

THE STATE OF NEW HAMPSHIRE

MERRIMACK, SS.

SUPERIOR COURT

State of New Hampshire

Plaintiff,

v.

Meta Platforms, Inc., and Instagram, LLC,

Defendants.

Case No. 217-2023-CV-00594

NOTICE OF FILING OF UNSEALED COMPLAINT

Pursuant to Defendants Meta Platforms, Inc. and Instagram, LLC's (collectively, "Defendants") November 22, 2023 notice regarding sealing, which provided notice that Defendants do not move to maintain any material in Plaintiff State of New Hampshire's Complaint under seal, the State submits an unredacted version of the Complaint on the public record. The State hereby attaches the unsealed Complaint as Exhibit A.

Dated: December 1, 2023

Respectfully submitted,

THE STATE OF NEW HAMPSHIRE

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CERTIFICATE OF SERVICE

I hereby certify that on this 1st day of December, 2023, copies of the foregoing *Notice of Filing of Unsealed Complaint* were forwarded via email to the below listed counsel of record.

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EXHIBIT A

THE STATE OF NEW HAMPSHIRE

MERRIMACK, SS.

SUPERIOR COURT

State of New Hampshire

Plaintiff,

v.

Meta Platforms, Inc.,

Serve at:
1 Hacker Way
Menlo Park, CA 94025,

and **Instagram, LLC,**

Serve at:
1 Hacker Way
Menlo Park, CA 94025,

Defendants.

Case No. 217-2023-CV-00594

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COMPLAINT

NOW COMES the State of New Hampshire (the “State”), by and through its attorneys, the Office of the Attorney General, and hereby complains against Defendants Meta Platforms, Inc. and Instagram, LLC (collectively “Meta” or “Defendants”) for violations of the State’s Consumer Protection Act (“CPA”), RSA § 358-A:1, *et seq.* and for products liability and negligence. In support of its claims, the State alleges as follows:

INTRODUCTION

1. Together with their parents, New Hampshire’s children¹ are navigating a world that is new to all of us. They have to deal with all of the usual things—staying safe, making friends, getting good grades, figuring out who they are. But increasingly, New Hampshire’s children are having to fight for their own time and attention against the ever-increasing pull of social media apps, like Meta’s flagship products Facebook and Instagram.² This fight isn’t a fair one: the odds have been stacked against New Hampshire families by Meta’s experimental use of psychology, neurology, and manipulative design tactics to build apps that children cannot resist. As the U.S. Surgeon General recently put it:

You have some of the best designers and product developers in the world who have designed these products to make sure people are maximizing the amount of time they spend on these platforms. And if we tell a child, use the force of your willpower to control how much time you’re spending, you’re pitting a child against the world’s greatest product designers.³

2. New Hampshire’s children are losing that battle and the consequences are horrifying. Over the past decade, Meta exploded in size and enormously expanded its influence

¹ The term “children” as used herein refers to persons who are under eighteen (18) years of age.

² Together, Facebook and Instagram are referred to as the “Social Media Platforms” or the “Platforms.”

³ Allison Gordon & Pamela Brown, *Surgeon General says 13 is ‘too early’ to join social media*, CNN (Jan. 29, 2023), <https://www.cnn.com/2023/01/29/health/surgeon-general-social-media/index.html>.

over how children spend their time. According to Meta founder Mark Zuckerberg: “unless you are breaking stuff, you are not moving fast enough.” True to that ethos, in its rush to “mov[e] fast enough,” Meta has frequently been “breaking” the mental health, well-being, and trust of its youngest users.

3. At the same time as Meta’s global rise, the mental health of New Hampshire children deteriorated sharply. In 2021, almost half (44.2%) of New Hampshire’s high school students self-reported feeling persistently sad or hopeless—a 75% increase from 2011.⁴ Similarly, from 2011 to 2021, the percentage of New Hampshire high school students who reported seriously considering suicide increased by 72%— from 14.3% to 24.7%.⁵ Alarming, the percentage of New Hampshire high school students who self-reported actually attempting suicide jumped from 6.1% to 9.8%—a 60% increase.⁶

4. While Meta claims to be “[g]iving people the power to build community” and “keeping people safe,” it instead misleads consumers, paints a distorted picture of the safety of its Platforms, and cuts children and their parents off from the information that Meta has (and parents need) to make informed decisions about whether and how to use those Platforms. Meta knows that for children, apps like Instagram are “addictive,” have “a negative impact on mental health,” and are a “recipe for low level mental anxiety that unchecked can ladder to something more serious.”

⁴ NEW HAMPSHIRE DEP’T OF EDUC., 2021 YOUTH RISK BEHAVIOR SURVEY RESULTS – 10-YEAR TREND ANALYSIS REPORT 6, chrome-extension://efaidnbmnnnibpcajpcgiclfefndmkaj/https://www.education.nh.gov/sites/g/files/ehbemt326/files/inline-documents/sonh/2021nhh-trend-report-10-years_0.pdf.

⁵ *Id.*

⁶ *Id.*

5. Meta’s strategic choices both to exploit children by deploying addictive design features and powerful algorithms, and to lie to the public about the harms, shock the conscience and violate New Hampshire law.

6. Since its founding in 2004, Meta has built itself an empire of 3 billion monthly active users, nearly 40% of the world’s population. With a market capitalization of \$819 billion, Meta has become wealthier than most countries. It has done so by carefully leveraging powerful technologies to make its Platforms as addictive as possible with one goal in mind: to make money.

7. Meta is among the world’s leading innovators in experimenting on how to keep users engaged. At its core, Meta is a high-tech advertising business. When users spend time on its Social Media Platforms, Meta harvests the personal data of these users—including their interests, their religion and beliefs, and what they like to watch or even buy. This data allows Meta to sell advertising space at premium rates, because Meta can place targeted advertisements under the eyeballs of specific users who Meta knows are particularly susceptible to each advertiser’s message. The formula is simple: the longer a user stays on the Platforms, the more ads they see, the more data Meta collects, the more valuable that data becomes for advertisers, and the more money Meta makes.

8. But enough is never enough. To keep users engaged, Meta deploys manipulative design features—some of which mimic the psychological tactics employed by the designers of slot machines—which Meta knows inflicts harm on its youngest and most vulnerable users: children. These features include: (a) dopamine-manipulating personalization algorithms; (b) audiovisual and haptic alerts that incessantly recall children to Meta’s Social Media Platforms at all hours of the day, including while at school and during the night; and (c) content-presentation

formats, such as “infinite scroll,” “autoplay,” short-form videos called “Reels,” and ephemeral content designed to defeat children’s attempts to self-regulate and disengage with Meta’s Platforms.

9. Children are especially vulnerable to Meta’s tactics to increase and prolong engagement with its products because their developing brains lack a mature pre-frontal cortex that would help impose limits and disengage from the unhealthy use of Meta’s Platforms. Children are therefore more easily manipulated by design features that deliver “dopamine” hits. Meta intentionally exploits the neurological vulnerabilities of children’s developing brains through features that Meta knows makes “teens feel addicted” to the extent that, “like addicts, they feel that they are unable to stop themselves from being on” the Platforms.

10. While refining these addictive features and marketing them to children, Meta deceptively misled parents and consumers regarding: (1) the safety of its Social Media Platforms; (2) the intentional design of features to promote children’s prolonged and unhealthy engagement; and (3) the company’s routine prioritization of profit over user well-being.

11. As part of this deception, Meta routinely downplayed the adverse effects its Platforms have on children. Internal studies that Meta commissioned (which were kept private until they were leaked by a whistleblower and reported by the *Wall Street Journal*) reveal that Meta has known for *years* about the serious harms associated with children’s time spent on its Social Media Platforms. By publishing only favorable data and downplaying any harmful effects to the public, Meta deceived consumers, creating the impression that its Social Media Platforms were far safer for children than they actually are.

12. Unsurprisingly, Meta’s deceptive tactics have worked. In 2022, more than half of teens reported using Instagram and more than a third reported using Facebook.⁷ Almost half of teens reported checking Instagram at least once a day, with 27% reporting checking it several times a day and 10% reporting checking it almost constantly.⁸ Meta is also aware that extreme users of Instagram are more likely to be teens. The short-form video format of Reels, known to appeal to children and their short attention spans, now amasses over 200 billion plays per day on Facebook and Instagram.

13. Robust research links young peoples’ excessive use of social media with negative outcomes, including depression, anxiety, insomnia, and interference with education and daily life. In 2023, the U.S. Surgeon General cautioned that “there are ample indicators that social media can [] have a profound risk of harm to the mental health and well-being of children and adolescents.”⁹ In fact, “[e]xcessive and problematic social media use, such as compulsive or uncontrollable use, has been linked to sleep problems, attention problems, and feelings of exclusion among adolescents.” The Surgeon General specifically warned that the resulting “[p]oor sleep has been linked to altered neurological development in adolescent brains, depressive symptoms, and suicidal thoughts and behaviors.”

14. Meta designs its Platforms with full knowledge that its design choices are helping to drive today’s teenagers into record-high levels of anxiety and depression. Data from the Centers for Disease Control and Prevention show that, in 2021, most adolescent girls reported

⁷ Emily A. Vogels, et al., *Teens, Social Media and Technology 2022*, PEW RSCH. CTR. (Aug. 10, 2022), <https://www.pewresearch.org/internet/2022/08/10/teens-social-media-and-technology-2022/>.

⁸ *Id.*

⁹ U.S. DEP’T OF HEALTH & HUM. SERVS., *SOCIAL MEDIA AND YOUTH MENTAL HEALTH: THE U.S. SURGEON GENERAL’S ADVISORY 4* (2023), <https://www.hhs.gov/sites/default/files/sg-youth-mental-health-social-media-advisory.pdf>.

feeling “persistent[ly] sad[] or hopeless.”¹⁰ Approximately one in four (24%) teenage girls reported that they had made a suicide plan,¹¹ and 40% of high school students described mental health challenges so dire that “they could not engage in their regular activities for at least two weeks during the previous year.”¹²

15. As outlined above, New Hampshire specifically has seen a similar and alarming worsening of mental health trends among its high school students since 2011.¹³

16. In short, Meta misled the public about the safety of its Social Media Platforms—to devastating effect.

17. The Attorney General brings this action to protect New Hampshire’s children from Meta’s unfair and deceptive conduct and to put an end to Meta’s exploitative scheme in New Hampshire.

PARTIES

18. Plaintiff, the State of New Hampshire (“the State”), by and through the Office of the Attorney General, chief law enforcement officer of the State, brings this action on behalf of itself and under its *parens patriae* authority to protect the health and well-being of its residents. The Attorney General is responsible for representing the public interest and is also specifically authorized to enforce the State’s consumer protection laws. RSA §§ 21-M:5, 21-M:9, and 358-A:4. The Attorney General is specifically authorized to seek injunctive relief, restitution, and

¹⁰ CTRS. FOR DISEASE CONTROL AND PREVENTION, YOUTH BEHAVIOR RISK SURVEY: DATA SUMMARY & TRENDS REPORT 61 (2023), https://www.cdc.gov/healthyyouth/data/yrbs/pdf/YRBS_Data-Summary-Trends_Report2023_508.pdf.

¹¹ *Id.* at 64.

¹² *Id.* at 2.

¹³ NEW HAMPSHIRE DEP’T OF EDUC., 2021 YOUTH RISK BEHAVIOR SURVEY RESULTS – 10-YEAR TREND ANALYSIS REPORT 6, chrome-extension://efaidnbmnnnibpcajpcglclefindmkaj/at2.https://www.education.nh.gov/sites/g/files/ehbemt326/files/inline-documents/sonh/2021nhh-trend-report-10-years_0.pdf.

civil penalties against any person who he has reason to believe has engaged in or is about to engage in unfair or deceptive acts or practices in the conduct of trade or commerce in violation of the Consumer Protection Act (“CPA”). RSA § 358-A:4, II(a) and (b). The CPA is administered and enforced by the Consumer Protection and Antitrust Bureau of the New Hampshire Department of Justice. RSA § 358-A:4, I

19. Defendant Meta Platforms, Inc. (“Meta Platforms”) is a Delaware corporation with its principal place of business at 1601 Willow Road, Menlo Park, CA 94025. As relevant here, Meta Platforms, through itself and/or its subsidiaries, develops, markets, and operates social media platforms and other internet-based platforms and products including Facebook and Instagram. Meta Platforms formerly known as Facebook, Inc. changed its corporate name in October 2021. Meta Platforms is a “person” as defined by the CPA as it is a legal entity. RSA § 358-A:1, I.

20. Defendant Meta Platforms owns and operates the social media platform Facebook and owns and operates the social media platform Instagram through its wholly-owned subsidiary Instagram, LLC. Facebook is a social network that allows users to share and view content including “statuses,” photographs, and videos; join groups; buy and sell products; and message others.

