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THE STATE OF NEW HAMPSHIRE

MERRIMACK, SS.

SUPERIOR COURT

State of New Hampshire

Plaintiff,

v.

TikTok Inc.,

Serve at:

5800 Bristol Parkway, Suite 100
Culver City, CA 90230

Defendant.

Case No. _____

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COMPLAINT

The State of New Hampshire (the “State”), by and through the Office of the Attorney General, hereby brings this Complaint against Defendant TikTok Inc. (“TikTok”) 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. In 2017, the social media platform TikTok became available in New Hampshire. Over the next four years, TikTok grew into a constant presence in teenagers’ lives, and at the same time, the rates of mental health problems among New Hampshire high school students have skyrocketed.

2. In 2021, almost half (44.2%) of New Hampshire’s high school students reported symptoms of clinical depression, feeling persistently sad or hopeless—a 57.8% increase from 2017.¹ Between 2017 and 2021, the percentage of New Hampshire high school students who reported seriously considering suicide jumped by an alarming amount: a 53.4% increase, from 16.1% to 24.7%.² And most disturbingly, the percentage of New Hampshire high school students who reported actually attempting suicide leaped from 5.9% to 9.8%—representing a 66.1% increase.³

3. TikTok, the application (or the “App”), is run by TikTok, the company, a subsidiary of the Chinese company ByteDance, Ltd. (“ByteDance”). The App is one of the most

¹ 2021 Youth Risk Behavior Survey Results – Trend Analysis Report, N.H. Dep’t of Educ., 6 (Mar. 2023), https://www.education.nh.gov/sites/g/files/ehbemt326/files/inline-documents/sonh/2021nhh-trend-report_0.pdf.

² *Id.*

³ *Id.*

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popular and fastest-growing social media platforms in the world. Much of this popularity comes from children⁴—over 63% of the United States teen population reports using TikTok.

4. Consistent with national statistics, the App is incredibly popular in New Hampshire. There are over [REDACTED] registered accounts in the State, which is close to [REDACTED] of New Hampshire’s population. More than a [REDACTED] of all accounts registered in New Hampshire are users under the age of 23.⁵

5. While TikTok claims it is “committed to maintaining a safe and secure environment,”⁶ its actions tell a much different story. In truth, TikTok prioritizes profits and market growth over app safety.

6. TikTok is a sophisticated global entity that masterfully monetizes the consumer data that users agree to exchange for access to the platform. When a user signs up for a TikTok account, in exchange for access to the platform, the user must agree to TikTok’s Terms of Service, including TikTok’s “Privacy Policy” which ironically outlines what little privacy the user retains by using the platform. The Privacy Policy identifies all the information gathered—

⁴ When used herein, “children” and “young users” mean or refer to people under the age of 18. The Complaint also uses “teens” and “teenagers” to refer to children aged 13–17, and the phrase “children under the age of 13” is used to refer to young children.

⁵ Letter from Craig TenBroeck, Counsel for TikTok, to Theo Benjamin, Counsel for New Hampshire (Jan. 19, 2024) (on file with the N.H. Dept. of Just.), at 7, 18.

⁶ *Safety on TikTok 2023*, TikTok (Nov. 13, 2023), <https://adobe.ly/3MFpCAh>; *Everything you need to know about TikTok’s approach to safety, privacy, and transparency*, TikTok (Nov. 13, 2023) (emphasis added), <https://www.tiktok.com/business/en-GB/blog/2023-guide-to-safety-on-tiktok?redirected=1>.

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broken down as Information You Provide⁷, Information from Other Sources⁸, and Automatically Collected Information⁹—and what TikTok may do with that information. This includes, “among other things, show you suggestions, promote the Platform and customize your ad experience.”¹⁰ In other words, consumers agree to exchange their data for access to the platform.

7. TikTok collects data from users while they are on the App. The more time a user spends on the App, the more data TikTok collects, and the more money TikTok makes. Its revenue from consumers has risen as users spend more time on the App. The business formula is relatively simple: TikTok profits by charging premium rates to advertisers, who flock to place advertisements under the eyeballs of its 1.5 billion engaged users. In short, and as the company acknowledges, [REDACTED]

8. To maximize the time that users spend on the App, TikTok utilizes addictive product design features to manipulate users and overcome their independent decision-making. Those addictive features include (1) push notifications; (2) infinite scroll; (3) quantification and display of popularity (*e.g.*, through likes and comments); (4) filters and effects that manipulate a user’s face into idealized (yet unattainable) versions of themselves; and (5) algorithms that leverage user data to serve highly personalized content recommendations.

