ex. 24 (Quarterly Privacy Review Report (Q4 2020)).

⁹⁴⁹ Ex. 4 at 62; see also Ex. 24.

⁹⁵⁰ Ex. 4 at 62; see also Ex. 24 at 5-7.

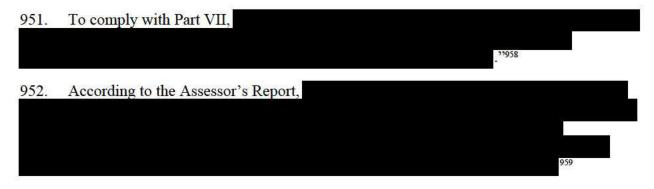
⁹⁵¹ Ex. 24.



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 "956
- 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."957



⁹⁵² Ex. 24 at 9-12; Ex. 4 at 62-63.

⁹⁵³ Ex. 14 at 15 (Jan. 11, 2022 resp. to Nov. 24 2021 request 8).

⁹⁵⁴ Ex. 4 at 63.

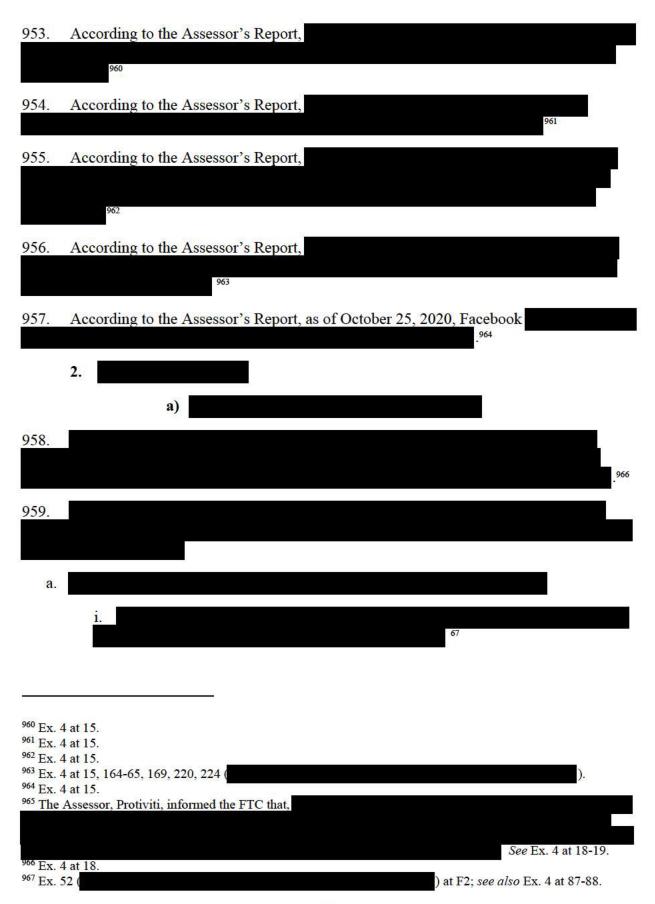
⁹⁵⁵ Ex. 4 at 63.

⁹⁵⁶ Ex. 3, Part VII.A.

⁹⁵⁷ Ex. 3 Part VII.E.

⁹⁵⁸ Ex. 4 at 15.

⁹⁵⁹ Ex. 4 at 15.



```
111
 vi. The Assessor determined that
  According to the Assessor,
    The Assessor noted that,
the Assessor found that
```

⁹⁶⁸ Ex. 52 at F2.

⁹⁶⁹ Ex. 52 at F2.

⁹⁷⁰ Ex. 52 at F2.

⁹⁷¹ Ex. 51 at 8 (Feb. 18, 2022 resp. to Jan. 10, 2022 request 9.i).

⁹⁷² Ex. 52 at F2; see also Ex. 4 at 87-88.

⁹⁷³ Ex. 52 at F31.

⁹⁷⁴ Ex. 52 at F31.

```
iv. The Assessor concluded that
          v. In its February 18, 2022, response, Facebook
          vi. In its February 18, 2022, response, Facebook also stated that,
       The Assessor identified
960.
              The Assessor noted that
           ii. The Assessor also noted
                      980
           iii. In its January 21, 2022, response, Facebook agreed that the specific term
                                                          which is the formal name of Safeguard
<sup>975</sup> 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.

did not appear in the Safeguard Effectiveness Testing Playbook.981 i. The Assessor noted that ii. The Assessor noted that, iii. The Assessor also observed that iv. In its February 18, 2022, response, Facebook i. The Assessor found ii. While the Assessor recognized that

⁹⁸¹ Ex. 51 at 10 (Feb. 18, 2022 resp. to Jan. 10, 2022 request 9.iii).

⁹⁸² Ex. 52 at F12.

⁹⁸³ Ex. 52 at F12.

⁹⁸⁴ Ex. 52 at F12; see also Ex. 4 at 60.

⁹⁸⁵ Ex. 51 at 11 (Feb. 18, 2022 resp. to Jan. 10, 2022 request 9.iv).

⁹⁸⁶ Ex. 52 at F25.

⁹⁸⁷ Ex. 52 at F25.