21. Defendant Instagram, LLC operates the social media platform Instagram. Instagram, LLC is a limited liability company incorporated in Delaware with its principal place of business at 1601 Willow Road, Menlo Park, CA 94025. Meta Platforms purchased Instagram, LLC in 2013 for over one billion dollars. Instagram, LLC is currently a wholly-owned subsidiary of Meta Platforms. Meta Platforms asserts complete control over Instagram, LLC, and there is

heavy overlap in the operations and personnel between Meta Platforms and Instagram, LLC. Instagram, LLC is a “person” as defined by the CPA as it is a legal entity. RSA § 358-A:1, I.

22. Meta Platforms acting on its own, and through and/or in concert with other wholly-owned subsidiaries, engaged in the unlawful conduct alleged herein. Meta Platforms is heavily involved in and has final say over the design and marketing of its Social Media Platforms operated by itself and its subsidiaries including Instagram, LLC. Defendants are collectively referred to throughout this Complaint as “Meta.”

JURISDICTION AND META’S CONTACTS WITH NEW HAMPSHIRE

23. Venue is proper in Merrimack County as Meta is a nonresident and has no place of business within this State. RSA § 358:4, III(a). This Court has subject matter jurisdiction of the claims in this Complaint pursuant to RSA § 491:7.

24. This Court has personal jurisdiction over both Defendants pursuant to RSA § 510:4, I, because Meta, among other acts, transacts business within the State and committed a tortious act within the State.

25. Meta engages in substantial trade and commerce in New Hampshire, which includes “the advertising, offering for sale, sale, or distribution of any services and any property, tangible or intangible . . . or thing of value . . . directly or indirectly affecting the people of this state.” RSA § 358-A:1, II. At all times material to this Complaint, Meta has advertised, marketed, and distributed the Social Media Platforms and related services to consumers throughout the State and makes a substantial profit selling user data and time to advertisers. Additionally, Meta’s Social Media Platforms are themselves a sophisticated mechanism of “advertising . . . of any services and any property” within the meaning of the CPA: the Platforms capture and manipulate user attention to advertise the products and services of the companies to whom Meta sells ads.

26. For instance, Meta enters into contracts with each of its users in the State to provide them with online social networking services, including through Facebook and Instagram. Meta provides users with mobile phone applications, readily available on smartphone devices, throughout the entire State.

27. In 2023, Facebook had 950,475 active monthly users in New Hampshire, over 68% of New Hampshire's population, including 34,063 users under eighteen. In the same period, Instagram had 733,019 active monthly users in New Hampshire, over 52% of the population, including 89,339 users under eighteen.

28. Meta encourages children, including tens of thousands of teenagers in the State, to use its products by viewing, liking, commenting on, and uploading videos, photos, and posts on Meta's Social Media Platforms.

29. Meta also sells advertising space to marketers and allows them to tailor their advertisements to specific audiences via features such as Meta's "[a]udience ad targeting." These custom audience offerings allow marketers to target new customers by refining their audience to specific categories like location, demographics, interests, and behaviors.

30. Meta allows advertisers to target their ads in "[d]esignated market areas," which specifically include Manchester, New Hampshire as part of a target market on Meta's Business Help Center. So far in 2023, Meta has derived \$542,835,568 from ad revenue from users that Meta tracks as having ties to New Hampshire.

31. For years, these ad-targeting features have allowed marketers to target children aged thirteen to seventeen with immense granularity in New Hampshire. Until February 2023, Meta allowed marketers to target teenagers by gender and zip code, and until August 2021, Meta

allowed marketers to target teens using personal details Meta collected, such as their specific interests, behaviors, and even their activity on other apps and websites.

32. Meta's deceptive and unfair practices in violation of the CPA and its tortious conduct have been targeted toward, and impacted, New Hampshire consumers. Meta is not only aware it has users in New Hampshire but has actively marketed its New Hampshire users to potential advertisers and has profited directly from its exploitation of children in New Hampshire.

FACTUAL ALLEGATIONS

33. Meta's monetization is centered on maximizing the amount of time spent and the amount of data collected from its users—in particular children. Meta intentionally designs its Platforms to maximize user engagement, and thus maximize its profits, by using manipulative and addictive design features on its Platforms. It does so knowing that these design features are particularly effective and harmful to children's developing brains. Meta then misleads the public, including children and their parents, about the safety of the Platforms, the Platforms' addictive designs, and the company's prioritization of user well-being to make the Platforms seem safer than they actually are.

I. Meta's monetization centers on youth engagement.

34. Meta's core business model rests on monetizing a user's personal data harvested while the user is engaged on its Platforms. Meta monetizes user data both by (1) selling targeted advertising and (2) feeding the personalization algorithms to maximize user time-spent. Meta constantly strives to maximize user engagement on its Platforms so it can sell more targeted advertising opportunities.

35. In order to fully access and use Meta's Social Media Platforms, users must enter into a contract with Meta agreeing to comply with Meta's Terms of Use. By agreeing to the

Terms of Use, consumers are agreeing that Meta can collect and use their data both for monetization and to feed Meta's personalization algorithms.

36. Meta's content personalization algorithms were designed to increase Meta's profits. Meta makes money by selling advertisements to a highly targeted audience which it curates by collecting data from its users. Personalized algorithms capture users' attention and keep them engaged. The more time spent on the Platforms, the higher volume of user data collected.

37. These algorithms are not designed to promote any specific message for Meta. Rather, the algorithms function on a user-by-user basis, operating to detect which types of content each individual is likely to engage with and then displaying more of that type of content to maximize time spent (and volume of user data collected). Users are spoon-fed highly personalized content designed to keep them hooked. As a result, users often find themselves unwittingly and infinitely scrolling.

38. The longer a consumer stays on the Platforms, the more information Meta collects about the user and the more ads the user sees. The effective delivery of targeted ads is central to Meta's ability to generate revenue. Meta's business model allows it to offer advertisers a variety of highly targeted user demographics (such as age, gender, and location) collected by Meta, which advertisers can use to target ads to specific audiences.

39. When Meta succeeds in maintaining a user's attention through its content personalization algorithms, Meta is able to collect more data to sell more targeted advertisements to the user. Meta can then apply its personalization algorithms to track ads users engage with and tailor an individual user's feed with even more targeted advertising. The result is a very lucrative

business of farming users' data by capturing their attention, and then harvesting it into sales of highly effective and highly targeted advertising.

40. In 2023 alone, Meta has derived \$542,835,568 from ad revenue from users that Meta tracks as having ties to New Hampshire.

41. Only recently did Meta stop targeting ads to under-eighteen users. However, it still utilizes the same strategies to collect data and keep children engaged through its personalization algorithm.

42. Meta is especially financially motivated to attract and retain children on its Social Media Platforms. Teenagers are one of the most valuable advertising demographics. Converting children into lifelong users also ensures the future success of Meta's Social Media Platforms. When Facebook's child users declined in the 2010s, Meta embarked on a plan to "win back" the teen market to Facebook. This included a concerted effort in the United States to emphasize the "social entertainment" market. Since at least 2015, Meta has focused on driving up the time spent by teens on its Platforms and focused its business model on attracting and retaining teen users.

43. Internally, Meta focuses on youth engagement in assessing the long-term success of its Social Media Platforms, carefully tracking each hour teens spend on its Platforms.

44. For example, in 2019, Meta set one of Instagram's quarterly goals to hitting two million hours of teen watch time on IGTV (Instagram's former long-form video feature).

45. In another example, an internal email circulated in September 2018 revealed that Meta discusses its youngest users in terms of their "lifetime value" to the company.

46. Externally, Meta has deceptively denied that it places a monetary value on children. In 2021, Senator Amy Klobuchar asked Antigone Davis, Meta's Global Head of Safety,

what Meta believed the lifetime monetary value of children who use Meta products was; Davis responded, “that’s just not the way we think about it” and “[t]hat’s just not how we think about building products . . . for young people.”

47. In 2013, shortly after it acquired Instagram, Meta introduced the ability to create “sponsored posts.” This transformed Instagram from a pure social network into an advertising platform: advertisers could pay to put their advertisements in front of Instagram users’ eyes. But many advertisers looked beyond paying Meta to advertise, and instead went directly to “content creators,” including children, paying these Instagram users to promote their products in their regular posts on the Platform. Even what looked like an ordinary post could be a commercial that capitalized off the Instagram user’s existing following in an attempt to sell them a product. Instagram advertising soon became pervasive.

48. Instagram has become Meta’s most successful social media platform in attracting and retaining children, and Meta is intensely focused on retaining this young audience.

49. Both Facebook and Instagram have consumed the time and attention of a large percentage of the population nationally and in New Hampshire specifically. In 2023, Facebook had 226,387,306 active monthly users in the United States, 68% of the population, with 10,322,887 active monthly users under eighteen. New Hampshire’s statistics are similarly high, with 950,475 active monthly users, 68% of the population, and 34,063 users under eighteen, 13.49% of the under-eighteen population.

50. Instagram exhibits even higher engagement with children. In 2023, Instagram had 192,073,171 active monthly users in the United States—over 58% of the population—with 32,389,032 users under eighteen. For that same period in New Hampshire, Instagram had

733,019 active monthly users, 53% of the population, with 89,339 users under eighteen, or 35% of New Hampshire's under-eighteen population.

51. In 2022, 62% of teens reported using Instagram.¹⁴ This rate is higher for teen girls with 69% reporting using Instagram.¹⁵ Almost half of teens reported checking Instagram at least once a day, with 27% reporting checking it several times a day and 10% reporting checking it almost constantly.¹⁶

52. Instagram is extremely popular with teens in New Hampshire. The majority of New Hampshire teens use Instagram, and a significant number of those teens are active daily users, checking their Instagram account at least once a day. In April 2023, Meta's internal data showed that 55,885 New Hampshire teens were active daily users of Instagram.

53. Building on its success, to increase user engagement, Meta intentionally includes manipulative design features in its Social Media Platforms that it knows are particularly effective in increasing compulsive and excessive use in teens.

II. Meta has contributed to a teen mental health epidemic by intentionally designing its Platforms to ensnare children's attention.

54. Research has confirmed that compulsive and excessive use of Platforms like Facebook and Instagram is linked to significant negative outcomes. Despite Meta's knowledge of the negative consequences associated with the compulsive use of its Social Media Platforms, Meta intentionally includes manipulative design features to keep users engaged for as long as possible.

¹⁴ Emily A. Vogels & Risa Gelles-Watnick, *Teens and social media: Key findings from Pew Research Center surveys*, PEW RSCH. CTR. (Apr. 24, 2023), <https://www.pewresearch.org/short-reads/2023/04/24/teens-and-social-media-key-findings-from-pew-research-center-surveys/>.

¹⁵ *Id.*

¹⁶ *Id.*

55. This section sets forth (1) Meta’s intentional design and implementation of addictive features on its Platforms that promote excessive and compulsive use by children; (2) the known harms that excessive and compulsive use of social media causes children; and (3) Meta’s knowledge and reckless disregard of these harms.

A. Meta intentionally includes manipulative features and algorithms to override consumer choice and endlessly consume the time and attention of teenagers.

56. Meta develops and implements features intended to trick children into spending as much time as possible on its Social Media Platforms in order to maximize profits. Meta’s suite of manipulative tools largely overlaps with ones the U.S. Surgeon General identified as harmful, including, personalization algorithms, alerts, infinite scroll, autoplay, and Reels.

i. Personalization Algorithms

57. Meta employs personalization algorithms universally across its Social Media Platforms, including in the Instagram Platform’s Main Feed (the scrolling presentation of content immediately visible upon opening the app) and Explore Feed (another scrolling presentation of algorithmically curated content that can be optionally guided by a user’s text input in a search field).

58. Meta changed Instagram’s user feeds in 2016 to incorporate these personalization algorithms. Prior to 2016, Instagram user feeds were simply in reverse chronological order.

59. Meta’s goal is to use its personalization algorithms to consume as much user attention and time as possible. To achieve that goal, Meta’s personalization algorithms serve users categories of content based on a sequencing method referred to by psychologists as “variable reinforcement schedules” or “variable reward schedules.”

60. These variable reward schedules work by periodically—but not always, and not in a predictable pattern—delivering types of content that trigger a release of dopamine, a

neurotransmitter released by the brain in response to certain stimuli. Dopamine, commonly “seen to be the ‘pleasure chemical,’” is released in anticipation of a potential reward. However, dopamine neurons fire for only a relatively short period of time, and after dopamine is released, an “individual can become disheartened and disengaged.”

