

親愛的臉書 Facebook,

我們寫這封信, 是希望臉書可以改革「真實身份認證」(一般稱為實名制) 政策¹。臉書該立即為所有使用、仰賴臉書作為線上表達溝通樞紐的用戶, 提供平等的對待與保護。We write to call on Facebook to reform its “authentic identity” (commonly known as “real name”) policy². It’s time for Facebook to provide equal treatment and protection for all who use and depend on Facebook as a central platform for online expression and communication.

我們是一個由個人與組織結合成的聯盟, 致力於保障女性、原住民、弱勢族群、LGBTQ 社群, 以及那些發現臉書的實名制在文化上偏頗, 在技術上有缺陷的網民。我們代表: We are a coalition of people and organizations who work to protect the rights of women, indigenous and ethnic minority communities, LGBTQ people, and Internet users who have found Facebook’s name policies to be culturally biased and technically flawed. We represent:

- 因為法律姓名與他們的性別認同不符合的跨性別者與變性人。Transgender and gender variant people whose legal names don’t accord with their gender identity
- 為了免於暴力、高壓政府法律威脅, 或由於性別、性特徵、宗教, 或政治行動而引來的騷擾, 而使用假名或改名來保護自己的人。People who use a pseudonym or name modification in order to protect themselves from physical violence, legal threats from repressive governments, or harassment on the basis of gender, sexuality, religion, or political activities
- 被攻擊者濫用臉書的「這是假名」回報功能而無法發聲者。People who have been silenced by attackers abusing Facebook’s “Fake Name” reporting option
- 法律姓名不符合臉書的「真實姓名」標準的人。People whose legal names don’t fit the arbitrary standards of “real names” developed by Facebook.³

儘管臉書曾承諾要改善這些政策, 但其運作系統依舊不理會非西方國家用戶的使用情境, 使得用戶身陷險境, 用戶的身份認同不被尊重, 言論自由也受限制。Despite commitments to reform these policies,⁴ Facebook maintains a system that disregards the circumstances of users in non-western countries, exposes its users to danger, disrespects the identities of its users, and curtails free speech.

舉報功能使弱勢用戶陷入沈默 Abuse Reports Silence Vulnerable Users

依照臉書現在的政策, 用戶需要以「真實生活」中使用的姓名創建帳號, 當用戶初次創建帳號, 臉書不會要求身份認證。Under Facebook’s current policies, users create profiles using the names they use “in real life.”⁵ When a user first creates a profile, Facebook does not require proof of identity.

任何用戶都可以輕易向臉書舉報另一位用戶觸犯了這政策, 並且沒有義務提供資料來舉證, 任何用戶都可以無限制舉報, 頻率多密集都可以, 這為針對特定用戶的「鬧事型舉報」開了扇窗, 導致該政策受到不公平的利用, 提供想傷害我們社群的人一個危險且有效的工具。一則濫用的舉報可以

¹ “What names are allowed on Facebook?” <https://www.facebook.com/help/112146705538576>

² “What names are allowed on Facebook?” <https://www.facebook.com/help/112146705538576>

³ See appendix for case examples.

⁴ Post by Chris Cox, Oct. 1, 2014, Facebook, <https://www.facebook.com/chris.cox/posts/10101301777354543>.

⁵ This policy has also been referred to as an “authentic” name policy. Compare “What names are allowed on Facebook?” from October 2014 (“We require everyone to provide their *real names*....”) with that from July 2015 (“Facebook is a community where people use their *authentic identities*.”). Located at: <https://web.archive.org/web/20141001193811/https://www.facebook.com/help/112146705538576>; <https://www.facebook.com/help/112146705538576>.

使得一名用戶永遠陷入沈默。 Any user can easily file reports with Facebook claiming that a fellow user is violating this policy, and has no obligation to submit evidence supporting their claim. Any user can file as many reports as they wish, as quickly as they wish, allowing targeted reporting sprees. This has led to unfair application of the policy, and provides people who wish harm upon communities like ours with a dangerous and effective tool. One abuse report can silence a user indefinitely.