⁷ Including account and profile information (such as name, age, email, and phone number), user-generated content and associated metadata, messages and chats (including those you compose, send and receive), and purchase information. *See Privacy Policy*, TikTok (Mar. 28, 2024), <https://www.tiktok.com/legal/page/us/privacy-policy/en>.

⁸ Including information from third party platforms linked to TikTok sign-in (such as Google or Facebook), information from advertisers and other partners who agree to share your activity on other websites, affiliated entities, and information from other publicly available sources (government authorities, professional organizations and charity groups). *See id.*

⁹ Usage information, device information, location data, image and audio information, metadata (how, when, where and by whom User Content was created, collected or modified), and cookies. *See id.*

¹⁰ *See id.*

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9. Powered by machine-learning, TikTok was built and designed to identify videos that people will like and feed users an endless stream of them, no matter who made them or where they come from. TikTok leverages its powerful algorithms and manipulative design features to capture and retain the attention of users for as long as possible.

10. Those brains with the most yet to learn are an easy target for TikTok's addictive design—children are easier to exploit and easier to addict because they do not yet have fully developed brains. Underdeveloped neurobiology makes children especially susceptible to TikTok's addictive product design features.

11. These features exploit children's underdeveloped psychological and neurological controls to lock young users into cycles of excessive and unhealthy usage of social media apps. The intent (and result) of these features is to trap a user's attention for profit. 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.¹¹

12. The consequences for New Hampshire's children are devastating. TikTok's business practices are driving record levels of mental health problems, not to mention fueling body dysmorphia, pedophilia, and dangerous, sometimes illegal behaviors in the State.

¹¹ 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>.

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13. While excessive use is highly lucrative for TikTok, it is incredibly harmful to young users. Today, youths aged 13 to 17 report using social media at a near-universal rate, with as many as 30% characterizing their own usage of social media as excessive.¹²

14. TikTok's own data shows that compulsive usage of the App is rampant: 13- to 17-year-olds check the App nearly [REDACTED] times a day and spend, on average, almost [REDACTED] a day on TikTok, outpacing all other older age groups. Many children are spending [REDACTED] on the App daily.

15. TikTok is also aware that, among its users, more than [REDACTED] of children are active on TikTok late at night (between [REDACTED]), preventing them from getting sleep critically important to their healthy development.

16. Consistent with national statistics, New Hampshire's children are spending increasingly alarming amounts of time on screens. In 2021, over 37% of New Hampshire high schoolers reported 5 hours or more of screen time on an average school day.¹³ The U.S. Surgeon General has warned that unchecked use of applications like TikTok has "a profound risk of harm to the mental health and well-being of children and adolescents."¹⁴

17. TikTok misleads New Hampshire's children and their parents by lying about its ability to effectively moderate and maintain a safe digital environment for children. In reality,

¹² 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/>.

¹³ *2021 Youth Risk Behavior Survey Results – Detail Tables – Weighted Data*, N.H. Dep't of Educ., 154 (Mar. 2023), https://www.education.nh.gov/sites/g/files/ehbemt326/files/inline-documents/sonh/2021nhh-detail-tables_1.pdf.

¹⁴ *Social Media and Youth Mental Health: The U.S. Surgeon General's Advisory*, U.S. Dep't of Health & Hum. Servs., 4 (2023), <https://www.hhs.gov/sites/default/files/sg-youth-mental-health-social-media-advisory.pdf>.

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TikTok's content policies have glaring gaps that it fails to disclose to consumers, and TikTok fails to effectively enforce the policies it has.

18. As a result, contrary to TikTok's representations to consumers about the App being a safe environment for children, the App exposes children to predatory practices and violent, harmful content such as Child Sexual Abuse Material ("CSAM") and/or dangerous videos promoting suicide and extreme weight loss.

19. Further, TikTok misrepresents the effectiveness of its App's built-in features designed to combat these harms. TikTok promised features that never emerged and existing features, including parental controls, are hard to use and do not work as promised. Some of these features were intentionally made hard to find, easy to turn off, or otherwise discouraged—a design tactic known as a dark pattern.