61. By algorithmically serving content to children according to variable reward schedules, Meta manipulates dopamine releases in its child users, inducing them to engage repeatedly with its products—much like a gambler at a slot machine. The gambler pulls the lever repeatedly, receiving pleasure from anticipating that this pull might lead to a reward—or the next one, or the next one.

62. Meta utilizes the same random reward method to keep users on its Platforms by intentionally creating a randomized schedule for “rewarding” the user. However, Meta’s use of randomized rewards is more insidious than that of a slot machine. A slot machine is truly random, indifferent to the gambler’s profile or previous conduct. In contrast, Meta’s personalization algorithms are optimized to withhold and provide rewards according to a schedule tailored to ensure that the user craves more content and continues using the Platforms. Each new post or notification stirs up pleasure in the user as they anticipate receiving a reward.

63. This is particularly effective on—and dangerous for—children. Developmentally, children have incomplete brain maturation, lack of impulse control, and reduced executive functions, making them particularly susceptible to psychological manipulation. There is a reason that children are not permitted to gamble.

64. As one person described, “in a social media scrolling context, dopamine is motivating us to continue to consume content that we think will bring us pleasure, without [it]

necessarily paying off. It keeps us stuck on the social media treadmill that continu[ally] retriggers a state of desire in what quickly becomes a self-defeating loop.”

65. The algorithms are consistently learning more about the user as they scroll and searching for more related, dopamine-inducing content to display to keep the user hooked. As a result, the algorithms have a tendency to push users into what has been termed a “rabbit hole” of increasingly more extreme content.

66. Personalization algorithms can fixate on a particular interest that user has—resulting in the interest showing up in all their recommendation feeds and Reels—becoming more and more extreme, and isolating the user from other thoughts or opinions. A user interested in healthy eating, for example, may fall into a rabbit hole of photos and videos so intensely focused on fad diets or restrictive eating that the user develops an obsessive, disordered focus on food.

67. Meta knows about this phenomenon. As a Meta employee stated, People don’t just fall into rabbit-holes (and we stopped using this term.) They have some preference that our models amplify (hence the term ‘preference amplification’) - eg, follow accounts, like reels, etc. Then they tend to ‘drift’ towards what the rec[ommendation] sys[tem] shows them, which is further picked up by the model, which makes the problem even worse.

68. When a user is in one of these “preference amplification” holes, the absence of other, more moderate information makes it difficult for the user to ever escape the hole—and the problems that it has caused them. In 2021, Meta employees internally acknowledged how Instagram’s personalization algorithms take youth “into negative spirals & feedback loops that are hard to exit from.”

69. Meta purposefully designs its personalization algorithms to trick users into passively consuming more content in search of their next dopamine hit. Meta does so fully aware

of the consequences of this design, one being that algorithms can push users into more extreme content in order to keep them engaged longer.

ii. Alerts

70. Instagram employs a range of alerts when the application is installed on a smartphone. The alerts are enabled by default and are carefully designed by Meta to increase engagement by children by taking advantage of well-understood neurological and psychological phenomena, including using sounds and vibrations to trigger sudden dopamine releases and to exploit connection overload stressors provoked by social media notifications.

71. These include vibrations, visual and sound alerts to a user's mobile phone (some of which remain until viewed), notifications that show up in app, and email notifications.

72. These alerts allow Meta to disrupt its users at any time of day to lure them back onto its Social Media Platforms. Researchers have documented how these notifications impact the brain similarly to stimulating drugs.

73. By default, Meta notifies users when other users they follow take any of the following actions:

- following the user;
- “Going Live” (*i.e.*, starting a live broadcast);
- liking or commenting on the user's posts;
- mentioning the user in a comment or tagging the user in a post; and
- sending the user a message.

74. Alerts are disruptive for all users but are especially harmful for children, who are particularly vulnerable to distraction and psychological manipulation. Meta knows that

“smartphone notifications cause[] inattention and hyperactivity among teens, and they reduce[] productivity and well-being.”

75. Notifications prompt users to develop a compulsion to re-open and re-engage with Meta’s Platforms repeatedly throughout the day and at night when prompted.

76. These notifications are extremely effective. A recent study showed teens checked their phones on average fifty-one times per day, with some teens checking their phone over 400 times a day. During that same period, the teens in the study received a median of 237 notifications on their smart phones per day, with some users receiving as many as 4,500 in a single day. On average 23% of those notifications arrived during school hours and 5% during sleeping hours on school nights. The study concluded that smartphone app developers could do a better job of eliminating notifications during times of day that are more disruptive to young people.

77. While users can disable notifications, the addictive elements of these Platforms are a substantial barrier for children taking the steps needed to disable them. By designing its default settings with notifications on, Meta makes users take affirmative action to turn the notifications off, making it more likely that a user will leave the settings on. These persistent notifications trigger users’ fear of missing out (“FOMO”) and lead many users to consistently check the Social Media Platforms throughout the day and to spend more time on the Platforms than they otherwise would.

iii. Infinite Scroll and Autoplay

78. Meta is keenly aware that teens are particularly susceptible to the infinite scroll and autoplay features. In 2016, Instagram debuted its “infinite scroll” system of delivering content. “Infinite scroll” is characterized by the partial display of additional content at the bottom

of the user’s screen, such that the user is typically unable to look at a single post in isolation (without seeing the top portion of the next post in their feed). The “teasing” of yet-to-be-viewed content continues indefinitely; as the user scrolls down the feed, new content is automatically loaded and “teased.”

79. The “infinite scroll” format makes it difficult for children to disengage because there is no natural end point for the display of new information. The Platforms do not stop displaying new information when a user has viewed all new posts from their peers. Instead, the Platforms display new social content and suggest relevant information that has yet to be viewed, provoking the children’s FOMO.

80. Meta does not allow users to turn off infinite scroll; so long as they choose to use Facebook or Instagram, they are stuck with it.

81. Meta also deploys the “autoplay” feature to keep children on its Platforms. Much like “infinite scroll,” the “autoplay” feature of Instagram’s “Stories” encourages children to continuously engage on the Platform because once one story has been viewed, the user is automatically moved to the next story. The default programming keeps the user watching unless the user takes affirmative action to disengage.

82. While Facebook allows users to turn off autoplay, the setting is “on” by default. Autoplay is also on by default on Instagram, and disabling the feature is difficult for users.

83. Meta knows that these features are manipulative for users. In August 2021, Meta notified its staff that YouTube turned off autoplay for users under the age of eighteen. Internally, Meta staff noted: “Turning off autoplay for teens seems like a huge move! Imagine if we turned off infinite scroll for teens.”

iv. Ephemeral Content

84. FOMO has been shown to be a strong motivator to keep children checking Social Media Platforms. In 2016, Meta also started implementing ephemeral content features in its Social Media Platforms to further induce a sense of FOMO in children, in order to keep them checking the Platforms.

85. Ephemeral content is made only temporarily available to users with notifications and visual design cues indicating that the content will soon disappear forever, encouraging users to frequently check their social media accounts.

86. One example of ephemeral content is the “Stories” feature which was added to Facebook and Instagram in 2016 specifically to drive up teen engagement.

87. The “Stories” feature was designed to show content for only a short amount of time before disappearing from the feed. This causes children to frequently open Meta’s Social Media Platforms so they do not “miss out” on any new content.

88. Another example of ephemeral content is Instagram Live, also introduced in 2016, where content creators can live-stream content that users can watch and react to in real time. Unlike content delivery systems which permit a user to view existing posts on a schedule convenient for the user, content released through “Live” is only available in real time, such that a user’s failure to quickly join the live stream when it begins means that the user will miss out on the chance to view the content entirely.

89. Meta makes sure that its users are notified of the potential to miss new live content, sending a push notification to interested users that reads, “[@user] started a live video. Watch it before it ends!”

90. An executive summary circulated internally in 2016 regarding live content indicated that the goals were to increase the time users spent watching these videos—specifically teens.

91. But Meta does not have to make these videos disappear. Rather, Meta chooses to use ephemeral content to induce a sense of urgency in children, so they feel a need to return to the Platforms—or miss out forever.

v. *Reels*

92. In 2020 and 2021, Meta upped the addictive design of its Social Media Platforms with the introduction of “Reels.” Reels uses Meta’s algorithms to present short-form videos based on data collected from each user to gauge their level of engagement. Reels then spoon-feeds users an infinite stream of short videos perfectly suited to monopolize the shorter attention spans of children.

93. Like infinite scrolling, Reels automatically and perpetually play as the user swipes the screen up to the next video. The short-form nature of Reels (between fifteen to ninety seconds, as of April 2023), and the frameless way it fills a user’s screen, ensure that the user will not get bored and navigate away or close the app.

94. Meta deployed Reels to compete with competitors like TikTok, which offer similar features and were growing in popularity. Meta’s investment in Reels was also specifically designed to attract and increase youth engagement.

95. As the inventor of the infinite scroll feature, Aza Raskin, retrospectively reasoned in 2018:

It’s as if they’re taking behavioral cocaine and just sprinkling it all over your interface . . . [b]ehind every screen on your phone, there are generally like literally a thousand engineers that have worked on this thing to try to make it maximally addicting In order to get the next round of funding, in order to get your stock

price up, the amount of time that people spend on your app has to go up . . . [s]o, when you put that much pressure on that one number, you're going to start trying to invent new ways of getting people to stay hooked.

96. As the U.S. Surgeon General recently explained, children's attempt to resist social media is an unfair fight:

You have some of the best designers and product developers in the world who have designed these products to make sure people are maximizing the amount of time they spend on these platforms. And if we tell a child, use the force of your willpower to control how much time you're spending, you're pitting a child against the world's greatest product designers.¹⁷

97. Meta knows that children are particularly susceptible to the manipulations of the foregoing features and algorithms. Meta knows that compulsive and excessive use of its Platforms harms its users. And Meta knows that a foreseeable result of implementing those features was an increase in compulsive and excessive use among children. But Meta implemented those features and algorithms anyway.

B. Compulsive and excessive use of Meta's Social Media Platforms harms children.

98. In the United States, the use of social media among children, teens, and young adults began to dramatically increase in 2012. Meta acquired Instagram in 2012. Instagram went from 50 million users in 2012 to over 600 million users by 2016.

99. Increased use of Social Media Platforms, including those operated by Meta, results in psychological and health harms among children, including increased rates of major depressive episodes, anxiety, sleep disturbances, suicide, and other mental health concerns.

¹⁷ Allison Gordon & Pamela Brown, *Surgeon General says 13 is 'too early' to join social media*, CNN (Jan. 29, 2023), <https://www.cnn.com/2023/01/29/health/surgeon-general-social-media/index.html>.

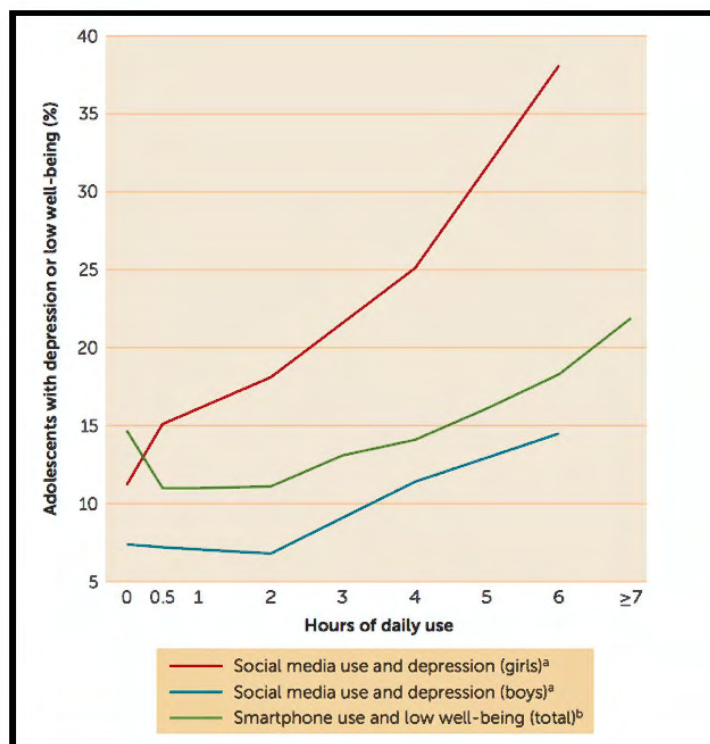


Figure 1¹⁸

100. An internal Meta presentation from March 2019 recognizes that 55% of Meta’s users in the U.S. suffered from problematic use which Meta described as “serious, negative impacts on sleep, relationships, work, or lives, combined with lack of control over FB [Facebook] use,” and that 3.1% of its users suffered from “severe” problematic use.