```
iii. Further, the Assessor foun
iv. The Assessor also stated
           the Facebook playbook stated,
vi. In its February 18, 2022, response, Facebook
vii. In its February 18, 2022, response, Facebook
          In its February 18, 2022, response, Facebook
viii.
ix. In its February 18, 2022, response, Facebook
```

⁹⁸⁸ Ex. 52 at F25.

⁹⁸⁹ Ex. 52 at F34.

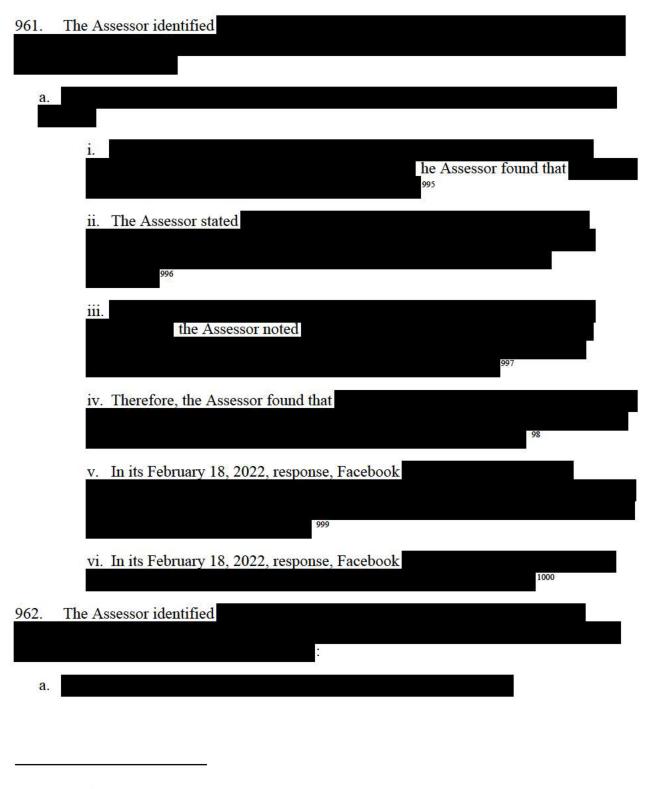
⁹⁹⁰ Ex. 52 at F34.

⁹⁹¹ Ex. 51 at 12 (Feb. 18, 2022 resp. to Jan. 10, 2022 requests 9.v and 9.vi).

⁹⁹² Ex. 51 at 12 (Feb. 18, 2022 resp. to Jan. 10, 2022 requests 9.v and 9.vi).

⁹⁹³ Ex. 51 at 13 (Feb. 18, 2022 resp. to Jan. 10, 2022 requests 9.v and 9.vi).

⁹⁹⁴ Ex. 51 at 13 (Feb. 18, 2022 resp. to Jan. 10, 2022 requests 9.v and 9.vi).



⁹⁹⁵ Ex. 52 at F29.

⁹⁹⁶ Ex. 52 at F29.

⁹⁹⁷ Ex. 52 at F29.

⁹⁹⁸ Ex. 52 at F29.

⁹⁹⁹ Ex. 51 at 13 (Feb. 18, 2022 resp. to Jan. 10, 2022 request 9.vii).

¹⁰⁰⁰ Ex. 51 at 14 (Feb. 18, 2022 resp. to Jan. 10, 2022 request 9.vii).

```
ii. However, the Assessor noted that
           i. The Assessor found that
           ii. The Assessor also found that,
       The Assessor identified
963.
a.
           ii. The Assessor found that
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.

```
ii. For example, Facebook
               1008
iii. During testing, the Assessor noted
iv. Specifically, the Assessor noted that
vi. The Assessor concluded that
vii.
viii.
```

```
1008 Ex. 5 at 32 (Oct. 29, 2021 resp. to Sept. 5, 2021 request 11); see also Ex. 4 at 197 (
), 200 (
).

1009 Ex. 4 at 161.

1010 Ex. 4 at 161.

1011 Ex. 4 at 161.

1012 Ex. 4 at 161.

1013 Ex. 5 at 32 (Oct. 29, 2021 resp. to Sept. 5, 2021 request 11).

1014 Ex. 5 at 32 (Oct. 29, 2021 resp. to Sept. 5, 2021 request 11).

1015 Ex. 10 at 6 (Oct. 15, 2021 resp. to Sept. 1, 2021 request 13).
```

```
The Assessor identified
964.
          i. The Assessor found that the
       As part of its privacy program, Facebook documented
965.
      During the assessment, Facebook
967.
968.
```

 $^{^{1016}}$ Ex. 10 at 6 (Oct. 15, 2021 resp. to Sept. 1, 2021 request 13). 1017 Ex. 4 at 19; $see\ also$ Ex. 52 at F19.

¹⁰¹⁸ Ex. 4 at 162; Ex. 5 at 33 (Oct. 29, 2021 resp. to Sept. 1, 2021 request 14).

¹⁰¹⁹ Ex. 4 at 162; Ex. 5 at 33 (Oct. 29, 2021 resp. to Sept. 1, 2021 request 14). ¹⁰²⁰ Ex. 5 at 34 (Oct. 29, 2021 resp. to Sept. 1, 2021 request 14).

¹⁰²¹ Ex. 4 at 19.

```
969.
       The Assessor reported that
970.
       The Assessor identified
          i. During the Assessor's interviews,
                221023
          ii. The Assessor stated
          iii. However, during the Assessor's review,
          iv.
          i. The Assessor noted that,
          ii. In its February 18, 2022, response, Facebook
```

¹⁰²² Ex. 4 at 19.

¹⁰²³ Ex. 53 at F2.

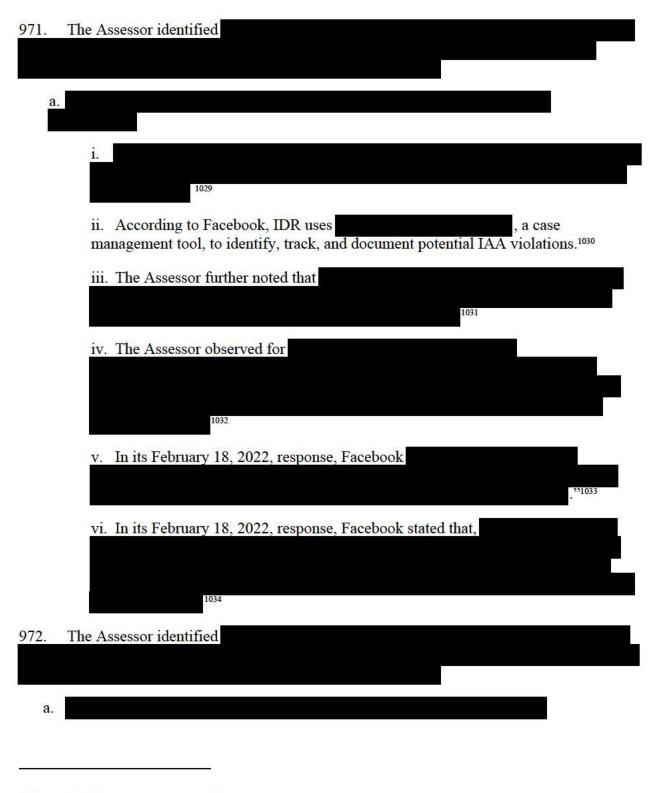
¹⁰²⁴ Ex. 53 at F2.

¹⁰²⁵ Ex. 53 () at F2; see also Ex. 4 at 80.

¹⁰²⁶ Ex. 53 at F2.

¹⁰²⁷ Ex. 53 at F3.

