



August 25, 2014

James Grimmelmann, Professor of Law
Leslie Meltzer Henry, Associate Professor of Law
Francis King Carey School of Law
University of Maryland
500 W. Baltimore St.
Baltimore, MD 21201

Dear Professors Grimmelmann and Henry:

I am writing in response to your letter dated July 24, 2014, in which you request copies of IRB meeting minutes pertaining to certain research purportedly governed by MD. CODE ANN., HEALTH-GEN. § 13-2001 *et seq.*

We appreciate your interest in Facebook's internal product development research, some of which, like the PNAS study referenced in your letter,¹ has been made public through articles published in academic journals. We disagree, however, with the central premise of your letter—namely, that product development research involving an analysis of Facebook user data is governed by the federal "Common Rule"² and the related Maryland statute.

At Facebook we routinely evaluate our products and services to optimize the user experience. It is common industry practice for online companies to deploy testing to understand how users will react to product, feature, and advertising changes, and to adjust their content algorithms within sample populations to gauge variances in the resulting engagement with their services. The PNAS study is an example of such research. We conducted the review to evaluate claims by some scientists and the press that using Facebook, in particular seeing positive posts from friends in one's News Feed, could trigger negative emotional reactions. We believed it was important to research this claim, and we elected to share the findings with the academic community.

Each time a Facebook user visits their News Feed, there are (on average) more than 1,000 new potential posts for them to see, including posts from their friends, pages they have liked, and people they have followed. Most users would miss posts important to them if Facebook simply published a continuous, non-prioritized stream of information. News Feed's algorithm selects posts to display to each Facebook user from the vast amount of user-generated content they are eligible to view. Because News Feed's relevance and value to each user is core to the Facebook experience, Facebook constantly adjusts and refines the News Feed algorithm to optimize user experiences.

As part of the research described in the PNAS study, the News Feed algorithm for a small percentage of randomly-selected users was tweaked during a single week so that certain posts had varying chances of being deprioritized when those users viewed their News Feeds. Facebook did not add, delete, or modify the contents of any posts; the users could still view all posts via subsequent views of their News Feed and on friends' timelines. And users only saw content in their News Feed that they were already eligible to see: that is, posts shared by friends, pages they liked, or people they followed.

¹ Adam D.I. Kramer, Jamie E. Guillory, and Jeffrey T. Hancock, *Experimental Evidence of Massive-Scale Emotional Contagion Through Social Networks*, 111 *PROC. NAT'L ACAD. SCI. USA* 8788, 8788 (2014), <http://www.pnas.org/content/111/24/8788.full.html>.

² See 45 C.F.R. Part 46.

The federal Common Rule and the Maryland law you cite were not designed to address research conducted under these circumstances and none of the authorities you cite indicates otherwise.

Again, we appreciate your interest in Facebook's internal product development research. For the reasons stated above, we respectfully disagree with your assertions and do not believe Facebook has any obligation to provide the information requested in your July 24, 2014 letter.

Sincerely,

A handwritten signature in black ink, appearing to be 'E. Palmieri', written over the word 'Sincerely,'.

Edward Palmieri
Associate General Counsel, Privacy