101. These harms are particularly acute in children.

102. During adolescence, risk-taking behavior is at its peak and self-esteem is at its most vulnerable. Brain regions associated with a desire for risk-taking, attention, peer feedback, and reinforcement become particularly sensitive in adolescence, while the regions associated with maturity and impulse control are not fully developed until adulthood. Because identities and

¹⁸ Jean M. Twenge, *Increases in Depression, Self-Harm, and Suicide Among U.S. Adolescents After 2012 and Links to Technology Use: Possible Mechanisms*, 2 *PSYCHIATRIC RSCH. AND CLINICAL PRAC.* 19, 22 (2020), <https://prcp.psychiatryonline.org/doi/10.1176/appi.prcp.20190015>.

sense of self are not yet fully formed, teens are more susceptible than anyone else to the danger, misinformation, peer pressure, and false images that abound on social media.

103. The brain goes through massive changes during adolescence, both maturing and even changing its actual structure. These changes are what help teenagers turn—eventually—into functioning adults—self-motivated, emotionally mature, less impulsive, and able to manage their own needs, and eventually those of a household. At the same time the brain is developing its impulse control and emotional stability, the area of the brain that feels pleasure in response to rewards is at peak activity. This is the system that controls dopamine, a chemical the brain releases in response to “rewards,” emitting a feeling of pleasure. This mismatch in brain maturation means that children are highly susceptible to risky behaviors and temptations that can prove damaging to their development and well-being.

104. Meta’s inclusion of manipulative and addictive design features renders its Social Media Platforms unreasonably dangerous. Whatever benefits Meta’s Social Media Platforms may provide, those benefits could be achieved without these addictive design features. The harms that excessive and compulsive use of Meta’s Social Media Platforms cause New Hampshire children, which Meta promotes through these design features, far outweigh the benefits of those Platforms. As the U.S. Surgeon General advisory recognized, “the current body of evidence indicates that while social media may have benefits for some children and adolescents, there are ample indicators that social media can also have a profound risk of harm to the mental health and well-being of children and adolescents.”¹⁹

¹⁹ U.S. DEP’T OF HEALTH & HUM. SVCS., SOCIAL MEDIA AND YOUTH MENTAL HEALTH: THE U.S. SURGEON GENERAL’S ADVISORY 4 (2023), <https://www.hhs.gov/sites/default/files/sg-youth-mental-health-social-media-advisory.pdf>.

105. Moreover, any benefits of the Platforms to users could be maintained without the manipulative features they utilize to prolong time spent. On multiple occasions, Meta has explicitly considered and explicitly rejected design changes after finding that those changes would decrease the danger of harms, but also decrease engagement—and therefore Meta’s profits.

106. Children who use social media for at least five hours per day are many times more likely to have clinically relevant symptoms of depression than non-users. Heavy users of social media may emerge from puberty stunted or otherwise damaged, perhaps permanently. Indeed, frequent social media use has been associated with distinct changes in the developing brain in the amygdala, which is vitally important for impulse control and emotional regulation and could increase adolescent sensitivity to reward and punishment.

107. Those changes in brain structure largely track the changes experienced by people who become addicted to gambling or using drugs, activities that New Hampshire and federal law prevent minors from engaging in.

108. Young people have also been shown to be particularly susceptible to developing a fear of missing events or experiences when they are not online, known commonly as FOMO, and may feel an extra need to be connected at night by checking social media. Unsurprisingly, many teens frequently wake up at night specifically to check social media notifications.

109. Excessive and compulsive social media use has been shown to disrupt children’s sleep. Heavy social media use is associated with poorer sleep patterns (*e.g.*, later sleep and wake times on school days and trouble falling back asleep after nighttime awakening) and poorer sleep quality.

110. This interference with sleep causes or exacerbates symptoms of depression and anxiety. Lack of sleep also has negative physical effects such as lowering the body's immune response.

111. Meta has been aware since at least 2019 that excessive social media use is correlated with sleep problems, which negatively impacts mental health. Yet Meta still continues to use notifications and other practices that disrupt sleep.

112. A recent study showed that teens received a median of 237 notifications on their smart phones per day, with some users receiving as many as 4,500 in a single day. On average 23% of those notifications arrived during school hours and 5% during sleeping hours on school nights. As the study concluded, app developers, such as Meta, could eliminate notifications during times of day that are more disruptive to young people, but choose not to.

113. In 2021, more than 75% of New Hampshire teens reported getting fewer than eight hours of sleep on an average school night, with more than 20% reporting getting five or fewer hours of sleep. During that same period, over 37% of New Hampshire high schoolers reported five hours or more of screen time on an average school day.

114. Habitual social media use also affects how children's brains mature, and habitual social media users' brains develop differently than non-habitual-users in many key areas.

115. Researchers have identified a feedback loop: those who use social media habitually are less able to regulate their behavior. That habitual use, in turn, can lead back to more social media use. And restarting the cycle, that additional use makes it even harder to regulate the problematic behavior.

116. The harms associated with habitual or prolonged use are by no means hypothetical. Young people in the U.S. are in a mental health crisis. During the same time period

social media use increased, young people also began suffering severe mental health harms in greater numbers. Data from the Centers for Disease Control and Prevention show that the percentage of high school students “who experienced persistent feelings of sadness or hopelessness” skyrocketed between 2013 and 2021.²⁰

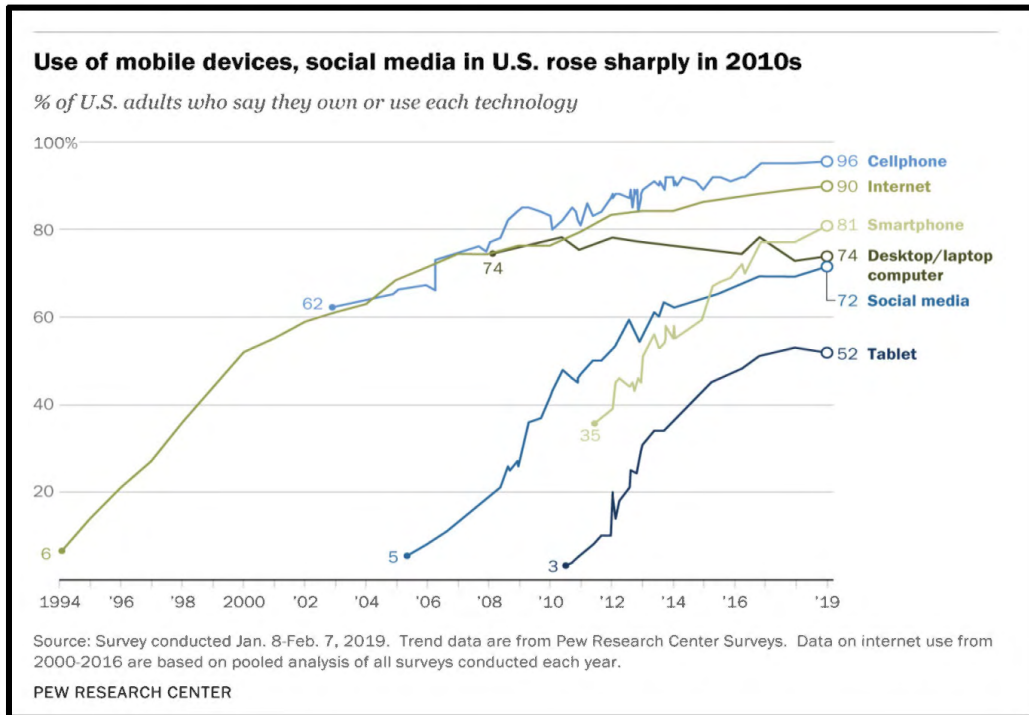


Figure 2²¹

²⁰ CTRS. FOR DISEASE CONTROL AND PREVENTION, YOUTH BEHAVIOR RISK SURVEY: DATA SUMMARY & TRENDS REPORT 61 (2023), https://www.cdc.gov/healthyyouth/data/yrbs/pdf/YRBS_Data-Summary-Trends_Report2023_508.pdf.

²¹ Katherine Schaeffer, *U.S. has changed in key ways in the past decade, from tech use to demographics*, PEW RSCH. CTR (Dec. 20, 2019), <https://www.pewresearch.org/short-reads/2019/12/20/key-ways-us-changed-in-past-decade>.

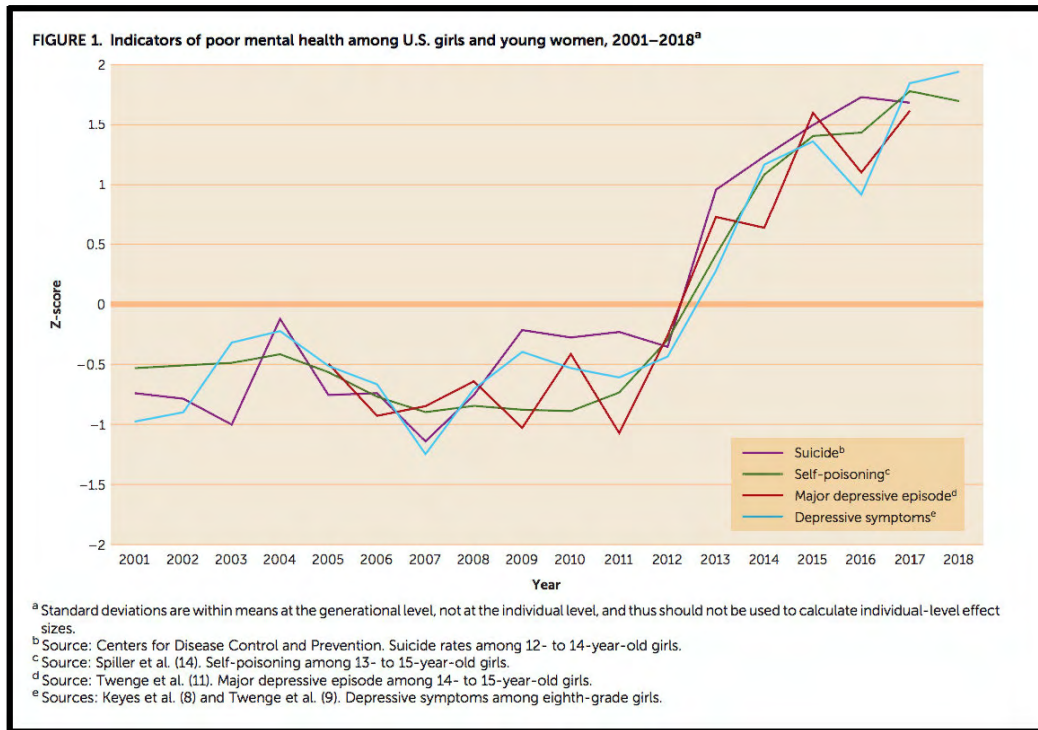


Figure 3²²

117. Risk of suicide is up too. In 2011, 19% of high school girls seriously considered attempting suicide. By 2021, that figure reached 30%. Adolescent girls aged twelve to seventeen saw the greatest increases in suicidal ideation and attempts in the same time period. Indeed, in 2013 alone, the suicide rate for thirteen-year-old girls jumped by 50%.

118. The mental health crisis among youth nationally is also affecting New Hampshire, which has witnessed an alarming worsening of mental health trends among teens since 2011.

119. In 2021, 44.2% of New Hampshire high schoolers reported feeling sad or hopeless almost every day for more than two weeks in a row, a 75% increase from levels

²² Jean M. Twenge, *Increases in Depression, Self-Harm, and Suicide Among U.S. Adolescents After 2012 and Links to Technology Use: Possible Mechanisms*, 2 *PSYCHIATRIC RSCH. AND CLINICAL PRAC.* 19, 20 (2020), <https://prcp.psychiatryonline.org/doi/10.1176/appi.prcp.20190015>.

reported in 2011.²³ Similarly, the percentage of high school students who seriously considered suicide jumped from 14.3% in 2011 to 24.7% in 2021, a 72% increase; and suicide attempts increased from 6.1% to 9.8%, a 60% increase.²⁴

120. Due to the prevalence of serious mental health concerns for youth in New Hampshire and research linking excessive social media use to these harms, the Governor issued Executive Order 2023-04, diverting important State resources to studying and developing educational resources and public outreach to better understand the impacts of social media platforms on New Hampshire youth.

121. Notwithstanding Meta’s knowledge of the harms excessive and compulsive use of its Social Media Platforms cause children, it continues to implement addictive features to induce prolonged use for its own profit.

C. Meta knows that children compulsively and excessively use its Social Media Platforms, to their detriment, but refuses to address the problem.

122. Meta exploited children’s psychological vulnerabilities through the false promise that meaningful social connection lay in the next story, image, or video—and that ignoring the next piece of social content could lead to social isolation. Meta is aware that teens are more susceptible to compulsive and excessive use of its Social Media Platforms. Meta is aware that extreme users of Instagram (more than five hours per day) are more likely to be teens.

