

U.S. House of Representatives

Committee on Natural Resources

Washington, DC 20515

May 14, 2018

The Honorable Jay Clayton
Chairman
U.S. Securities and Exchange Commission
100 F Street, NE
Washington, DC 20549

Dear Chairman Clayton,

We write to urge the U.S. Securities and Exchange Commission (SEC) to investigate a complaint filed in August 2017 regarding Facebook's failure to disclose to its shareholders the illegal wildlife trafficking that has occurred and is occurring on its site and its failure to implement adequate measures to prevent wildlife traders from using its service for illegal activity. The complaint highlights that Facebook is knowingly profiting from the trafficking of endangered species. We also write to encourage the SEC to work with other social media and online platforms to ensure their services are not contributing to illegal wildlife trade and trafficking.

The SEC has the authority to sanction Facebook for failure to disclose "known trends or uncertainties" that Facebook "reasonably expects will have a material . . . unfavorable impact on net sales or revenues or income from continuing operations."¹ Facebook's failure to take adequate steps to prevent its services from being used to conduct illegal wildlife trading could very plausibly have a material unfavorable impact on its net sales, revenue, or income from continuing operations.

Facebook's facilitation of serious violations of U.S. and foreign law exposes it to the risk of large fines and penalties, increased regulatory scrutiny, penalties or boycotts stemming from potential wildlife trafficking enforcement actions, or sustained public shaming. The SEC should investigate this complaint to confirm that Facebook shareholders are fully informed about the risks posed by wildlife traders' use of Facebook, and Facebook's failure to implement adequate measures to prevent the use of its services for illegal wildlife trading. As a publicly traded company, Facebook must be held to the regulatory standards required by the SEC.²

¹ Item 303 of SEC Regulation S-K, 17 C.F.R. § 229.303(a)(3)(ii). *See also* Section 10(b) of the Securities Exchange Act of 1934, 15 U.S.C. § 78j(b); SEC Rule 10b-5, 17 C.F.R. § 240.10b-5.

² Securities Exchange Act of 1934, 15 U.S.C. § 78a et seq.

Facebook's inaction on this issue has facilitated rampant criminal trafficking of vulnerable and endangered species on its platform, while Facebook is knowingly profiting from advertisements promoting the sale of illegal products such as elephant ivory, rhino horn, bear claws, tiger skins, and reptiles.³ Several organizations have conducted extensive investigations on the use of Facebook in wildlife trading, confirming that systematic illegal trafficking regularly occurred on Facebook around the world.

The Wildlife Justice Commission found illegal wildlife products worth \$53.1 million for sale over Facebook and WeChat in the Vietnamese village of Nhi Khe,⁴ and Traffic, another anti-wildlife trade organization, found thousands of reptiles traded through Facebook over a span of three months in the Philippines.⁵

Analysts from the Center on Illicit Networks and Transnational Organized Crime (CINTOC) have found thousands of posts for illegal ivory on Facebook, concluding that "Facebook is a primary enabler connecting illegal wildlife traders to customers in a marketplace that is anonymous, global, and free of regulation."⁶

The sales of vast quantities of illegal wildlife goods through Facebook is facilitating the extinction of rare and threatened species meant to be regulated internationally under the Convention on International Trade in Endangered Species of Wild Fauna and Flora (CITES).⁷

Facebook has not adequately addressed the concerns raised in the complaint. Facebook's Community Standards state that they "prohibit the use of Facebook to facilitate or organize criminal activity that causes physical harm to people, businesses or animals..."⁸ However, investigations by numerous organizations demonstrate that the efforts by Facebook do not go far enough.

For example, Facebook should better cooperate with law enforcement and shut down the accounts of known traders. One month after Facebook announced joining the Global Coalition to End Wildlife Trafficking Online, trafficking investigators said they had not seen a decline in the sale of illegal products on Facebook.⁹ Wildlife advocates continue to find Facebook pages with corporate ads alongside illicit posts selling illegal animal parts.

³ Bengal tigers are a critically endangered species with only about 2,500 still living in the wild, and black rhinos are a species heavily targeted by poachers with little more than 5,000 still roaming Africa.

⁴ <https://www.theguardian.com/environment/2016/nov/14/wildlife-smugglers-using-facebook-sell-ivory-rhino-horn>

⁵ <http://www.traffic.org/home/2018/1/19/facebook-dominates-as-the-main-market-place-for-illegal-live.html>

⁶ <https://www.apnews.com/3fcf2ec3e5904c2bb5e76c04a93eb2c1/Facebook-puts-ads-on-pages-illegally-selling-animal-parts>

⁷ <https://news.nationalgeographic.com/news/2014/08/140818-elephants-africa-poaching-cites-census/>

⁸ <https://www.facebook.com/communitystandards#criminal-activity>

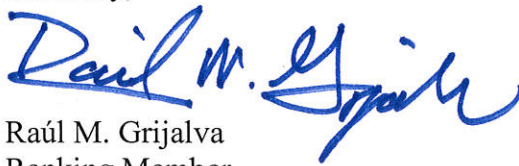
⁹ Facebook is one of more than 20 technology companies that joined the Global Coalition to End Wildlife Trafficking Online, which was organized by Google and the World Wildlife Fund. For more information, see: <https://www.worldwildlife.org/pages/global-coalition-to-end-wildlife-trafficking-online>

Facebook's lack of disclosure of the illegal activity facilitated by its site and its failure to take adequate steps to address that activity are both violations of SEC rules.¹⁰ We urge the SEC to complete an investigation into Facebook's willingness to profit from the illegal trafficking of endangered species, as well as its violation of the SEC's corporate disclosure mandates by not discussing with shareholders the risks of potential enforcement actions or public outrage.

If you have any questions regarding our request for an investigation, please contact Lora Snyder (lora.snyder@mail.house.gov) with the House Committee on Natural Resources, Democratic staff.

Thank you for your consideration.

Sincerely,



Raúl M. Grijalva
Ranking Member
House Committee on Natural Resources



Jared Huffman
Vice-Ranking Member
House Committee on Natural Resources

¹⁰ Item 303 of SEC Regulation S-K, 17 C.F.R. § 229.303(a)(3)(ii). *See also* Section 10(b) of the Securities Exchange Act of 1934, 15 U.S.C. § 78j(b); SEC Rule 10b-5, 17 C.F.R. § 240.10b-5.