¹⁰²⁸ Ex. 51 at 15 (Feb. 18, 2022 resp. to Jan. 10, 2022 request 10.ii).



¹⁰²⁹ Ex. 53 at F14; see also Ex. 4 at 19.

¹⁰³⁰ Ex. 51 at 16 n.23 (Feb. 18, 2022 resp. to Jan. 10, 2022, request 10.iii).

¹⁰³¹ Ex. 53 at F14.

¹⁰³² Ex. 53 at F14.

¹⁰³³ Ex. 51 at 16 (Feb. 18, 2022 resp. to Jan. 10, 2022 request 10.ii).

¹⁰³⁴ Ex. 51 at 16 (Feb. 18, 2022 resp. to Jan. 10, 2022 request 10.ii).

The Assessor found that 1035 ii. The Assessor found that, iii. Furthermore, the Assessor found iv. In its February 18, 2022, response, Facebook 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

The Assessor found that 1040

ii. The Assessor found that,

¹⁰³⁵ Ex. 53 at F9.

¹⁰³⁶ Ex. 53 at F9; see also Ex. 4 at 24-25.

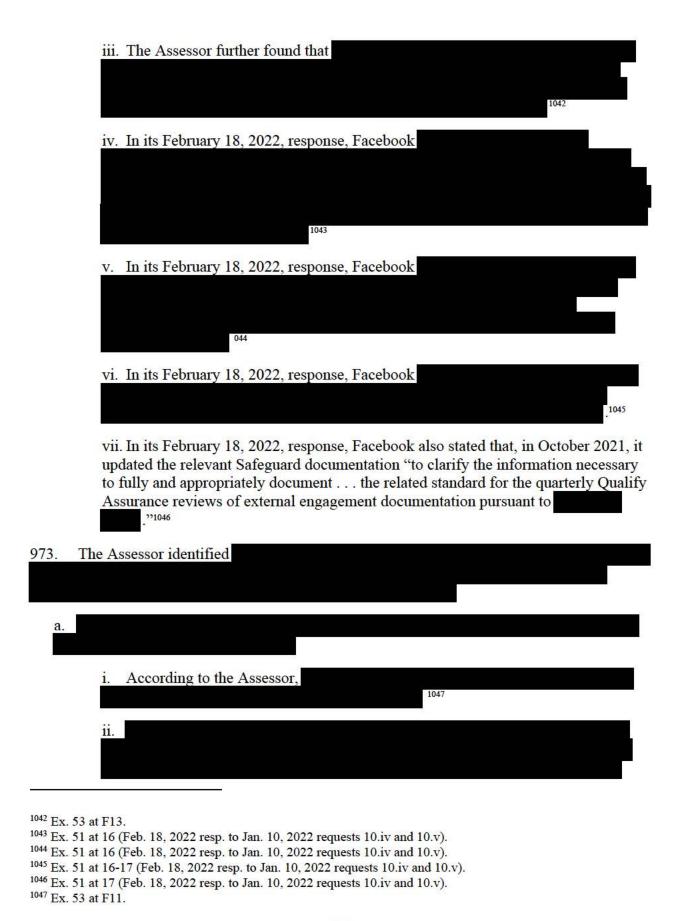
¹⁰³⁷ Ex. 53 at F9; see also Ex. 4 at 24-25.

¹⁰³⁸ Ex. 51 at 16 (Feb. 18, 2022 resp. to Jan. 10, 2022 requests 10.iv and 10.v).

¹⁰³⁹ Ex. 51 at 17 (Feb. 18, 2022 resp. to Jan. 10, 2022 requests 10.iv and 10.v).

¹⁰⁴⁰ Ex. 53 at F13; see also Ex. 4 at 24-25.

¹⁰⁴¹ Ex. 53 at F13; see also Ex. 4 at 24-25.



```
iii. In its February 18, 2022, response, Facebook
i. The Assessor noted that
ii. According to the Assessor,
iii
 v. According to the Assessor,
```

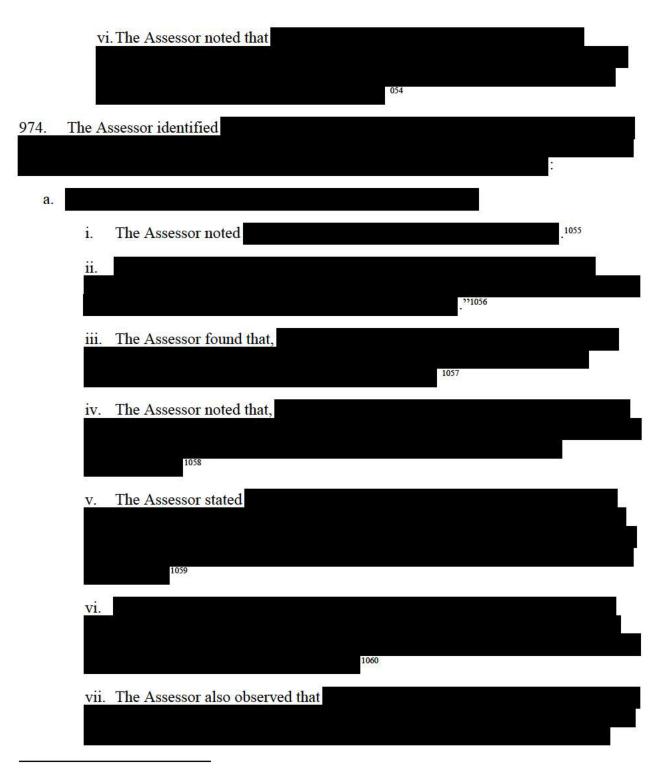
¹⁰⁴⁸ Ex. 53 at F11.

 $^{^{1049}\,\}mathrm{Ex.}\ 51$ 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.



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.

```
viii.
ix. The Assessor noted that
x. In its February 18, 2022, response, Facebook
xi. In its February 18, 2022, response, Facebook
           1065
xii. In its February 18, 2022, response, Facebook
xiii. In its February 18, 2022, response, Facebook stated
```

¹⁰⁶¹ Ex. 53 at F26.