全球LGBTQ社群、南亞與東南亞、中東的臉書用戶都反應有群體刻意組織(有時還是透過臉書)來逼迫他們的目標噤聲, 利用的就是「舉報濫用」按鍵。Facebook users in the global LGBTQ community⁶, South and Southeast Asia⁷ and the Middle East report that groups have deliberately organized (sometimes even coordinating via Facebook) to silence their targets using the “Report Abuse” button.⁸

「真實世界中的名稱」不是身份證 **A “Name in Real Life” Is Not an ID**

面對濫用舉報(不管舉報是否正確), 用戶想要保住帳號, 得提供身份證明。臉書知道帳號名稱跟法定名稱不必然符合, 因此再三強調並不需要提交政府發放的身分證, 然而若要反應舉報功能遭濫用, 臉書要求的身份證明上卻不一定有那個人的暱稱或真實世界中所慣用的姓名, 不論是政府還是私人單位發給的, 特別是對跨性別與改名以避禍的人來說。私人機構發的身分證明也時常與那個人的法律身份與政府發給的身分證號碼有所連結。

In the face of an abuse report (regardless of the report’s merit), users who wish to maintain their accounts must submit proof of identification. Facebook acknowledges that profile names may not match legal names, and has repeatedly emphasized that government-issued ID is not required. Yet the types of ID that Facebook asks for in the “report abuse” process, whether issued by a government or private entity, do not necessarily feature a person’s nickname or “real life” name—especially for transgender people and others who modify their names to protect themselves from harm. ID from a private institution is also often linked to a person’s legal identity and government-issued identification number.⁹

這個過程可能使得那些因為安全與隱私緣故而未使用法定名稱的用戶陷入真實的險境。在某些案例中, 用戶提交政府發給的身份證明以遵照臉書政策之後, 臉書會將帳戶恢復, 但名稱變成用戶的法律姓名, 這使他們曝露在有暴力問題的前伴侶, 政治動員攻擊, 以及真實世界的暴力威脅。

This process can put users who use a name other than their legal name for safety or privacy purposes in real danger. In some cases Facebook has reinstated accounts with the legal name of users who have submitted government-issued ID in accordance with Facebook’s policies, exposing them to abusive

⁶ See, e.g., Jay Barmann, *Drag Queens, Other Performers Outraged As Facebook Forces Them To Use Their Real Names*, sfirst, Sep. 11, 2014, <http://sfirst.com/2014/09/11/drag-queens-other-performers-outrag.php>; Selena Larson, *Facebook’s real name policy claims account of Ethiopian LGBT activist*, The Daily Dot, Jul. 12, 2015, <http://www.dailydot.com/technology/facebook-real-name-policy-ethiopian-lgbt-activist/>

⁷ Russel Brandom, *Facebook’s Report Abuse button has become a tool of global oppression*, The Verge, Sep. 2, 2014, <http://www.theverge.com/2014/9/2/6083647/facebook-s-report-abuse-button-has-become-a-tool-of-global-oppression>

⁸ Supra, note 3; Sahar Habib Ghazi, *We Will Choke You”: How Indian Women Face Fatal Threats on Facebook While Trolls Roam Free*, Global Voices, August 6, 2015.

<http://advocacy.globalvoicesonline.org/2015/08/06/we-will-choke-you-how-indian-women-face-fatal-threats-on-facebook-while-trolls-roam-free/>; Preetha G., post on August 3, 2015, <https://www.facebook.com/preetha.g/posts/862310883838735?fref=nf>; *User stories from survivors of domestic or sexual violence*, (last updated May 29, 2015), MyNameIsCampaign, <http://www.mynameiscampaign.org/category/user-stories/survivor/>.