123. In 2020, internal Meta statistics showed that teens are 40% more likely to spend five or more hours on Instagram per day than non-teens. Over the course of a week, teens are also 40% more likely to spend more than twenty-eight hours on Instagram than non-teens.

²³ NEW HAMPSHIRE DEP’T OF EDUC., 2021 YOUTH RISK BEHAVIOR SURVEY RESULTS – 10-YEAR TREND ANALYSIS REPORT 6, chrome-extension://efaidnbmnnnibpcajpcglclefindmkaj/https://www.education.nh.gov/sites/g/files/ehbemt326/files/inline-documents/sonh/2021nhh-trend-report-10-years_0.pdf.

²⁴ *Id.*

124. It was also widespread knowledge within Meta that teens were particularly susceptible to the addictive designs Meta employed to keep them engaged. Over the years, Meta employees have internally delivered many presentations, conducted many studies, reviewed extensive literature, and written many articles on the sociopsychological vulnerabilities unique to teenagers that keep them engaged on Meta’s Platforms.

125. Meta is well aware that “[t]een brains are much more sensitive to dopamine” compared to adult brains. Meta’s internal research has concluded that: “Teen brains are much more sensitive to dopamine, one of the reasons that the risk of drug addiction is higher for adolescents and it’s the same thing that keeps them scrolling and scrolling. Due to the immature brain, they have a much harder time stopping even though they want to—our own product foundation research has shown teens are unhappy with the amount of time they spend on our app.”

126. In 2020, Meta started a project focused on deepening the company’s understanding of teens, including brain development. In a lengthy presentation, the company outlined “over 80 internal studies” and external research on adolescent brain development, concluding that because teen frontal cortexes are not fully developed, “teens are highly dependent on their temporal lobe where emotions, memory and learning, and reward system reign supreme.”

127. The company also recognized that “[t]een decisions and behavior are mainly driven by emotion, the intrigue of novelty and reward . . . they make teens very vulnerable . . . [e]specially in the absence of a mature frontal cortex to help impose limits on the indulgence in these.”

128. Meta designs its Platforms to increase engagement by manipulating children's dopamine levels. As Meta itself stated: "Teens are insatiable when it comes to 'feel good' dopamine effects," and "Teens' insatiable appetite for novelty puts them on a persistent quest to discover new means of stimulation."

129. Meta researchers know that children are using their Platforms to their detriment, with compulsive and excessive use interfering with daily activities, including sleep.

130. Meta researchers noted that teens "talk about the amount of time they spend on Instagram as one of the 'worst' aspects of their relationship to the app." Meta researchers observed that in conversations, teens had "an addicts' narrative about their use" and "wish[ed] they could spend less time caring about it, but they can't help themselves."

131. In 2020, a Meta employee noted that, "[t]he feedback, essentially, is that (1) teens feel addicted to IG [Instagram] and feel a pressure to be present, (2) like addicts, they feel that they are unable to stop themselves from being on IG, and (3) the tools we currently have aren't effective at limiting their time on the ap[p]."

132. Based on multiple internal studies, Meta has known for years that the design choices it makes for its Social Media Platforms encourage and promote extended engagement and cause compulsive use by children, thereby contributing to children's poor mental health.

133. Meta's own research confirms that its Social Media Platforms are among the worst in harming children. A 2021 study showed that 6% of teen girls in the U.S. and 13% of teen girls in the UK "traced their desire to self-harm/commit suicide to Instagram."

134. Meta actively promotes compulsive and excessive social media use to the detriment of children for its own profits. Meta also knows that children are facing a mental health crisis.

135. Meta itself acknowledges that Instagram provides no value to teens in return for their time. While Instagram could ideally be a source of entertaining content, “[t]he endless content is addicting, wasting time that could be spent doing something more productive.”

136. Meta is aware that the majority of its manipulative design features encourage “passive” use of its Social Media Platforms—viewing other people’s content rather than posting and generating one’s own content. Meta employees admit that particular features like Reels and Stories encourage passive consumption, and that passive consumption is generally worse for user well-being.

137. Excessive passive social media use comes with significant opportunity costs. Teens spend hours every day scrolling on Meta’s Social Media Platforms, when they could be actively engaging with their peers or the physical world.

138. Many Meta researchers have established that passive consumption of social media content harms mental health. Meta also knows that children dislike passive consumption sessions on Meta’s Platforms but that users still feel compelled to engage in them.

139. While Meta knows passive consumption is bad for users, it continues to implement design elements that promote such use because it increases Meta’s profits. As users passively scroll through their personalized feeds, they are viewing more advertisements and more of their data is being collected to further inform the personalization algorithm.

140. Social media platforms could offer tools and settings that remind or force users to stop after spending too long on the platform. Since 2018 Meta has touted so-called “time-management tools” on its Social Media Platforms which are nothing more than notifications and reminders to stop scrolling that most users dismiss. Meta knows these tools are ineffective to counteract the problem of compulsive and excessive use it has created and continues to fuel.

Meta was aware that its time-management tools were only being used by a tiny percentage of users.

141. Meta routinely chooses to prioritize profit over the safety and well-being of its users. For example, Meta simply could have removed the addictive design features and algorithms it implemented. Meta has staunchly refused to take such action for the sake of profit. Internal documents reveal that Meta has been presented with various proposals to mitigate its Platforms' harms to children. But time and again, Meta either failed to act or implemented insufficient half-measures—in multiple instances at the direction of senior leaders.

142. Rather than acknowledging that it has harmed children and working to rectify the harms it has caused, Meta has indicated that it is replicating the acts and practices alleged herein into Meta's other existing and under-development products.

III. Meta misrepresents the safety of its Social Media Platforms, addictive design features, and its prioritization of user well-being.

143. Rather than taking responsibility for the harm it has caused New Hampshire youth and modifying its manipulative features and algorithms, Meta chose a path of deception—claiming that it prioritizes its users' well-being and thereby misleading children, their parents, and the public at large about the harms it knows its Social Media Platforms cause.

144. Mark Zuckerberg made the point succinctly in his talking points for his 2021 testimony to Congress: “The impact that our products have on the well-being of everyone is a top priority.” But while Meta constantly reassures parents, lawmakers, and users that its Social Media Platforms are suitable for children and designed to promote their well-being, it continues to conceal information, omit material facts, and misstate the truth about its Platforms. Specifically, Meta has unlawfully deceived consumers and the public regarding: (1) the safety of

its Social Media Platforms; (2) design features that induce prolonged use of the Platforms; and (3) the company's prioritization of profits over the well-being of users.

A. Meta misrepresents the safety of its Social Media Platforms.

145. Meta's Social Media Platforms' public-facing community guidelines stress that Meta works to keep its Social Media Platforms safe for users. Meta's website stresses that "[w]e're committed to keeping people safe and making a positive impact."

146. While publicly Meta represents that it takes measures to keep its users safe and that it prioritizes safety, it knows of significant harms that users face on its Platforms that it fails to disclose and, in some instances, actively conceals. Examples of these deceptive practices include: presenting misleading statistics to the public; concealing negative internal research; failing to disclose the prevalence of adult-predatory contact; and misrepresenting children's exposure to inappropriate and harmful content.

i. Meta publishes safety data it knows is misleading.

147. Meta regularly publishes public Community Standard Enforcement Reports (the "Reports" or "CSER") that boast very low rates of its Community Standards being violated, while omitting from the Reports Meta's internal user experience survey data showing high rates of users' actual encounters with harmful content on Meta's Platforms.

148. Contrary to what Meta represents to the public, Meta's internal surveys frequently and consistently find that teens are exposed to harmful content and experience harmful interactions at higher rates than the general user population. In many instances, teen girls experience these harms, including inappropriate interactions from adults (such as solicitation or requests for nude photos), at higher rates than teen boys.

149. The Reports, published quarterly, describe the percentage of content posted on Instagram that Meta removes for violating Instagram's Community Standards. Meta often refers

to that percentage as its “Prevalence” metric. Through Report-related talking points, Meta directed its employees to tout the “Prevalence” metric as “the most important measure of a healthy online community.”

150. Meta has publicly represented that the “Prevalence” statistics in the Reports are a reliable measure of the safety of its Social Media Platforms, even going so far as to assert that the CSER “Prevalence” numbers were “the internet’s equivalent” of scientific measurements utilized by environmental regulators to assess the levels of harmful pollutants in the air.

151. The Reports are used by Meta to imply that, because Meta aggressively enforces its Community Standards—thereby reducing the “Prevalence” of Community-Standards-violating content—Meta’s Social Media Platforms are safe products that only rarely expose users (including children) to harmful content and harmful experiences.

152. However, that representation is false. In reality, bullying and harassing content is rampant on Meta’s Social Meta Platforms; most of it just does not violate Meta’s Community Standards, which a reasonable consumer would not know.

153. Meta understands the disparity between Meta’s CSER Reports that it makes public and its internal survey results, but it continues to represent the misleading CSER Reports as accurate.

154. Meta uses several surveys to measure user experiences, including child and teen users, with their products, including exposure to harmful content and experiences. Two of these surveys include the Tracking Reach of Integrity Problems Survey (“TRIPS”) and the Bad Experiences & Encounters Framework (“BEEF”).

155. Contrary to the CSER data presented to the public, the TRIPS and BEEF data used internally show much higher exposure to harmful content.

156. For example, Meta’s third quarter 2021 CSER Report stated that on Instagram, “less than 0.05% of views were of content that violated our standards against suicide & self-injury.” That representation created the impression that it was very rare for users to experience content relating to suicide and self-injury on Instagram.

157. But Meta’s contemporaneous internal TRIPS and BEEF survey data showed that during 2021, 6.7% of surveyed Instagram users had seen self-harm content within the last seven days. For users between thirteen and fifteen years of age, 16.9% had seen content relating to self-harm on Instagram within the last seven days.

158. In other words, whereas a reader of the CSER Reports could reasonably understand Meta to be reporting that self-harm content on Instagram is rarely encountered by users on Instagram—far less than 1% of the time—in reality, Meta knew from its user experience surveys that Instagram users, and children in particular, commonly encounter content related to self-harm on Instagram.

159. Despite the purported importance and centrality of the “Prevalence” metric to Meta, Meta did not have a “Prevalence” metric for bullying and harassment for several years and did not provide a bullying and harassment “Prevalence” metric in Report cycles until 2021.

160. The third quarter 2021 Report stated that “we estimate between 0.05% to 0.06% of views were of content that violated our standards against bullying & harassment [on Instagram].” This representation created the impression that it was very rare for users to experience bullying or harassment on Instagram.

161. Again, Meta’s contemporaneous internal user survey data told a different story: among surveyed Instagram users, 28.3% witnessed bullying on the Platform within the last seven days and 8.1% were the target of bullying on the Platform within the last seven days.

162. Among thirteen- to fifteen-year-olds, 48.7% reported witnessing bullying within the last seven days. Among users aged sixteen to seventeen, that figure was 50%.

163. Similarly, and contrary to the 2021 third-quarter Report's representation that harassment on Instagram was rare, Meta's contemporaneous internal survey showed that 11.9% of all survey respondents said they had received unwanted advances on Instagram within the last seven days.

164. Among thirteen- to fifteen-year-olds, 24.4% reported that they had received unwanted advances within the last seven days. Among sixteen- and seventeen-year-olds, that figure was 25.4%.

165. It's not just that Meta emphasizes the data that makes its Platforms appear safe: Meta actively hides the data that shows the prevalence of users experiencing suicide and self-injury, bullying, and harassment related content. Meta knew *exactly* what it was doing. The State obtained testimony from Meta's former Director of Integrity during its investigation. When asked if he believed "that Mr. Zuckerberg and other [c]ompany leaders focused on the 'prevalence' metric because it created a distorted picture about the safety of Meta's Platforms," he testified "I do." When asked if he thought "Mr. Zuckerberg's public statements about prevalence created a misleading picture of the harmfulness of Meta's Platforms," he testified "I do." And when asked if he was aware of any instances where the company, in his view, minimized (*i.e.*, downplayed) the harms users were experiencing on Meta's Platforms, he testified:

Every time that a [c]ompany spokesperson in the context of harms quotes prevalence statistics I believe that is what they are doing, that they're minimizing the harms that people are experiencing in the product.

ii. Meta promotes its Platforms as safe while concealing negative internal research from researchers and the public.

166. Meta has also taken steps to hide its internal knowledge of the harms its users experience on its Platforms. As regulators, researchers, and the public at large began to scrutinize the harmful effects of social media more closely, Meta adopted a false veneer of transparency while concealing its own knowledge about its Platforms' harms.

167. Meta carefully shields the inner workings of its Social Media Platforms—and their harms—from the public eye. Meta has a history of denying access to researchers to stymie negative research on its Social Media Platforms.