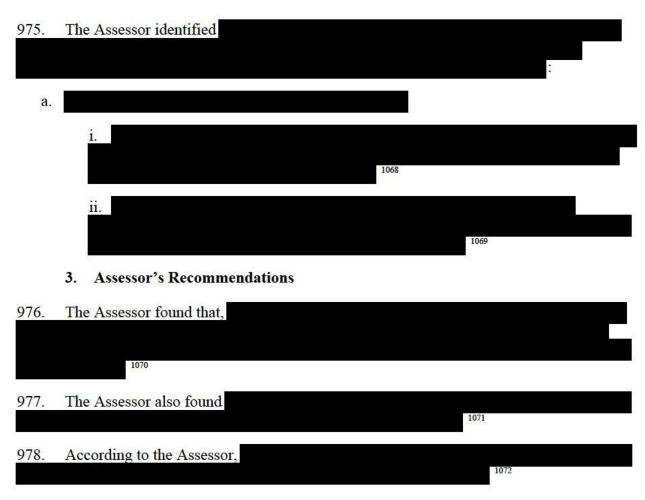
¹⁰⁶² Ex. 53 at F26.

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).



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." ¹⁰⁷³

¹⁰⁶⁸ Ex. 4 at 19; see also Ex. 53 at F29.

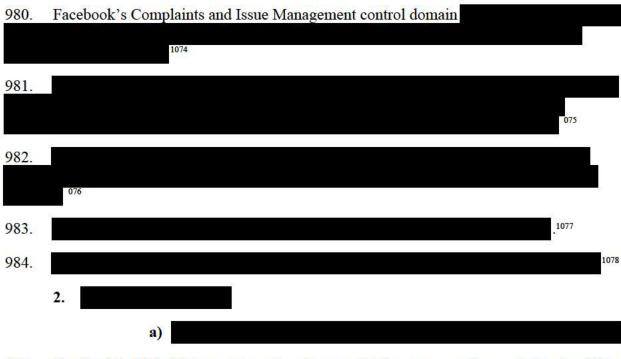
¹⁰⁶⁹ Ex. 4 at 19; see also Ex. 53 at F29.

¹⁰⁷⁰ Ex. 4 at 19.

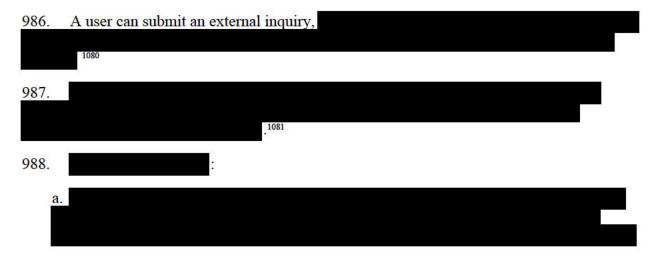
¹⁰⁷¹ Ex. 4 at 19.

¹⁰⁷² Ex. 4 at 19.

¹⁰⁷³ Ex. 3, Part VII.E.



985. Facebook's Global Privacy Operations team maintains a process for receiving, handling, resolving, monitoring, and reporting external inquiries regarding Facebook's privacy practices. 1079



¹⁰⁷⁴ Ex. 4 at 31.

¹⁰⁷⁵ Ex. 4 at 31.

¹⁰⁷⁶ Ex. 4 at 31.

¹⁰⁷⁷ Ex. 4 at 31; see also Ex. 4 at 163, 169-170 (relating to the Complaints and Issue Management Control Domain).

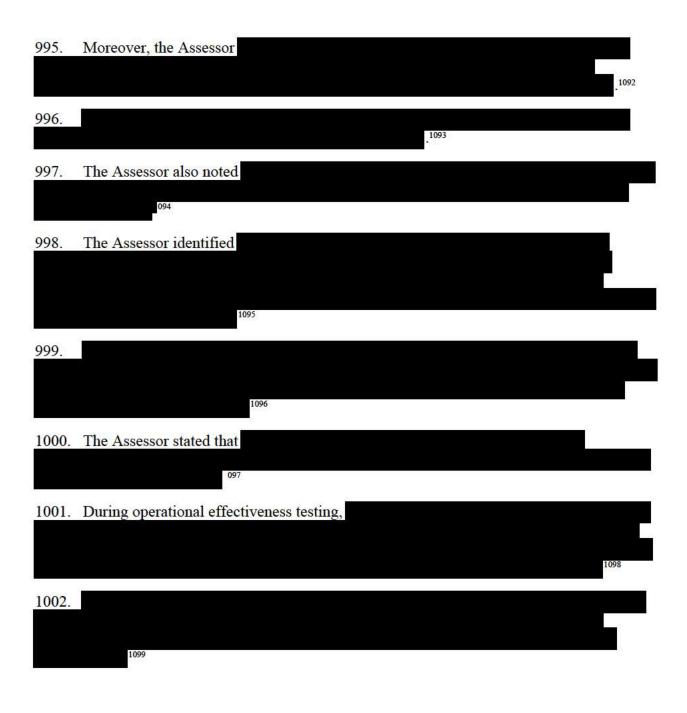
¹⁰⁷⁸ Ex. 4 at 31.

¹⁰⁷⁹ Ex. 4 at 31.

¹⁰⁸⁰ Ex. 4 at 31.

¹⁰⁸¹ Ex. 4 at 36.

| | .**1082 | | | |
|---|---|--------------|--|--|
| b. | 1083 | | | |
| ŧ | | | | |
| c. | 1084 and | | | |
| d. | 1085 | | | |
| 989. confirm | med that | the Assessor | | |
| 990. | According to the Assessor, | 37 | | |
| 991. | According to the Assessor, | 087 | | |
| | 088 | | | |
| 992. | According to the Assessor, | 1089 | | |
| 993. | During the Assessment Period, | | | |
| 994. | Based on its testing, the Assessor determined | | | |
| | 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. | | | | |



¹⁰⁹² Ex. 4 at 37.

¹⁰⁹³ Ex. 4 at 37.

¹⁰⁹⁴ Ex. 4 at 37.

¹⁰⁹⁵ Ex. 4 at 37.

¹⁰⁹⁶ Ex. 4 at 37.

¹⁰⁹⁷ Ex. 4 at 37.

¹⁰⁹⁸ Ex. 4 at 37.