20. Moreover, because TikTok lacks effective age verification, TikTok routinely collects data from children under the age of 13, including New Hampshire children, in violation of public policy, and without notice to and consent from parents. This constitutes an unfair business practice under the CPA because the protection of children under the age of 13 from abusive data collection practices without parental consent is a well-established objective underlying public policy, both nationally and in the State of New Hampshire.

21. Finally, TikTok additionally misleads New Hampshire consumers by attempting to pass itself off as an American company. TikTok has been and continues to be controlled by its China-based parent company, ByteDance. The implications of TikTok's continued geographic misrepresentations are significant to consumers, particularly because TikTok collects broad swaths of personal data about its users that it cannot protect from collection by the Chinese government.

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22. TikTok's conduct violates New Hampshire's consumer protection statute and common laws. The Attorney General brings this action to protect New Hampshire's children by putting an end to TikTok's unlawful conduct in the State.

PARTIES

23. Plaintiff, the State of New Hampshire, 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 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 CPA. RSA § 358-A:4, III(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.

24. Defendant TikTok Inc. is incorporated in California with its principal place of business located at 5800 Bristol Parkway, Suite 100, Culver City, California 90230. TikTok transacts or has transacted business in the State of New Hampshire, including entering contracts with New Hampshire consumers. At all times material to this Complaint, TikTok has advertised, marketed, and distributed the TikTok social media app to consumers in New Hampshire. TikTok is a "person" as defined by the CPA as it is a legal entity. RSA § 358-A:1, I.

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JURISDICTION AND VENUE

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

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

TIKTOK’S CONTACTS WITH NEW HAMPSHIRE

27. Under the CPA, trade and commerce 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, TikTok has advertised, marketed, and distributed its App and related services to consumers throughout the State and makes a substantial profit selling advertisements aimed at New Hampshire users.

28. TikTok’s App is a sophisticated mechanism of “advertising . . . of any services and any property” within the meaning of the CPA. RSA § 358-A:1, II. The App incorporates features to manipulate user attention to facilitate gathering data on New Hampshire users, which allows TikTok to charge companies for placing advertisements targeted at New Hampshire consumers.

29. Since launching in the U.S., TikTok has also greatly expanded its reach in the State. As of 2023, there are [REDACTED] unique registered TikTok accounts in New Hampshire. Of those registered New Hampshire accounts, [REDACTED] are “Content Creators,” meaning users who

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actively publish videos and live streams on the TikTok platform. Additionally, of the [REDACTED] unique registered accounts in New Hampshire, [REDACTED] are children.

30. TikTok promotes its App to New Hampshire consumers, running television commercials in markets that include New Hampshire. Those commercials are designed to get New Hampshire residents, including children, to use the App.

31. TikTok uses the data it collects about its users and further uses personalization algorithms to create a completely customized experience for each of its users. No two TikTok users have the same experience. Said differently, TikTok has created tens of thousands of unique experiences, each custom-tailored to a specific New Hampshire child based on the data that TikTok has collected about that specific New Hampshire child.

32. Additionally, TikTok's addictive design features deliberately alter the physical brain chemistry of the New Hampshire children who use TikTok. In other words, TikTok has intentionally changed the chemicals inside the brains of tens of thousands of children in New Hampshire.

33. TikTok's deceptive and unfair practices in violation of the CPA and its tortious conduct have been targeted toward, and impacted, New Hampshire consumers. TikTok is aware it has users in New Hampshire; it has (1) actively marketed its App to potential New Hampshire users; (2) actively marketed its New Hampshire users to potential advertisers; and (3) profited directly from its exploitation of children in New Hampshire.

34. First, TikTok has entered (and continues to enter) into contracts with hundreds of thousands of New Hampshire residents to provide them with its App, which is readily available on smartphone devices throughout the entire State. Through those contracts, TikTok sells access to the App in an in-kind transaction in exchange for the ability to collect user data. The company

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converts that user data, including users' locations, interests, and behaviors (such as video views, likes, comments, and shares), into advertising dollars.

35. Between August 1, 2020 and December 31, 2023, TikTok spent [REDACTED] on advertising and promoting the App in New Hampshire. This targeted advertising proved incredibly successful in the State. In 2020, there were only [REDACTED] registered accounts throughout the State; by 2023, there were more than [REDACTED] accounts.

