

United States Senate

June 23, 2018

Securities and Exchange Commission
Jay Clayton, Chairman
100 F Street, NE
Washington, DC 20549

Dear Chair Clayton:

We write regarding a whistleblower complaint against Facebook filed on May 26, 2020 with the Securities and Exchange Commission (SEC).¹ We ask that you thoroughly investigate the claims made by the whistleblower and take appropriate action if the claims are found to be meritorious.

According to the complaint, Facebook is aware of illegal activity on its platform, such as the selling of counterfeit pharmaceuticals, and fails to police such activity.² According to the *Washington Post*, “[i]n a sworn statement attached to the complaint, a former Facebook content moderator said the social network’s moderation policies were ad hoc and often changed in response to media events. ‘Compared to hate speech, they did not seem to worry about drugs at all,’ the statement said.”³

Another troubling allegation arises from the statement of a former employee of a cybersecurity firm hired by Purdue Pharma to root out online counterfeiters.⁴ The former employee claims that in 2012 and 2013, platforms such as eBay and Google agreed to work with the firm to remove posts selling counterfeit OxyContin.⁵ Facebook is alleged to have not cooperated in that effort.⁶ Even more concerning, is the allegation that “Facebook executives aggressively lobbied other social media platforms including Twitter not to take action or to engage in the counterfeit OxyContin removal initiative”.⁷

If true, the allegations submitted by the whistleblowers could potentially expose Facebook to myriad liability under federal securities laws.⁸ Moreover, as noted in the whistleblower complaint, Facebook could also face liability for exacerbating the country’s opioid crisis.⁹ Overall, these allegations represent a troubling pattern on the part of Facebook, a prioritization of

¹ <https://www.washingtonpost.com/technology/2020/05/27/facebook-sec-whistleblower/>

² *Id.*

³ *Id.*

⁴ *Id.*

⁵ *Id.*

⁶ *Id.*

⁷ *Id.*

⁸ <https://www.fincen.gov/news/news-releases/fincen-reminds-financial-institutions-cdd-rule-becomes-effective-today>

⁹ <https://www.washingtonpost.com/technology/2020/05/27/facebook-sec-whistleblower/>

revenue over public safety. As such, we believe these claims warrant a serious and thorough investigation. Thank you in advance for your consideration.

Sincerely,

/s/ Robert Menendez

United States Senator

/s/ William Cassidy

United States Senator