¹⁰⁹⁹ Ex. 4 at 37.

| 1003. | Facebook also acknow | | | | |
|--|-------------------------|--|-----------|------|------|
| 55. | | 1100 | | | |
| 1004. | According to the Asse | ssor, | | | |
| | 100 110 3805 110 46 | 111 = 200 | | | 1101 |
| 1005. | Was a second | | | | |
| 1003. | | | | | |
| | | | | | |
| | | 1102 | | | |
| | b) | | | | |
| 1006 | A 1' | Author Cons. or | | | |
| 1006. | According to the Asse | ssor, | | 103 | |
| | | 8 | | | |
| 1007. | The Assessor also state | ed that | | | ra |
| | | | | | |
| | | | | | 4 |
| | | | 104 | | |
| | 18 8 | ST) ST (ST (ST (ST (ST (ST (ST (ST (ST (ST | 25-200 20 | | |
| 1008. | During its assessment, | the Assessor iden | tified | | - |
| | | | | 105 | 0 |
| | | | | 20 | |
| 1009. | | | | | |
| | 106 | | | | |
| 1010. | | | | | |
| 1010. | | | | | |
| | 107 | | | | |
| 1011 | | | | | |
| 1011. | - | | | | St. |
| | | | | 1108 | |
| 1 | | | | | |
| | | | | | |
| | | | | | |
| | | | | | |
| 1100 Ex. | 4 at 37. | | | | |
| ¹¹⁰¹ Ex. ¹¹⁰² Ex. | 4 at 38. | | | | |
| ¹¹⁰³ Ex. | 4 at 38. | | | | |
| ¹¹⁰⁴ Ex. 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, | |
|-------|------------------------------|-------|
| | 1109 | |
| | c) | |
| 1013. | 1110 | |
| 1014. | The Assessor observed | |
| .11 | 111 115 | |
| 1015. | The Assessor noted | |
| ο. | | 1112 |
| 1016. | The Assessor determined | .1113 |
| 1017. | According to the Assessor, | |
| | 114 | |
| 1018. | The Assessor also determined | |
| | | 1115 |
| 1019. | The Assessor observed | |
| | | 1116 |

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.

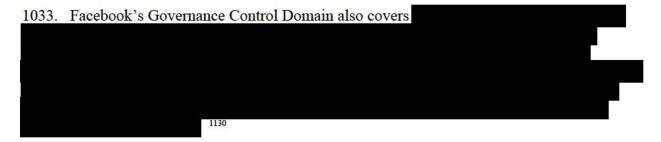
| 1020. | As a result, the Assessor noted | | |
|---------------------|---------------------------------|-------|------------|
| | | | |
| | | 1117 | |
| | d) | y | |
| | 3, | | |
| 1021. | According to the Assessor, | | |
| | | | |
| | | | |
| | | | |
| | 118 | | |
| | | | |
| 1022. | The Assessor noted | | |
| | | | |
| | 1119 | | |
| 1023 | The Assessor | | <i>5</i>) |
| 1025. | The Assessor | | |
| | | | |
| | 1120 | | |
| 1004 | i i | | |
| 1024. | | | |
| | | | 3 |
| | | | 12 |
| | 7 | | 10 |
| 1025. | | | 79 |
| | | 1122 | |
| | | | |
| 1026. | The Assessor noted | | |
| | | | |
| | 1123 | | |
| 1027. | | | |
| 1027. | | .1124 | 5 |
| | | | |
| | | | |
| | | | |
| 1117 - | A CORNE | | |
| 1118 Ex. | 4 at 38. 4 at 39. | | |
| 1119 Ex. | 4 at 39. | | |
| 1120 Ex. | 4 at 39. | | |
| 1122 Ex. | 4 at 39. 4 at 39. | | |
| 1123 Ex. | 4 at 39. | | |
| ¹¹²⁴ Ex. | 4 at 39. | | |

1028.

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. 1126
- 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." 127
- 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." ¹¹²⁸
- 1032. To comply with these Order provisions, Facebook established the Compensating, Nominating, and Governance Committee, as well as the Privacy Committee. 1129



1034. Additionally, Facebook engaged external experts on a variety of different topics, including privacy, to comply with Part VII.I of the Order.¹¹³¹

¹¹²⁵ Ex. 4 at 39.

¹¹²⁶ Ex. 4 at 20.

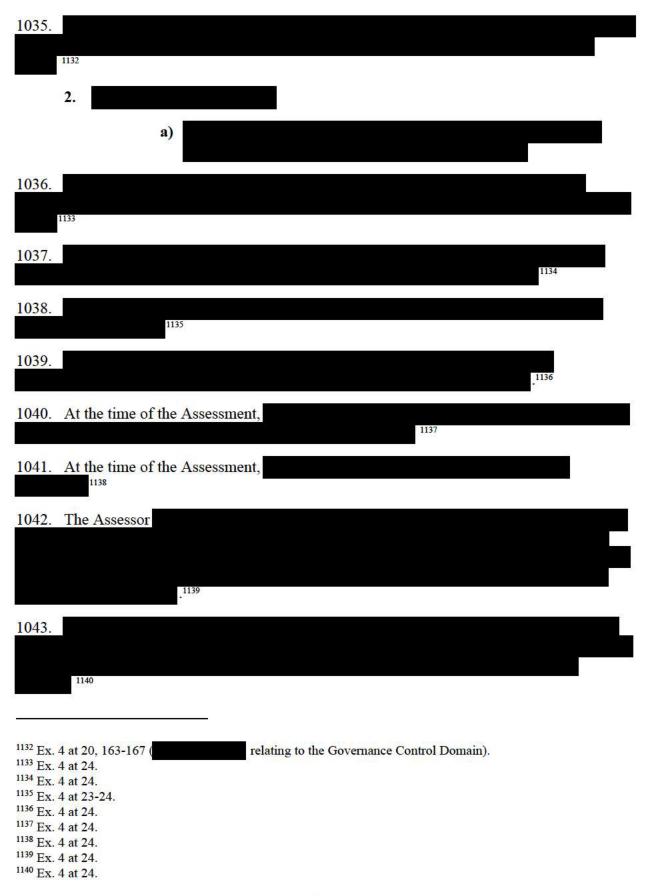
¹¹²⁷ Ex. 3, Part VII.E.