168. As part of the effort to conceal its internal findings, Meta has misled external researchers, regulators, and the public about the existence of research documenting the Social Media Platforms' harms. In meetings with researchers regarding the effects of social media on teens' mental health, Meta purposefully withheld internal research showing adverse findings.

169. In September 2021, Meta employees criticized the company for emphasizing that research into social media's impact is inconclusive, when in fact Meta had conducted research on this issue with much more definitive findings. An employee even likened Meta's public statements to those of tobacco companies, which similarly (and for years) relied on uncertainty in scientific studies to deny that cigarettes caused cancer.

170. Meta has internally conducted research showing that its Social Media Platforms are likely harming a significant portion of its user base. Examples of these studies include:

171. Compulsive Use: An internal study conducted in fall 2019 concluded that "Instagram is addictive, and time spent on [the] platform is having a negative impact on mental health." The research observed that teens "have an addicts' narrative about Instagram use . . . they wish they could spend less time caring about it, but they can't help themselves." The

research concluded, “[o]n an everyday level, Instagram is a recipe for low level mental anxiety that unchecked can ladder up to something more serious.”

172. Mental Health: In the fall of 2019, Meta internally distributed results from a 22,000-person survey of Instagram users that found “at least 1 in 2 [Instagram] users had experienced at least one mental health related issue in the last 30 days.”

173. Body Dissatisfaction: In 2020, Meta internally distributed a Meta-sponsored literature review which found that “[s]ubstantial evidence suggests that experiences on Instagram or Facebook make body dissatisfaction worse,” and that users “perceived body image as a problem that Instagram worsened the most, more than when they end a relationship or lose a job.”

174. Negative Social Comparison: A spring 2020 internal survey of 100,000 individuals concluded that “[a]bout 1 out of 10 people experience negative social comparison on Instagram often or always,” and “1 in 4 people think that Instagram makes social comparison worse.” The study also concluded that this negative comparison is more common among teens, particularly teen girls.

175. Instagram Promotes Negative Social Comparison: In the fall of 2021, a report was internally distributed that concluded that “[n]egative social comparison . . . is a significant problem on Instagram, with 68% of teen girls experiencing negative social comparison on Instagram.” The report also concluded that the problem was not coming from celebrities or influencers but was rooted in the culture of Instagram itself.

176. Personalization Algorithms Feeding Harmful Content: In the summer of 2021, Meta internally distributed research showing that the personalization algorithms on Instagram Explore tends to increase “exposure to [negative appearance comparison-provoking] content

beyond the preferences that people have indicated by the choice of accounts they follow.” Consequently, “17% of people see substantially more (at least 20 percentage points) [negative appearance comparison-provoking] content in Explore than in Feed. It’s worse for women and teen girls.” The study also concluded that personalization algorithms showed users, in particular women and girls, significantly more “High Negative Appearance” content than the user chose to see on their feed.

177. On information and belief, this is just a small subset of the research that Meta has conducted on the harms of its Social Media Platforms. Meta has not released the information from the studies referenced in this Complaint or taken steps to disclose the harms Meta learned from its internal research.

178. On August 27, 2021, an Instagram spokesperson shared an exchange with Head of Instagram Adam Mosseri about a forthcoming article by the *Wall Street Journal*’s Jeff Horwitz “that essentially argues that [Instagram’s] design is inherently bad for teenage girls (leads to [suicide and self-harm], poor mental health, dysphoria).” The spokesperson observed that Horwitz’s “arguments [are] based on [Meta’s] own research so [they] are difficult to rebut” and noted that the article could expose “that [Meta’s] own research confirmed what everyone has long suspected.”

iii. Meta promoting its Platforms as safe is deceptive because Meta knows and fails to disclose the prevalence of adult-predatory contact on its Platforms.

179. Meta has been aware for years that adult-predatory contact is an issue on its Social Media Platforms, and it has failed to effectively counteract the problem. Because it fails to disclose these known risks to children and their parents, Meta’s representations regarding the safety of its Platforms are deceptive.

180. Meta is well aware that predatory adults pretend to be teens on Meta’s Platforms to interact with minors and groom them for “sextortion or CEI [child exploitive imagery] trading.”

181. In 2020, Meta released an internal report cataloging the Platforms’ “Child Safety Issues,” expressly finding that: (1) Instagram had “minimal child safety protections”; (2) the company’s “[m]inor sexualization policies and classifiers [are] immature”; (3) interoperability of the Platforms “increases discoverability and reachability of minors across apps, need stronger protections particularly for IG [Instagram]”; (4) “[l]ive video chat and remote presence products introduce [a] new vector for abuse, [and] lack reporting with content capture”; and (5) ephemeral content “impacts efficacy of reporting.”

182. Following the report, internal recommendations were circulated noting that “work is in progress to block unconnected adults on [Facebook] and [Instagram] from initiating messages with minors on [Facebook], however work is not planned to prevent [Facebook] and [Instagram] adults from initiating messages to [Instagram] minors.” No reason was provided for this distinction; additionally, it does not appear that Meta ever implemented the “block” discussed for Facebook minors. Nor did Meta look to implement other effective methods of reducing this contact, because “product leadership has been unwilling to prioritize these mitigations,” or the company lacked resources and strong leadership buy-in to “accomplish even bare minimum protections.”

183. In May 2021, Meta received external research completed on social media platforms including Instagram and Facebook; this research revealed that children as young as nine years old were using Meta’s Platforms and having online sexual interactions with adults.

184. Meta knows that Instagram’s direct messenger (“DM”) has thirty-eight times the amount of unwanted illicit contact between minors and adults as Facebook, yet enforcement and takedowns on Instagram are drastically lower. More generally, Meta knows that “a top privacy problem (based on prevalence and severity) on Instagram is receiving messages from unwanted people.”

185. Despite this knowledge, Meta staunchly refuses to address this issue by making children unreachable through direct messaging because of the potential negative impact on teen engagement and Meta does not disclose this known risk to children and their parents, depriving them of key information to keep themselves and their children safe.

186. These internal reports are completely contrary to Meta’s public statements that it is fostering a safe environment for users and is prioritizing user safety.

iv. Meta’s promotion of the safety of its Platforms is deceptive because Meta fails to disclose information to consumers and parents about inappropriate and harmful content that children are exposed to on its Platforms.

187. Meta makes public representations that its Platforms are safe for under-18 users in part because it uses “age gating” to prevent children from seeing certain kinds of content. Those representations are misleading because Meta’s attempts at age gating are not as successful as it represents. Additionally, Meta knowingly fails to enforce its ostensible ban on under-13 users and misleads consumers and parents about its amplification of harmful content to increase engagement.

188. Despite its public representations about prioritizing user safety and shielding children from inappropriate content, Meta knows that it serves content to children that is not appropriate for their age. Meta, however, does not disclose this information to parents or consumers, making its public statements deceptive. In 2021, Meta’s Global Head of Safety went

so far as to testify to Congress that “we don’t allow young people to see certain types of content. And we have age gating around certain types of content.” She also testified: “When it comes to those between 13 and 17, [w]e consult with experts to ensure that our policies properly account for their presence, for example, by age-gating content.”

189. That same year, internal Meta communications painted a different picture. Meta’s internal documents reveal that for teens, only 2% of content is actually “age-appropriate nutritious, or the sort of content we would like to promote to teens. This should also suggest that we have a big hill to climb on ensuring a higher % of a teen content consumption diet is ‘nutritious’ . . . [and] also with developing new policy, measurement, detection, parental controls, and enforcement.”

190. Additionally, up until December 2019, Instagram did not require users to disclose their age or date of birth in order to create an Instagram account. This resulted in millions of under-13 users on Instagram. Meta was well aware of this. In 2018, Meta internally estimated that in 2015 there were four million people under the age of thirteen on Instagram in the United States.

191. Once Meta did develop “age-gating” as part of its registration process, it merely required the user to enter an age from a drop-down menu. When the user clicked the drop-down menu, it automatically brought the user the date exactly thirteen years prior to the date the user was registering, welcoming under-thirteen users to misrepresent their age to access Instagram.

192. In 2020, Meta did change Instagram’s sign-up page to automatically generate the current date and year, rather than a date thirteen years prior. Even then, however, Meta allows under-thirteen users to make several attempts at entering a permissible date of birth, and only

temporarily blocks their renewed attempts for a mere twelve hours before permitting them to try again.

193. Internally, Meta knows that its “age-gating” is ineffective and that approximately half of its teen users lied about their age. Externally, Meta touts its age-gating as an effective means to keep children under the age of thirteen off Instagram and Facebook.

194. Meta has also misled consumers and parents regarding how it promotes harmful content to users with personalization algorithms.

195. Meta has vehemently denied that its Social Media Platforms amplify extreme, distressing, and/or problematic content. However, Meta does, in fact, increase children’s engagement with its Platforms by periodically presenting them with psychologically and emotionally gripping content, including content related to eating disorders, violent content, content encouraging negative self-perception and body image issues, bullying content, and other categories of content known by Meta to inspire intense reactions from users.

196. In 2018, Meta internally recognized that the more time a user spends on Instagram, the more likely they are to be exposed to admissions of suicide and self-harm. In 2021, Meta employees internally acknowledged how Instagram’s ranking algorithm takes children “into negative spirals & feedback loops that are hard to exit from.”

197. That same year, internal Meta research also showed that when a user followed anorexia-related content the personalization algorithms would recommend additional anorexia-related content.

198. Meta knows that 13.5% of teen girls on Instagram say the Platform makes thoughts of suicide and self-harm worse, that 17% of teen girls on Instagram say the Platform

makes eating issues worse, and that Meta makes body image issues worse for one in three teen girls.

199. Meta understands the psychologically manipulative nature of its Platforms' functionality, has knowledge that its personalization algorithms promote harmful content, and is aware that users "wish[] Instagram [gave] them better control over what [content] they [see]."

200. Meta has the means to remove or, at the very least, not actively promote content that it knows is harmful for children. For example, in January 2019, Meta's then Chief Operating Officer wrote that one of the improvements Instagram could look into on the "product side" to address suicide and self-harm content was "running a self-harm classifier to find this content on IG[.]" Recognizing that Meta already knew the classifier was effective, the COO stated: "We already do this on FB and it removes a lot of violating content."

201. Even though Meta knows that its products are harmful to teenagers' mental health, Meta externally characterizes Instagram as a source of support for teens struggling with thoughts of suicide and self-harm and mental health issues generally.

202. Meta knows that its personalization algorithms lead children to inappropriate and harmful content, but it has not disclosed that information to consumers or the public or taken actions that could alleviate those harms.

203. Meta's deception regarding the appropriateness of content for children and its personalization algorithms' promotion and amplification of harmful content deprives child users (and their parents) of informed decision-making regarding whether or not (and how) to engage with Meta's Social Media Platforms.

B. Meta misrepresents that its Social Media Platforms are not designed to hook children.

204. For years, Meta has misled the public by claiming that it does not prioritize time spent on its Platforms. But one of Meta's key goals is to induce all users, including children, to spend ever increasing amounts of time on its Social Media Platforms. And Meta's internal communications reveal that it does, in fact, consciously design its Platforms to increase user time spent.

205. In 2018, then-COO Sheryl Sandberg's talking points to reporters included the claim that Meta "do[es] not optimize [its] systems to increase amount of time spent in News Feed" and "explicitly do[es]n't give [its] teams goals around time spent." In October 2019, Mark Zuckerberg publicly stated that Meta does not allow Meta "teams [to] set goals around increasing time spent on [Meta's] services."

206. Additionally, Mark Zuckerberg's talking points for his 2021 testimony to Congress reiterated the misleading statements: "The impact that our products have on the well-being of everyone is a top priority. It's not how much time you spend online, it's how you spend it." Zuckerberg also denied that Meta designed its products to be addictive to maximize time spent.

207. The reality is that Meta closely tracks several data points about its teen users that are very closely related to, and, in effect, proxies for, time spent, including users' average daily use and number of sessions per day. Meta's goal, as always, is to keep its userbase growing, and increase the time teen users spend on its Platforms. In evaluating design features such as infinite scroll and autoplay, Meta focuses on whether they increase the time users spend on the Platform.

208. Meta’s focus on increasing time spent by teens goes back many years—it has consistently judged the success of its Platforms by retention and increase of “teen time spent” since as early as 2016.

209. As discussed in detail above, Meta has spent significant time studying the neurological development of adolescents, conducting over eighty internal studies on the subject. Meta has used this extensive internal research “to inform product strategy” and increase teen engagement.