36. Second, because TikTok has captured the attention of New Hampshire users in such great quantities, TikTok sells significant advertising space to marketers and allows them to tailor advertising to New Hampshire consumers. Businesses in New Hampshire and nearby advertise on the App. Advertisers have paid TikTok money to target advertisements toward New Hampshire residents. TikTok produced advertising revenue in response to pre-suit subpoenas issued by the State, which demonstrates TikTok generated profits of [REDACTED] between June 2022 and November 2023 from advertisements that businesses selected to show *only* to New Hampshire consumers. Upon information and belief, TikTok's revenue from advertisements placed in a wider New England area, which includes New Hampshire consumers, is substantial.

37. TikTok has also enriched itself by selling ad space to hundreds of New Hampshire entities so they can target ads at New Hampshire consumers. These businesses have included concert venues like [REDACTED] and [REDACTED].¹⁵ Other well-known New Hampshire entities that TikTok sold targeted advertising space to include:

- a. [REDACTED]
- b. [REDACTED]

¹⁵ Letter from TenBroeck to Benjamin, *supra* note 5, at 35, 92.

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c. [REDACTED]

d. [REDACTED]

38. Third, TikTok also allows consumers, including consumers located in New Hampshire, to purchase products directly from its App. In September 2023, the company unveiled “TikTok Shop,” a new e-commerce feature where consumers can both find and purchase products. TikTok has specifically acknowledged the power that its platform has on consumer purchasing trends—one such TikTok-amplified trend, called #TikTokMadeMeBuyIt, has amassed over 12.4 billion views on the App.¹⁶ TikTok charges service fees on each transaction, including on transactions placed to and from New Hampshire users and businesses. Those service fees are directly connected to this Complaint’s allegations against TikTok: the App’s addictive design features and the company’s deceptive representations entice more New Hampshire children to spend more time on the App, which, in turn, leads to them viewing more advertisements, which leads to more e-commerce, bigger trends, and more service fees.

39. In addition, TikTok makes substantial revenue off e-commerce from sales in New Hampshire. TikTok operates various monetization programs, which include: (1) TikTok’s “Creator Rewards Program” (formerly known as the Creator Fund),¹⁷ which is a monetary fund TikTok uses to directly compensate influencers from New Hampshire and elsewhere to encourage continued engagement with their user base on the App¹⁸; (2) TikTok “LIVE,” which is a livestreaming video feature on the App where users send and receive monetary payment in the form of “coins” and “gifts” that can be withdrawn for cash; and (3) the TikTok Shop.

¹⁶ *#TikTokMadeMeBuyIt shows the power of TikTok*, TikTok (May 24, 2022), <https://newsroom.tiktok.com/en-au/tiktokmademebuyit-shows-the-power-of-tiktok>.

¹⁷ *TikTok’s Monetization Features*, TikTok, <https://www.tiktok.com/creator-academy/en/article/monetization-offerings-overview> (last visited June 11, 2024).

¹⁸ *Id.*

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44. TikTok is best known for its App of the same name, where users can create, upload, and view 15- to 60-second-long, short-form videos, which users view in the App and “swipe” to view the next video.

45. TikTok was initially introduced in China under the name “Douyin” (pronounced “doe-yin”) in 2016 and was later launched internationally as TikTok in 2017. The App gained significant popularity in the United States after merging with a popular lip-synching app called Musical.ly in August 2018.

46. TikTok is now available in over 150 markets and in 75 languages, boasting over 1.5 billion active users worldwide. In the U.S., TikTok has over 150 million users, making up nearly half the country’s population. TikTok is incredibly lucrative. In 2022, the company made \$9.9 billion in ad revenue, a 155% increase from the prior year.²¹

47. TikTok’s explosive growth was no accident. Early on, Alex Zhu, one of TikTok’s creators, recognized that U.S. teenagers represented a “golden audience” for emerging social media products.²² To cash in on what TikTok viewed as a “golden” market from the very start, it deployed highly addictive features to keep its child users engaged.

48. TikTok’s focus on children as a target audience has been controversial from the start. In 2019, the Federal Trade Commission (“FTC”) filed a complaint against Musical.ly (now TikTok) for illegally collecting children’s personal information, despite being aware that a significant percentage of its users were under 13.²³ Musical.ly agreed to settle the alleged

²¹ Dayna Winter, *TikTok Ad Revenue: How Much Are Brands Spending on TikTok?* (2024), Shopify (July 14, 2023), <https://www.shopify.com/blog/tiktok-ad-spending>.