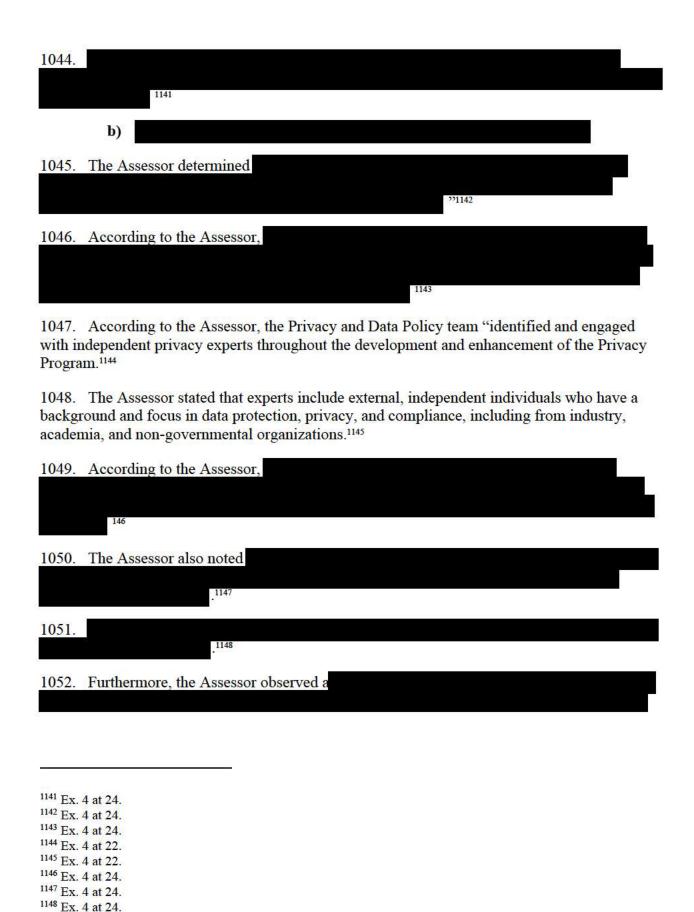
¹¹²⁸ Ex. 3, Part VII.I.

¹¹²⁹ Ex. 4 at 20.

¹¹³⁰ Ex. 4 at 20.

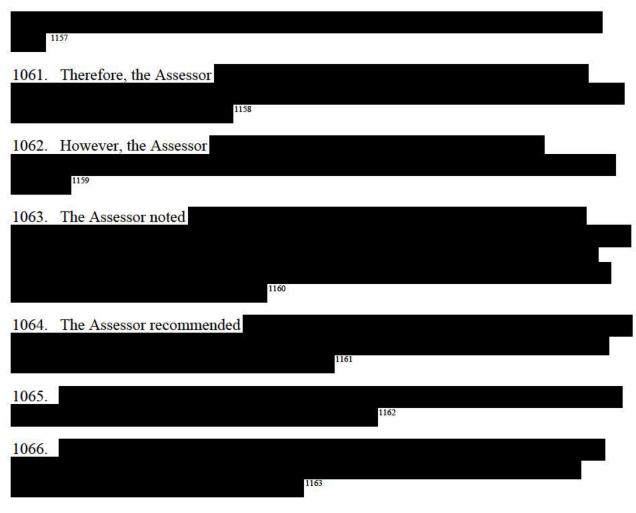
¹¹³¹ Ex. 4 at 22.





| | | | 1149 | |
|-------|-------------------------------------|-------|------|------|
| 1053. | The Assessor stated that, | | 2011 | |
| | | .1150 | | |
| 1054. | During the Assessment, the Assessor | | | |
| | | | | 1151 |
| 1055. | However, the Assessor | | 1152 | |
| 1056. | The Assessor also noted that | | | |
| | 1153 | | | |
| 1057. | The Assessor | | | |
| | 1154 | | | 16 |
| 1058. | | | | |
| | | | | 1155 |
| | c) | | | |
| 1059. | According to the Assessor, | | | |
| | 156 | | | |
| 1060. | According to the Assessor, | | | |

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.



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." 1164

¹¹⁵⁷ Ex. 4 at 25.

¹¹⁵⁸ Ex. 4 at 25.

¹¹⁵⁹ Ex. 4 at 25.

¹¹⁶⁰ Ex. 4 at 25.

¹¹⁶¹ Ex. 4 at 25.

¹¹⁶² Ex. 4 at 25.

¹¹⁶³ Ex. 4 at 25.

¹¹⁶⁴ 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."¹¹⁶⁵

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."1166
- 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." 1167
- 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." ¹¹⁶⁸
- 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."¹¹⁶⁹
- 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."¹¹⁷⁰
- 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

¹¹⁶⁵ Ex. 3, Part I.

¹¹⁶⁶ Ex. 66 (Mar. 21, 2018 Newsroom Post).

¹¹⁶⁷ Ex 66

¹¹⁶⁸ Ex. 65 (Facebook Newsroom Posts, Ex. 4 of Respondent's July 14, 2020 response to FTC demand) at FB-FTC-EXPAPPS-00000017 ("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. . . .").

¹¹⁶⁹ Ex. 65 at FB-FTC-EXPAPPS-000000018.

¹¹⁷⁰ 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.¹¹⁷¹

1075. Facebook Login allows Facebook users to create accounts on third-party apps by authenticating with their Facebook account credentials.¹¹⁷²

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. 1173

1077. Apps can use Facebook Login to access Facebook users' data. 1174

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."¹¹⁷⁵

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." ¹¹⁷⁶

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."

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

¹¹⁷¹ 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 24th."); Ex. 35 (July 28, 2021 White Paper Submitted by Facebook) at 2, 5.

1172 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).

¹¹⁷³ Ex. 35 at 5.

¹¹⁷⁴ Ex. 62 (Facebook Login Overview, https://developers facebook.com/docs/facebook-login/overview/) at 1.

¹¹⁷⁵ Ex. 54 at FB-FTC-EXPAPPS-000000004.

¹¹⁷⁶ Ex. 54 at FB-FTC-EXPAPPS-000000008.

¹¹⁷⁷ 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." 1178

1082. The language in the Help Center article took effect in April 2018 and remains in effect through today, as of July 14, 2020.¹¹⁷⁹

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."1180

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..." 1181

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)."1182

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." ¹¹⁸³

¹¹⁷⁸ Ex. 55 (Help Center Screenshot, in Facebook, 2020-07-14 Response to Demand re Expired Apps) at FB-FTC-EXPAPPS-000000009. (emphasis added).

¹¹⁷⁹ Ex. 55 at FB-FTC-EXPAPPS-000000009 (emphasis added).

¹¹⁸⁰ Ex. 55 at FB-FTC-EXPAPPS-000000009 (emphasis added).