⁹ Many countries use unique individual identification numbers (akin to social security numbers in the US) on all kinds of documentation, including many of the “non-state” examples that FB offers, such as student IDs and library cards.

former partners, politically-motivated attacks, and threats of real-life violence.¹⁰

臉書的執法過程傷害用戶且無法彌補

Facebook's Enforcement Process Leaves Users Without a Remedy

多年來，臉書各項服務的申訴機制都充滿問題，讓人詬病，遲遲未妥善處理。如果個人無法取得臉書接受的身份證明，就無法索回帳號。身份證明必須要在被通知之後10天內提交，對那些無法每天上網的人很不容易，他們許多人地處非西方國家與發展中國家。無法在期限內交出身份證明的人就與自己的帳號永隔，也無法跟其他用戶溝通，或是下載帳戶資料以利他用。這些被隔離的用戶沒有權力申訴，要求取得帳戶。

For years, Facebook has known about the flaws in their appeals process across the service, yet have not addressed them.¹¹ Individuals without a type of ID that Facebook accepts are left without recourse. IDs must be submitted to Facebook within ten days of notice, disadvantaging users who do not have daily access to the Internet, many of whom live in non-Western and developing countries. Those who fail to submit IDs in the allotted time period are locked out of their accounts, preventing both communication with other users and downloads of account data for use elsewhere. Excluded users are not provided with the right to appeal for access to accounts.

身份證明流程危害用戶資料

ID Process Endangers User Data

選擇提交個人身份證明資料給臉書的用戶都被告知他們的資訊是安全的，但未闡明臉書會如何使用這些資料。用戶通常會將他們的身份證明文件透過未加密的電子郵件傳給臉書，這令人擔憂，特別是那些因為政治工作而受到監控的用戶。

Users who opt to send Facebook their identification information are told that their information is secure, but are given no information about how Facebook treats their data. Users often send their ID documents to Facebook through unencrypted emails—particularly concerning for users who are subject to surveillance for the political work they do.

政策合法性隱憂

This Policy Raises Legal Concerns

根據國際人權標準，企業有責任尊重人權，並在直接或間接造成任何傷害時提出補救措施。任何歧視排擠使用者的政策都違反了歐盟規章和美國公民權法律的精神。如果Facebook不改善這些政策和做法，將會危害婦女、LGBTQ和許多其他人而聲望掃地，也無法在資料保護更嚴格的國家拓展業務。如果該公司對現在和將來的使用者一視同仁，特別是在開發程度較低的國家，就必須努力滿足使用者的需求。

¹⁰ Samantha Allen, *How Facebook Exposes Domestic Violence Survivors*, THE DAILY BEAST, May 20, 2015, <http://www.thedailybeast.com/articles/2015/05/20/how-facebook-exposes-domestic-violence-survivors.html>.

¹¹ Lee Rowland, *Naked Statue Reveals One Thing: Facebook Censorship Needs Better Appeals Process*, ACLU Free Future Blog, Sept. 25, 2013, <https://www.aclu.org/blog/naked-statue-reveals-one-thing-facebook-censorship-needs-better-appeals-process>.

Under international human rights standards, companies have a responsibility to respect human rights and to provide remedies for any abuses they cause or contribute to.¹² A policy of excluding users in a discriminatory manner also violates European Union regulations¹³ and the spirit of US civil rights laws.¹⁴ If Facebook maintains these policies and practices, it will build a reputation as a dangerous place for women and girls, LGBTQ people, and many others. It will also continue to run afoul of countries with more stringent data protection requirements,. (這裏多了個逗點)
If the company wants to do right by its current and future users, particularly those in less-developed nations, it must strive to meet the needs of its users.

建議Facebook改變政策 Proposed Policy Changes

本聯盟要求Facebook履行其承諾，改變政策與流程，以維持所有使用者的尊嚴、安全與表達權：As a coalition, we ask that Facebook fulfill its promise to support the dignity, safety, and expressive rights of all users by making the following changes in its policy and process:

- 承諾該網站會在適當的情況下允許假名和非法律的名稱，包括但不限於以下兩種情況，一是認為使用日常姓名的使用者會發生危險，二是當地法律要求能夠使用假名。Commit to allowing pseudonyms and non-legal names on its site in appropriate circumstances, including but not limited to situations where using an every day name would put a user in danger, as determined in consultation with civil society, or situations where local law requires the ability to use pseudonyms.
- 必須提出關於實名政策遭到不當使用的報告，使其舉報有真憑實據。其形式可以是書面表述、選擇題或是其他文檔。Require users filing real name policy abuse reports to support their claims with evidence. This could come in written form, multiple-choice questions, or some alternative documentation.
- 建立合規流程，好讓使用者不必給出身份文件就能認證身份。使用者可以提交書面證據、回答選擇題或提供其他替代性文檔，例如部落格文章的連結或他們以相同身份活動的線上平台。Create a compliance process through which users can confirm their identities without submitting government ID. This could include allowing users to submit written evidence, answer

¹² Special Representative of the Secretary-General on the Issue of Human Rights and Transnational Corporations and Other Business Enterprises, *Guiding Principles on Business and Human Rights: Implementing the United Nations "Protect, Respect and Remedy" Framework*, Mar. 21, 2011, U.N. Doc. A/HRC/17/31, http://www.ohchr.org/Documents/Publications/GuidingPrinciplesBusinessHR_EN.pdf [accessed 2 September 2015]. There is growing recognition that anonymity enables the realization of human rights online, including on private Internet platforms. See UN Human Rights Council, *Report of the Special Rapporteur on the promotion and protection of the right to freedom of opinion and expression*, David Kaye, at 16, 20, 22 May 2015, U.N. Doc. A/HRC/29/32, available at:

http://www.ohchr.org/EN/HRBodies/HRC/RegularSessions/Session29/Documents/A.HRC.29.32_AEV.doc [accessed 2 September 2015].

¹³ The Hamburg Data Protection authority ruled that Facebook must allow German users to use pseudonyms under German law (Julia Fioretti, *German regulator orders Facebook to allow pseudonyms*, Reuters, Jul. 28, 2015, <http://www.reuters.com/article/2015/07/28/us-facebook-germany-pseudonyms-idUSKCN0Q21U620150728>). See, also Nadia Kayyali, *New Report Shows European Data Protection Authorities are Taking Facebook's Questionable Terms of Service Seriously*, EFF, Feb. 26, 2015, <https://www.eff.org/deeplinks/2015/02/new-report-shows-european-data-protection-authorities-are-taking-facebooks>

¹⁴ See, e.g. Cal. Civil Code § 51 et seq.

multiple-choice questions, or provide alternative documentation such as links to blog posts or other online platforms where they use the same identity.

- 在使用者給出身份資料時，提供相關流程的技術性細節與使用說明，例如資料儲存的位置、方式、期限，以及有權存取資料的人員名單。還必須讓使用者在給出身份資料時可以使用 PGP 或其他常見的加密通信方式，使用者更能在整個提交過程中保護身份資料。Give users technical details and documentation on the process of submitting identity information such as where and how it is stored, for how long, and who can access it. Provide users with the ability to submit this information using PGP or another common form of encrypted communication, so they may protect their identity information during the submission process.
- 給帳號被鎖的使用者提供健全的申訴流程。可以要求再次審查、提交各類證據、也可在事涉人身安全時與臉書員工本人晤談。Provide a robust appeals process for users locked out of their accounts. This could include the ability to request a second review, to submit different types of evidence, and to speak to a real Facebook employee, especially in cases involving safety.

We look forward to working with Facebook to develop concrete and meaningful changes to its name policy and would welcome the opportunity to participate in strengthening these policies to ensure the rights and free speech of all Facebook users. But we are also dealing with communities that have had their ability to communicate with each other decimated by this policy. That is why we are asking Facebook to respond to these proposed changes by **October 31**. Our communities recognize the common injury this policy currently inflicts and we will not stop advocating until fundamental changes are made.

我們期待與臉書共同為姓名政策做出具體而有意義的改變，並樂意參與改變此政策的機會，以確保所有臉書用戶的權利與言論自由。但同時我們也與許多因此政策，溝通能力大減的社群相互連結。因此，我們籲請臉書在10月31日前回應前述各項將要實行的更動。我們這些社群認知到實名政策近來造成的傷害，並將會持續倡議直到臉書進行根本性的改變。

Signed,