210. Sean Parker, founding president of Meta, explicitly acknowledged that the purpose behind Meta’s Social Media Platforms was consuming children’s time:

The thought process that went into building these applications, Facebook being the first of them . . . was all about: “How do we consume as much of your time and conscious attention as possible?” That means that we need to sort of give you a little dopamine hit every once in a while, because someone liked or commented on a photo or a post or whatever. And that’s going to get you to contribute more content and that’s going to get you . . . more likes and comments. . . . It’s a social-validation feedback loop . . . exactly the kind of thing that a hacker like myself would come up with, because you’re exploiting a vulnerability in human psychology. The inventors, creators—me, Mark [Zuckerberg], Kevin Systrom on Instagram, all of these people—understood this consciously. And we did it anyway.

C. Meta misrepresents that it prioritizes the well-being of its users when in fact it implements features that it knows increase harm.

211. For years, Meta has publicly claimed that its top priority is well-being, and that Instagram is a safe and age-appropriate Platform for children. However, Meta knows these claims are misleading. Meta continually chooses profits over the health and safety of its users when making decisions regarding the design and management of its Social Media Platforms.

212. Contrary to its public statements, internally Meta expressly acknowledged that any changes to improve teen safety and well-being would need to be balanced with teen engagement (*i.e.*, the related effect on Meta’s revenue source). Ultimately, due to Meta’s

leadership (including Mark Zuckerberg) having final decision-making authority over changes to Meta's Social Media Platforms, Meta does not implement features that might reduce harms to children if those features would also reduce user engagement and therefore Meta's profits.

Meta's public statements create the deceptive impression that, when faced with a choice between features that promote addictive user engagement and features that promote user well-being, Meta would choose the latter, but in reality, Meta consistently chooses the former.

213. One key example was Meta's choice to not implement Project Daisy.

214. In 2020, Meta ran a test program called "Project Daisy," where the "like" counts on Instagram posts were hidden. There were two pilot versions of Project Daisy: "Pure Daisy" (wherein the "like" counts on all posts except one's own were hidden) and "Popular Daisy" (wherein the "like" counts on posts from certain highly followed accounts were visible, but the "like" counts on the average users' posts were hidden).

215. While the pilot project was underway, Meta publicly touted the program as an example of the company's prioritization of user well-being. As early as 2019, Mark Zuckerberg publicly announced that Meta was "testing removing like counts on Instagram and Facebook. We do this because we know that if we help people have meaningful interactions, they'll find our services more valuable." Throughout 2019 and 2020, Instagram publicly promoted Project Daisy as Instagram's move to address the "potentially corrosive impact of social media" and used it as an example of how Instagram is "[w]illing to make changes that will reduce the amount of time people spend on Instagram if it makes them safer."



Figure 4²⁵

216. Both Daisy programs successfully “reduced the negative impact of seeing posts with many Likes.” An internal Meta email from August 2020 noted that Daisy resulted in “less social comparison” and that “negative social comparison decreases more over time.” Another Meta 2020 internal report concluded that Project Daisy “had a statistically significant impact on reducing the frequency of ‘like’ comparison for teens and non-teens.”

217. Despite advice from experts as well as evidence that a platform without public quantification of “likes” would decrease negative social comparison, Meta did not remove the “likes” feature for children on Instagram or any of its Platforms. Instead, Meta required each individual user to opt in if they wished to hide “like” counts from their feed.

218. Top leadership at Meta ultimately decided not to implement Project Daisy as a default setting, despite knowing that the opt-in setting made the change completely ineffective—less than 1% of users found the setting and turned it on. Meta decided not to implement Daisy as

²⁵ Amy Chozick, *This is the Guy Who's Taking Away the Instagram Likes*, N.Y. TIMES (Jan 17, 2020), <https://www.nytimes.com/2020/01/17/business/instagram-likes.html>.

a default setting because it could potentially have a negative effect on engagement, and could have a negative 1% impact on Meta's revenue.

219. When releasing the new “opt-in” version of Daisy, Instagram downplayed its failure to launch Daisy as promised, instead touting the new version of Daisy as a way Meta was giving users “more control on Instagram and Facebook.” Meta told consumers: “What we heard from people and experts was that not seeing like counts was beneficial for some, and annoying to others, particularly because people use like counts to get a sense for what’s trending or popular, so we’re giving you the choice.”

220. Rather than own its decision to not implement Daisy, Meta chose to conceal internal findings that Project Daisy had statistically significant impacts on negative social comparison for users and pretend that its decision to not implement Daisy was based in user choice and not impacts on revenue.

221. Meta's own researchers recognized that Meta was playing fast and loose with its description of Daisy's effects and the researchers raised concerns about Meta externally portraying that Daisy did not improve well-being, saying “statements like ‘Daisy **didn't** improve well-being’ are misleading.”

222. Another key example is Meta's decision to maintain plastic surgery camera filters.

223. Meta tells parents that it takes steps to combat body dissatisfaction and eating disorder content on its Platforms. Meta claimed in its “Parent's Guide” that it published on its website for “parents with teens who use Instagram” that it “work[s] with experts to help inform our product and policies” around eating disorders. Similarly, in 2021, Meta's Global Head of Safety testified before Congress that Meta removes content promoting eating disorders from its Platforms, including by using AI.

224. However, Meta deploys and makes available visual selfie camera filters that simulate facial plastic surgery on its Social Media Platforms, even though it knows the filters are “actively encouraging young girls into body dysmorphia.”

225. After public backlash in 2019, Meta’s initial response was to institute a temporary ban on the camera filters. Experts and Meta’s own employees recommended that the ban be made permanent or that Meta at least limit these filters to users over eighteen.

226. The ban was precipitated by concerns that these filters could have serious impacts related to body dysmorphia and eating disorders, especially for teenage girls. As stated by Instagram’s Head of Public Policy “we’re talking about actively encouraging young girls into body dysmorphia . . . the outside academics and experts consulted were nearly unanimous on the harm here.”

227. Meta consulted over 20 outside experts and academics, and was told that “[c]hildren are particularly vulnerable” to these impacts, as well as “those with a history of mental health challenges [and] eating disorders[.]”

228. Prior to the ban, teenage girls were known to heavily use these cosmetic surgery filters. Meta’s own internal research found that “[a]mong teen girls that said they felt bad about their bodies, 32% said Instagram made them feel worse.”

229. Despite these concerns, Mark Zuckerberg, Meta’s CEO, unilaterally vetoed the proposal to ban plastic surgery simulation camera filters, stressing that there was a “clear[] demand” for the filters, and wrongly asserting that he had seen “no data” suggesting that the filters were harmful. In his view, “[i]t has always felt paternalistic . . . that [Meta has] limited people’s ability to present themselves in these ways.”

230. Later that week, a senior Meta staffer memorialized her disagreement with Zuckerberg’s decision, stating “I respect your call on this and I’ll support it, but want to just say for the record that I don’t think it’s the right call given the risks . . . I just hope that years from now we will look back and feel good about the decision we made here . . . I wanted to take a moment to express my disagreement even as we move to implement this decision. Thanks for listening.”

231. As of October 2023, these filters remain available on Instagram, and Meta has continued to promote these types of beauty-enhancing filters across its Platforms. Meta has even considered making “enhancement filters” such as a “skin smoothing” effect a so-called “sticky setting” which would be automatically applied when users opened the camera after having used the filter once.

232. In short, contrary to Meta’s public statements touting the company’s commitment to user well-being, where there is a conflict between well-being and profit, Meta consistently chooses profit.

COUNT I
VIOLATIONS OF THE CONSUMER PROTECTION ACT
RSA § 358-A:2
(Unfair Acts or Practices-Manipulative and Addictive Design Features)

233. The State realleges and incorporates by reference each of the allegations contained in the preceding paragraphs as if set forth fully herein.

234. The CPA is a comprehensive statute, and its terms should be broadly applied.

235. The CPA makes it unlawful for any person to use any unfair act or practice in the conduct of trade and commerce within the State.

236. Defendants at all relevant times are engaged in trade and commerce through advertising and distributing their Social Media Platforms in the State and by using their

Platforms to advertise third-party products and services in the State, thus directly and/or indirectly affecting the people of this State.

237. Defendants continue to commit unfair acts in violation of the CPA that (1) offend public policy and are within the penumbra of an established concept of unfairness, including, without limitation, youth addiction, (2) are immoral, unethical, oppressive, and/or unscrupulous, and (3) cause substantial injury to consumers in the State.

238. As described in detail in the Complaint, Defendants, at all relevant times, intentionally incorporate addictive design features and algorithms into their Social Media Platforms notwithstanding a thorough understanding of the harms suffered by children who use their Platforms and the role their Platforms play in exacerbating existing harms. Instead of taking measures to mitigate these damaging effects, Defendants turn a blind eye to these damaging effects and persist in exploiting children's psychological vulnerabilities. Defendants' acts and omissions constitute knowing decisions causing unnecessary and unjustified harm to children for Defendants' financial gain.

239. Defendants' acts and omissions alleged herein have caused and continue to cause substantial injury to consumers that could not be reasonably avoided. Children cannot reasonably avoid injuries resulting from Defendants' acts and omissions, including because Defendants misrepresent and fail to disclose the dangerous nature of their Social Media Platforms and because Defendants utilize psychologically manipulative, engagement-inducing features, knowing that children are especially susceptible to those psychologically manipulative tactics.

240. Meta's unfair acts and practices include its choice to target its Social Media Platforms to children while knowingly designing its Platforms to include features known to promote compulsive, prolonged, and unhealthy use by children.

241. Such unfair and addictive design features that Meta incorporates into its Social Media Platforms include: (1) personalization algorithms; (2) push notifications and alerts; (3) infinite scroll and autoplay; (4) ephemeral content; and (5) Reels.

242. Disruptive alerts, infinite scroll, autoplay, features promoting ephemeral content, and Reels are unfairly utilized by Defendants to extract additional time and attention from children whose developing brains are not equipped to resist those manipulative tactics.

243. Defendants design, develop, and deploy disruptive audiovisual and vibrating notifications, alerts, and ephemeral content features in a way that exploit children's psychological vulnerabilities and cultivate a sense of "fear of missing out" to induce children to spend more time on Meta's Platforms than they would otherwise.

244. By algorithmically serving content to children according to "variable reward schedules," Defendants manipulate dopamine releases in children who use their Platforms, unfairly inducing them to engage repeatedly with their products—much like a child gambling at a slot machine.

245. The unfair conduct alleged herein is not based on the content posted, but rather the manipulative and addictive design features that Defendants intentionally incorporate into their Platforms.

246. Thus, in numerous instances, Defendants engage in unfair practices by taking actions to facilitate children's unhealthy use of their Social Media Platforms. Defendants' choices to expose children to each of the features described above, individually and in combination, constitute unfair acts or practices, in part because those exposures cause substantial injury to children that they cannot reasonably avoid, especially in view of those users' psychological and developmental vulnerabilities.

247. Meta's conduct, as described in this Complaint, meets and exceeds a level of rascality that would raise an eyebrow of someone inured to the rough and tumble of the world of commerce.

248. New Hampshire consumers have suffered and continue to suffer substantial injury as described above by reason of Meta's conduct. They suffer substantial injury because Meta's conduct unreasonably creates obstacles to the free exercise of consumer decision-making and induces users to spend significant time on the Platforms, including time the users themselves report that they do not want to spend on the Platforms. The addictive design features of Meta's Social Media Platforms negatively impact children's brain development, sleep, and overall mental health and well-being, and cause serious harm to youth in New Hampshire. Meta also uses the addictive design features to collect more data about the users, which is itself an injury to the users.

249. While users may also suffer other harms from third-party content on Meta's Social Media Platforms, the harms to children in New Hampshire listed above: unreasonable obstacles to the free exercise of consumer decision-making; a compulsion to spend significant time, including unwanted time, on the Platforms; and negative impacts to brain development, sleep, and overall mental health and well-being result, at least in part, from Meta's intentionally addictive design choices, and not from third-party content on the Platforms.

250. As a direct result of the unfair practices described above, Meta obtained income, profits, and other benefits that it would not otherwise have obtained.

251. Each instance in which Defendants engage in an unfair act or practice as recited above constitutes a separate violation of the CPA.

252. Defendants' violations present a continuing harm, and the unfair acts and practices complained of here affect the public interest.

253. Pursuant to RSA § 358-A:4, III, the State requests an order permanently enjoining Meta from engaging in these unfair acts and practices.

254. Pursuant to RSA § 358-A:4, III(a), the State requests an order directing restitution to consumers.

255. Pursuant to RSA § 358-A:4, III(b), the State requests an order assessing civil penalties in the amount of \$10,000 against Meta for each violation of the CPA.

256. Pursuant to RSA § 358-A:6, IV, the State requests an order awarding to the State all legal costs and expenses.

COUNT II
VIOLATIONS OF THE CONSUMER PROTECTION ACT
RSA § 358-A:2
(Deceptive Practices)

257. The State realleges and incorporates by reference each of the allegations contained in the preceding paragraphs as if set forth fully herein.