¹¹⁸¹ Ex. 56 (Facebook Data Policy, in Facebook 2020-07-14 Response to Demand re Expired Apps) at FB-FTC-EXPAPPS-00000014.

¹¹⁸² Ex. 56 at FB-FTC-EXPAPPS-000000013 (Data Policy revised as of April 19, 2018) (emphasis added).

¹¹⁸³ 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.¹¹⁸⁴
- 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."1185
- 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." 1186
- 1090. The "Apps and Websites" module in Privacy Checkup did not show the user's Expired Apps. 1187
- 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." 1188
- 1092. Privacy Checkup on the mobile version of Facebook during the first half of 2020 did not show the user's Expired Apps. 1189

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. 1190
- 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

 $^{^{1184}}$ Ex. 64 at FB-FTC-EXPAPPS-000000047 (Privacy Checkup landing screen on desktop version from January 2020 to June 2020).

¹¹⁸⁵ 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).

¹¹⁸⁶ 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).

¹¹⁸⁷ 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).

¹¹⁸⁸ 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).

¹¹⁸⁹ 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).

¹¹⁹⁰ 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."1191

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. 1192

1096. Facebook had been continuing to share certain users' non-public information with Expired Apps since it launched the feature in April 2018. 1193

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."¹¹⁹⁴

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.¹¹⁹⁵

1099. The Graph API is "the interface through which third-party apps request data from Facebook's social graph." ¹¹⁹⁶

1100. In most cases, an app relies on a user's own access token to access data shared with the app by that user.¹¹⁹⁷

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.¹¹⁹⁸

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.¹¹⁹⁹

¹¹⁹² 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).

¹¹⁹¹ Ex. 34 at 155:14-20.

¹¹⁹³ 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).

¹¹⁹⁴ Ex. 65 at FB-FTC-EXPAPPS-000000040.

¹¹⁹⁵ Ex. 61 at 3; see also Ex. 35 at 6; Ex. 34 at 202:6-203:15 (describing the Expiration Check).

¹¹⁹⁶ Ex. 35 at 6.

¹¹⁹⁷ Ex. 61 at 3.

¹¹⁹⁸ 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.").

¹¹⁹⁹ 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.¹²⁰⁰
- 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. 1201
- 1105. In some instances, an app may use one user's access token to access the data of *another* user. 1202
- 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. 1203
- 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). 1204
- 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. 1205
- 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." 1206
- 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. ¹²⁰⁷

¹²⁰⁰ Ex. 61 at 3; see also Ex. 35 at 6.

¹²⁰¹ Ex, 61 at 3; see also Ex. 35 at 7-8.

¹²⁰² Ex. 61 at 3.

¹²⁰³ 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).

¹²⁰⁴ Ex. 35 at 7-8.

¹²⁰⁵ Ex. 35 at 7-8; see also Ex. 61 at 4-5.

¹²⁰⁶ Ex. 34 at 79:17-80:10; see also Ex. 61 at 4-5.

¹²⁰⁷ 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"). 1208
- 1112. 1.6 million Affected Users out of approximately 17.4 million had non-static data fields queried. 1209
- 1113. Static data fields are fields of data that a user is unlikely to change over time (such as their birthday or hometown). 1210
- 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.)¹²¹¹
- 1115. Facebook allowed apps to access nonpublic photos from 95,587 Affected Users. 1212
- 1116. Facebook allowed apps to access nonpublic feeds from 81,865 Affected Users. 1213
- 1117. Facebook allowed apps to access nonpublic friends lists from 49,106 Affected Users. 1214
- 1118. Facebook allowed apps to access nonpublic photo albums from 39,520 Affected Users. 1215
- 1119. Facebook allowed apps to access nonpublic videos from 7,574 Affected Users. 1216
- 1120. Approximately 1,300 apps received nonpublic information from Affected Users from June 12, 2019 through July 14, 2020. 1217

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. 1218
- 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." ¹²¹⁹

¹²⁰⁹ Ex. 35 at 11.

¹²⁰⁸ Ex. 35 at 11.

¹²¹⁰ Ex. 35 at 11.

¹²¹¹ Ex. 35 at 11, 13.

¹²¹² Ex. 35 at 13.

¹²¹³ Ex. 35 at 13.

¹²¹⁴ Ex. 35 at 13.

¹²¹⁵ Ex. 35 at 13. ¹²¹⁶ Ex. 35 at 13.

¹²¹⁷ Ex. 61 at 9-10; Ex. 63 (list of apps that received nonpublic information from Affected Users).

¹²¹⁸ Ex. 35 at 5.

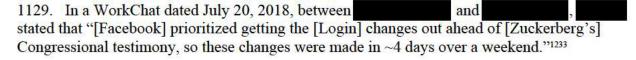
¹²¹⁹ Ex. 57 (Consumer Identity Platform + Experiences (Expired Apps 30b6 Dep. Ex. 6)); see also Ex. 34 at 63:22-23 (*** a software engineer on the Facebook Login product")

engineering work began on March 30th of 2018 and concluded on May 28th of 2018."1220 He also stated that "there was no fixed timeline, but [the product team] did want to move aggressively"1221 1124. In a document called a "team grade," which "summarizes all of the things that were done over the course of the prior six months,"1222 drafted by June 29, 2018 from to —both employees of Facebook on the Identity team in indicated that the team working on the 90-day expiration check the first half of 20181224 "needed to put up a plan and execute in very tight deadline before F8 to fulfill [Zuckerberg]'s commitment."1225 1125. In the "team grade" document drafted by stated that the 90-day expiration feature "team was mostly in 2018, from to a critical and reactive mode throughout the half [of 2018] due to many factors e.g. etc. Even though we were able to handle a few hard SEVs with the capacity we had, 1126. At the Rule 30(b)(6) deposition, Facebook's corporate designee stated that he thought Mr. was fair in characterizing the 90-day expiration feature team as being "mostly in a critical and reactive mode throughout the half [of 2018]."1228 1127. At the Rule 30(b)(6) deposition, Facebook's corporate designee stated that 1230 1128. At the Rule 30(b)(6) deposition, Facebook's corporate designee stated that "there was a strong desire within the team to move swiftly and effectively" on the 90 day expiration feature, 1231 and "[t]here definitely was a desire to have [the 90-day token expiration] and other platform changes done prior to F8."1232 1220 Ex. 34 at 70:2-3. ¹²²¹ Ex. 34 at 117:13-14. 1222 Ex. 34 at 114:18-115:3. 1223 Ex. 34 at 115:4-6 (stating that prepared the team grade in 2018). ¹²²⁴ Ex. 34 at 114:14-17. 1225 Ex. 58 (Chat Thread (Expired Apps 30b6 Dep. Ex. 12)) at FB-FTC-EXPAPPS-000010467; Ex. 34 at 113:16-114:17. 1226 "SLA" is a service-level agreement. Ex. 34 at 127:23-25. 1227 Ex. 58 at FB-FTC-EXPAPPS-000010467. ¹²²⁸ See Ex. 34 at 123:13-17 ("I do think that's a fairly fair characterization, yes."). 1229 Ex. 34 at 124:4-5.

