

The Courts Should Treat Social Media Like Cigarettes

di Mark Weinstein

As one of the early founders of social media, I spent more than 25 years building social networks without targeted ads or algorithmic manipulation. Those practices saw the original premise of social media—an extension of our proverbial kitchen table—replaced with ethically questionable and legally dubious methodologies.

On March 25, a Los Angeles jury found [Meta](#) and Google negligent in the design of their platforms, failing to warn about the dangers of their apps to kids and teens. It awarded \$6 million in compensatory and punitive damages to a 20-year-old woman, known as K.G.M., who began using YouTube at age 6 and Instagram at 9. One day earlier, a New Mexico jury ordered Meta to pay \$375 million for misleading users about platform safety and failing to protect children from sexual predators. Both companies plan to appeal.

Finally, plaintiffs articulated the flaw in social media correctly. For years, efforts to hold social-media companies accountable ran into Section 230 of the 1996 Communications Decency Act, which shields platforms from liability for content posted by users. I've written in these pages in defense of Section 230. It protects free expression online and lets smaller companies compete with Big Tech. But it was written to cover what users post, not to give companies a free pass on their own interactive design choices. Counsel for K.G.M. understood this.

Instead of arguing about what users posted, lawyers for the California plaintiff argued that the platforms themselves are defective products. Features like recommendation algorithms, autoplay, beauty filters and notification systems were built with foreseeable risks of harm. These systems promoted compulsive use by children. The jury agreed, and that theory will now likely be tested in more than 10,000 individual cases and 800 school-district cases filed nationwide.

In both courts' findings, these platforms aren't simply hosting conversations. They're running systems borrowed from gambling and behavioral psychology. Artificial intelligence has supercharged the platforms to maximize screen time further, harming users even more. The trial evidence left little room for doubt. Internal Meta documents showed that executives wanted to "bring them in as tweens" to "win big with teens." Company data showed 11-year-olds were four times as likely to keep returning to Instagram versus competing apps—on a platform that supposedly required users to be at least 13. This isn't a case of kids sneaking past the gate. The gate was built to let them through. One Instagram employee described the staff as "basically pushers."

Some will argue that these verdicts are a bonanza for trial lawyers, not a win for children. But damages aren't the point—design changes are. The pressure and intent of these lawsuits ends when the features that hooked a generation of kids are removed or redesigned. When the four largest cigarette makers settled with 46 states in 1998, the price tag was \$206 billion, but the real win was that cigarette marketing to minors disappeared. The same logic applies here.

Meta and Google will appeal aggressively, likely challenging whether product-liability law should apply to software at all. These cases could be in the courts for years. But appeals don't pause other pending lawsuits. The longer these companies leave addictive, impairing features in place, the more plaintiffs they'll create. With those will come more damaging documents surfacing in discovery and even stronger cases for plaintiffs. Their best move, which may also save them billions, is to settle cases and redesign their platforms.

What should change? Age verification, for one. The New Mexico case has a second phase beginning May 4 in which the state's attorney general will seek a court order requiring Meta to implement accurate age verification, modify its algorithms, and remove features that target minors. Age verification can be narrow, limited to confirming a user is old enough to be on the platform without collecting additional personal data. Expect algorithmic recommendations for young users to be pulled back or shut off entirely. Autoplay and notification systems will have to be scaled down. These platforms don't need beauty filters that show 12-year-olds what they'd look like

after cosmetic surgery. They don't need notification systems built to trigger panic in a child who steps away from her phone. There's a lot on the chopping block.

This goes beyond courtrooms. Nearly 30 states have enacted bell-to-bell phone bans in schools, including states as different as Florida and California. Protecting kids from addictive platforms isn't a partisan issue. Courts, legislatures and families are all landing in the same place.

Will these verdicts destroy Meta or Google? Not a chance. These are companies with hundreds of billions in revenue and hugely talented teams awaiting leadership instructions to adapt.

The era of treating engagement metrics as the revered measures of a platform's success, with utter disregard for users' well-being, is over. The tobacco industry survived its reckoning. Cigarettes became more difficult for minors to buy, marketing that targeted young people disappeared, and a generation grew up healthier for it. We're at a similar fork in the road for social media. Technology moves fast. The fix can too.

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