258. The CPA is a comprehensive statute, and its terms should be broadly applied.

259. The CPA makes it unlawful for any person to use any deceptive act or practice in the conduct of trade and commerce within the State.

260. Defendants at all relevant times are engaged in trade and commerce through advertising and distributing their Social Media Platforms in the State and by using their Platforms to advertise third-party products and services in the State, thus directly and/or indirectly affecting the people of this State.

261. By engaging in the acts and practices alleged herein, Defendants are engaged in deceptive acts or practices affecting State consumers, including by making or causing to be made

to State consumers, directly or indirectly, explicitly or by implication, misrepresentations as to material facts which have a tendency to mislead consumers and by omitting material facts such that the statements Defendants make are likely to confuse and/or mislead consumers regarding the nature and safety of Defendants' Social Media Platforms, in violation of RSA § 358-A:2.

262. In numerous instances in connection with the advertising, marketing, promotion, and other representations regarding their products, including through the actions described herein, Defendants use deceptive practices, directly or indirectly, expressly or by implication, with the intent that consumers rely on Meta's deceptive practices, including but not limited to the following: (a) deceptively representing that Meta's Platforms are safe, and failing to disclose and/or actively concealing information that shows that Meta's Platforms are not safe; (b) misrepresenting that Meta's Social Media Platforms are not designed to hook children; and (c) misrepresenting that Meta prioritizes user well-being over profits.

263. Each of the above misrepresentations and instances of misleading conduct individually and in combination constitutes a deceptive act or practice within the meaning of the CPA.

264. In addition to Meta's misleading statements, Meta's omissions of material fact rendered even seemingly truthful statements about Meta's Social Media Platforms false and misleading.

265. At the times Meta made or disseminated its false and misleading statements, or caused these statements to be made or disseminated, Meta knew or recklessly disregarded that the statements were false or misleading and therefore likely to deceive consumers and the public.

266. Meta knew or recklessly disregarded that its deceptive practices, including its misrepresentations and omissions, created a false or misleading impression of the risks associated with the use of its Social Media Platforms.

267. Meta's conduct, as described in this Complaint, meets and exceeds a level of rascality that would raise an eyebrow of someone inured to the rough and tumble of the world of commerce.

268. As a direct result of the deceptive practices described above, Meta obtained income, profits, and other benefits that it would not otherwise have obtained.

269. Each instance in which Defendants engages in a deceptive act or practice as recited above constitutes a separate violation of the CPA.

270. Defendants' violations present a continuing harm, and the unlawful acts and practices complained of here affect the public interest.

271. Pursuant to RSA § 358-A:4, III, the State requests an order permanently enjoining Meta from engaging in these deceptive acts and practices.

272. Pursuant to RSA § 358-A:4, III(a), the State requests an order directing restitution to consumers.

273. Pursuant to RSA § 358-A:4, III(b), the State requests an order assessing civil penalties in the amount of \$10,000 against Meta for each violation of the CPA.

274. Pursuant to RSA § 358-A:6, IV, the State requests an order awarding to the State all legal costs and expenses.

COUNT III
STRICT PRODUCTS LIABILITY
(Defective Design)

275. The State realleges and incorporates by reference each of the allegations contained in the preceding paragraphs as if set forth fully herein.

276. Meta’s Social Media Platforms and their features are products and Meta is in the business of, and generates a profit from, supplying its Social Media Platforms to consumers.

277. Meta sells the use of its Social Media Platforms to consumers in an in-kind transaction in exchange for the consumers’ time, attention, and data, as memorialized in the contracts that Meta enters into with users of Facebook and Instagram.

278. Defendants consistently refer to their Social Media Platforms and their features as “products.”



Meta builds technologies and services that enable people to connect with each other, build communities, and grow businesses. These Terms govern your use of Facebook, Messenger, and the other products, features, apps, services, technologies, and software we offer (the [Meta Products](#) or [Products](#)), except where we expressly state that separate terms (and not these) apply. These Products are provided to you by Meta Platforms, Inc.

Figure 5²⁶

279. Defendants are engaged in the business of designing, developing, programming, marketing, distributing, and profiting from their Social Media Platforms.

280. Defendants have complete control over the design of their Social Media Platforms.

281. The manipulative design features and algorithms that Defendants intentionally include in their Social Media Platforms create defective conditions that are unreasonably dangerous to children.

²⁶ Facebook Terms of Service, https://www.facebook.com/legal/terms?paipv=0&eav=AfZ0dpJ_MJ6X54KkbqqGVL8JgvZoGYSzWadeSHtYjqPxlp2mnDFCAD5MZPIr9ajzKE&_rdr (last visited Oct. 23, 2023).

282. Defendants intentionally designed their Social Media Platforms to manipulate children into excessively and compulsively using them.

283. Defendants profit from children's use of the products and profit more when children use the products more.

284. Meta's Social Media Platforms were defective at the time the products left Defendants' control and reached the user or consumer without substantial change in condition.

285. Children's compulsive and excessive use of the products was reasonably foreseeable by Defendants.

286. A great portion of those children suffer severe psychological and other harms, as alleged throughout this Complaint.

287. Defendants' Social Media Platforms are defective products because: (a) the risks of Defendants' Social Media Platforms, including the risks of addiction or compulsive use, outweigh the benefits of those Platforms; and (b) the foreseeable risks of harm could have been reduced or avoided by adopting reasonable alternative designs that would not have diminished any benefits of the Platforms—omitting the alternative designs render Defendants' Social Media Platforms not reasonably safe.

288. The following design features, among others, render Defendants' Social Media Platforms unreasonably dangerous because they disrupt sleep and promote problematic and compulsive use: (1) the personalization algorithm; (2) push notifications and alerts; (3) infinite scroll and autoplay; (4) ephemeral content; and (5) Reels.

289. Defendants could have feasibly made Meta's Social Media Platforms less dangerous by omitting or modifying its harmful features like autoplay, infinite scroll, features

promoting ephemeral content, and alerts. Those design elements could be modified without substantially affecting the products' cost or effectiveness.

290. Additionally, Meta's Social Media Platforms are defectively designed in that they fail to perform as safely as an ordinary consumer or user would reasonably expect when put to their foreseeable or intended use.

291. Defendants' defective design of their Social Media Platforms causes children serious harm as set forth throughout this Complaint. The addictive design features of their Social Media Platforms negatively impact children's brain development, sleep, and overall mental health and well-being, and have caused serious harm to youth in New Hampshire.

292. The State and its citizens have suffered and will continue to suffer substantial injury as a result of Defendants' defective products and the unlawful acts and practices complained of here, which affect the public interest.

293. The State, on behalf of itself and its citizens, has suffered damages in an amount to be proven at trial.

294. The wrongful acts of Defendants as described throughout this Complaint were committed intentionally, wantonly, maliciously, and/or oppressively. The State, therefore, is entitled to enhanced compensatory damages.

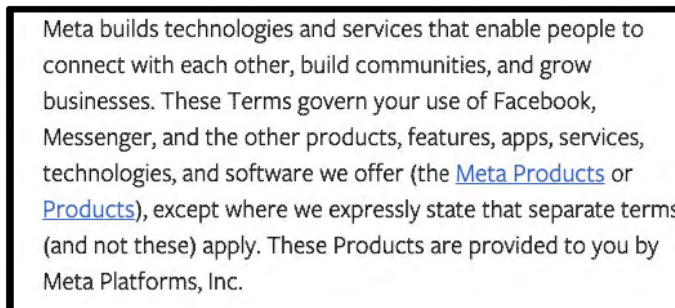
COUNT IV
STRICT PRODUCTS LIABILITY
(Failure to Warn)

295. The State realleges and incorporates by reference each of the allegations contained in the preceding paragraphs as if set forth fully herein.

296. Meta's Social Media Platforms and their features are products and Meta is in the business of, and generates a profit from, supplying its Social Media Platforms to consumers.

297. Meta sells the use of its Social Media Platforms to consumers in an in-kind transaction in exchange for the consumers’ time, attention, and data, as memorialized in the contracts that Meta enters into with users of Facebook and Instagram.

298. Defendants consistently refer to their Social Media Platforms and their features as “products.”



Meta builds technologies and services that enable people to connect with each other, build communities, and grow businesses. These Terms govern your use of Facebook, Messenger, and the other products, features, apps, services, technologies, and software we offer (the [Meta Products](#) or [Products](#)), except where we expressly state that separate terms (and not these) apply. These Products are provided to you by Meta Platforms, Inc.

Figure 6²⁷

299. Defendants are engaged in the business of designing, developing, programming, marketing, distributing, and profiting from their Social Media Platforms.

300. Defendants have complete control over the design of their Social Media Platforms.

301. The manipulative design features and algorithms that Defendants intentionally include in their Social Media Platforms create defective conditions that are unreasonably dangerous to children.

302. Defendants intentionally designed their Social Media Platforms to addict children or otherwise cause them to compulsively use their Social Media Platforms.

303. Defendants profit from children’s use of the products and profit more when children use the products more.

²⁷ *Id.*

304. Meta's Social Media Platforms are more dangerous than an ordinary user, with ordinary knowledge available in the community, would anticipate.

305. Meta's Social Media Platforms are defective products because the instructions and warnings Meta supplies are inadequate and not sufficiently understandable to warn users of the dangers of the Social Media Platforms that are not readily apparent.

306. While Defendants know of these foreseeable risks, the existence and magnitude of these risks are not readily apparent and not reasonably known to ordinary users, and the Social Media Platforms are not obviously inherently dangerous.

307. The foreseeable harms could have been reduced or avoided by providing reasonable instructions or warnings.

308. The omissions of those instructions or warnings render Defendants' Social Media Platforms not reasonably safe.

309. Defendants' failure to warn of the risks associated with the use of their Social Media Platforms has caused children serious harm as set forth throughout this Complaint. Meta's Social Media Platforms negatively impact children's brain development, sleep, and overall mental health and well-being, and have caused serious harm to youth in New Hampshire.

310. The State and its citizens will continue to suffer substantial injury as a result of Defendants' defective products, and the unlawful acts and practices complained of here affect the public interest.

311. The State, on behalf of itself and its citizens, has suffered damages in an amount to be proven at trial.

312. The wrongful acts of Defendants as described throughout this Complaint were committed intentionally, wantonly, maliciously, and/or oppressively. The State, therefore, is entitled to enhanced compensatory damages.

**COUNT V
NEGLIGENCE**

313. The State realleges and incorporates by reference each of the allegations contained in the preceding paragraphs as if set forth fully herein.

314. Defendants have a duty to exercise due care in the design, manufacture, marketing, distribution, and labeling of their Social Media Platforms and to make their Social Media Platforms reasonably safe for all foreseeable users of the Platforms. Children are intended and foreseeable users of Defendants' Social Media Platforms.

315. Defendants breached that duty by including addictive design features that caused children to compulsively and excessively use Defendants' Social Media Platforms and by failing to warn children and their parents of the risks of using their Social Media Platforms.

316. Defendants' negligence is both the proximate and actual cause of harm to the State and the State's children.

317. Defendants' negligence causes children serious harm as set forth throughout this Complaint. The addictive design features of their Social Media Platforms negatively impact children's brain development, sleep, and overall mental health and well-being, and have caused serious harm to youth in New Hampshire.

318. The State and its citizens have suffered and will continue to suffer substantial injury as a result of Defendants' negligence and the unlawful acts and practices complained of here affect the public interest.

319. The State, on behalf of itself and its citizens, has suffered damages in an amount to be proven at trial.

320. The wrongful acts of Defendants as described throughout this Complaint were committed intentionally, wantonly, maliciously, and/or oppressively. The State, therefore, is entitled to enhanced compensatory damages.

PRAYER FOR RELIEF

WHEREFORE, the State requests this Court enter a judgment in its favor and grant relief against Defendants as follows:

- (a) Permanently enjoin Defendants from engaging in the unlawful acts alleged in the Complaint including the deceptive and unfair acts and practices;
- (b) Order Defendants to pay restitution to impacted consumers in the amount to be proven at trial;
- (c) Award civil penalties of \$10,000 per violation of the CPA;
- (d) Award the State compensatory and consequential damages in an amount to be proven at trial;
- (e) Award the State enhanced compensatory damages in an amount to be proven at trial;
- (f) Award the State all legal costs and expenses, including reasonable attorneys' fees, as permitted by law;
- (g) Award the State such further relief as the Court deems just and proper.

JURY DEMAND

The State demands a trial by jury.

Dated: October 24, 2023

Respectfully submitted,

THE STATE OF NEW HAMPSHIRE

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**Pro Hac Vice applications forthcoming*