1123. In a Rule 30(b)(6) deposition, Facebook's corporate designee, stated that "the

¹²³⁰ Ex. 34 at 124:6-13. ¹²³¹ Ex. 34 at 122:5-9. ¹²³² Ex. 34 at 122:14-18.

221239



- 1130. In a July 14, 2018, email from the 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." 1234
- 1131. In a public Facebook Newsroom post dated April 4, 2018, Schroepfer (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." 1235
- 1132. At the Rule 30(b)(6) deposition, Facebook's corporate designee stated that Schroepfer suggested a time frame of the week after April 4, 2018 for the completion the code for the 90-day limitation.¹²³⁶
- 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." 1237
- 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 30th of 2018 and concluded on May 28 of 2018."¹²³⁸
- 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

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

¹²³³ Ex. 59 (WorkChat dated July 20, 2018 between and (Expired Apps 30b6 Dep. Ex.

¹³⁾⁾ at FB-FTC-EXPAPPS-000010591.

¹²³⁴ Ex. 60 (Email from to to (Expired Apps 30b6 Dep. Ex. 14)) at FB-FTC-EXPAPPS-000005540.

¹²³⁵ Ex. 65 at FB-FTC-EXPAPPS-000000018.

¹²³⁶ Ex. 34 at 118:13-119:6.

¹²³⁷ Ex. 34 at 48:8-10.

¹²³⁸ Ex. 34 at 70:1-3.

¹²³⁹ Ex. 34 at 70:19-71:6.

users of apps."¹²⁴⁰ 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."¹²⁴¹

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." ¹²⁴²
- 1138. The MK app allows children to communicate via text or video with parent-approved contacts. 1243
- 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 13.1244
- 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.¹²⁴⁵
- 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.¹²⁴⁶
- 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.¹²⁴⁷
- 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

¹²⁴⁰ Ex. 34 at 71:12-15.

¹²⁴¹ Ex. 34 at 71:21-24.

¹²⁴² Ex. 38 at 2, 19 (Nov. 15, 2019 resp. to CID interrogatory 2(a) and 5(a)).

¹²⁴³ Ex. 38 at 2.

¹²⁴⁴ Ex. 38 at 9.

¹²⁴⁵ Ex. 38 at 8.

¹²⁴⁶ Ex. 38 at 8.

¹²⁴⁷ Ex. 38 at 9; 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.¹²⁴⁸

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. 1249
- 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" and that "[p]arents fully control the contact list and kids can't connect with contacts that their parent does not approve." 1251
- 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. 1252
- 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." 1253
- 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." ¹²⁵⁴
- 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." 1255

¹²⁴⁸ Ex. 38 at 4, 7-8; www.messengerkids.com.

¹²⁴⁹ 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).

¹²⁵⁰ Ex. 104 (FB-MK-FTC-00000062).

¹²⁵¹ Ex. 39 (FB-MK-FTC-00000014) at FB-MK-FTC-00000019.

¹²⁵² Ex. 38 at 12.

¹²⁵³ https://www.facebook.com/legal/messengerkids/terms.

https://www.facebook.com/legal/messengerkids/privacypolicy2019.

¹²⁵⁵ 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.¹²⁵⁶
- 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.¹²⁵⁷
- 1152. Facebook discovered the group text chat vulnerability when one of MK's employees noticed his child was communicating with an unapproved contact.¹²⁵⁸
- 1153. Facebook remediated the vulnerability within twenty-four hours of discovery, and it notified the FTC of this vulnerability on July 15, 2019. 1259
- 1154. This vulnerability allowed 5,658 MK users to communicate with unapproved contacts through text chat from June 2018 to July 2, 2019. 1260

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.¹²⁶¹
- 1156. The 3,625 users affected by the group video call vulnerability include users who were also affected by the group text vulnerability. 1262
- 1157. These unauthorized contacts resulted from a different coding error related to the Messenger application's "escalation" feature. 1263
- 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. 1264

¹²⁵⁶ Ex. 38 at 18-20; Ex. 40 (Jan. 31, 2020 White Paper) at 5-6, 10-11.

¹²⁵⁷ Ex. 38 at 18-20; Ex. 40 at 5-6, 10-11.

¹²⁵⁸ Ex. 38 at 20-21.

¹²⁵⁹ Ex. 38 at 21; Ex. 40 at 1.

¹²⁶⁰ Ex. 38 at 21-22.

¹²⁶¹ Ex. 38 at 26; Ex. 40 at 6-8, 11-12.

¹²⁶² Ex. 38 at 26; Ex. 40 at 6-8, 11-12.

¹²⁶³ Ex. 38 at 26; Ex. 40 at 6-8, 11-12.

¹²⁶⁴ 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. 1265
- 1160. On November 12, 2018, however, a Messenger engineer inadvertently deleted part of the blocking code in iOS.¹²⁶⁶
- 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.¹²⁶⁷
- 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. 1268
- 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. 1269
- 1164. Facebook discovered the error while investigating the group text chat vulnerability, and fixed it shortly after discovery, on or about July 2, 2019. Facebook notified the FTC of this vulnerability on July 15, 2019. 1271

¹²⁶⁵ Ex. 40 at 6.

¹²⁶⁶ Ex. 40 at 6.

¹²⁶⁷ Ex. 38 at 23-25; Ex. 40 at 6-8, 11-12.

¹²⁶⁸ Ex. 40 at 6-7.

¹²⁶⁹ Ex. 38 at 23-25; Ex. 40 at 6-8, 11-12.

¹²⁷⁰ Ex. 38 at 25.

¹²⁷¹ Ex. 40 at 1.