²² Paul Mozur, *Chinese Tech Firms Forced to Choose Market: Home or Everywhere Else*, N.Y. Times (Aug. 9, 2016), <https://www.nytimes.com/2016/08/10/technology/china-homegrown-internet-companies-rest-of-the-world.html>.

²³ *United States v. Musical.ly*, No. 2:19-cv-1439, Dkt. 1 (C.D. Cal. Feb. 27, 2019) (“*Musical.ly*”).

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Children’s Online Privacy Protection Act (“COPPA”) violations for nearly \$6 million.²⁴ In 2022, the Information Commissioner’s Office (“ICO”) in the United Kingdom announced that it had concluded its investigation into underage children’s use of TikTok. The ICO found that over a million children had engaged with TikTok without parental consent. The breach resulted in a nearly £13 million penalty.²⁵

49. None of these enforcement actions deterred TikTok from continuing to violate New Hampshire’s laws to maintain its dominance as one of the most popular social media platforms among young users.

50. More recently, TikTok has come under additional scrutiny for its practices concerning children. On September 15, 2023, Ireland’s Data Protection Commission (“DPC”) fined TikTok €345 million for violating European privacy laws relating to how the company processed children’s personal data.²⁶ According to the DPC, TikTok had, among other things, automatically set child-user accounts to public (meaning anyone could view content posted by child users) and employed “dark patterns” by nudging users toward choosing more privacy-intrusive options during the registration process. The DPC further found that the “Family Pairing” setting, which TikTok introduced to give parents more control over their children’s accounts, did not verify whether a user was actually the child-user’s parent or guardian.

51. On November 9, 2023, the European Commission formally issued TikTok requests for information concerning the company’s measures to comply with and protect children

²⁴ *Musical.ly*, Dkt. 1-1 (Feb. 27, 2019).

²⁵ *ICO Fines TikTok £12.7 Million for Misusing Children’s Data*, Info. Comm’r’s Off. (Apr. 4, 2023), <https://ico.org.uk/about-the-ico/media-centre/news-and-blogs/2023/04/ico-fines-tiktok-127-million-for-misusing-children-s-data>.

²⁶ *Irish Data Protection Commission announces €345 million fine of TikTok*, Irish Data Protection Comm’n (Sept. 15, 2023), <https://www.dataprotection.ie/en/news-media/press-releases/DPC-announces-345-million-euro-fine-of-TikTok>.

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under the Digital Services Act (“DSA”), in particular regarding the risks to mental and physical health of minors related to using TikTok’s App.²⁷ On February 19, 2024, the European Commission opened formal proceedings against TikTok for potential breaches of the DSA, specifically in areas relating to the protection of minors, advertising transparency, data access for researchers, and risk management for the addictive design and harmful content on TikTok.²⁸ The European Commission specifically cited risk mitigation obligations for the actual or foreseeable negative effects stemming from the design of TikTok’s systems, including algorithmic systems that “may stimulate behavioural addictions and/ or create so-called rabbit hole effects.”²⁹

I. TikTok designed its products to keep young users spending unhealthy amounts of time on its App, with devastating effect.

52. TikTok’s primary business is selling access to its users’ attention. Young users are particularly integral to TikTok’s business model. A report commissioned by TikTok to assess the value of its App for businesses found that TikTok is “undeniably powerful at reaching younger audiences.”³⁰ Internal documents reveal that TikTok’s reach among U.S. users under the age of 17 has been incredibly successful—reaching a market penetration of [REDACTED].

53. To maximize engagement, TikTok uses a dopamine-inducing algorithm that spoon-feeds users a highly personalized diet of short-form videos, making it difficult for children to unplug. TikTok amplifies this effect with a series of manipulative features designed to keep

²⁷ *Commission sends requests for information to TikTok and YouTube under the Digital Services Act*, Eur. Comm’n (Nov. 9, 2023), <https://digital-strategy.ec.europa.eu/en/news/commission-sends-requests-information-tiktok-and-youtube-under-digital-services-act>.

²⁸ *Commission opens formal proceedings against TikTok under the Digital Services Act*, Eur. Comm’n (Feb. 19, 2024), https://ec.europa.eu/commission/presscorner/detail/en/ip_24_926.

²⁹ *Id.* (internal quotes omitted).

³⁰ *The Power of TikTok: Achieving breakthrough brand building with TikTok*, Kantar | TikTok, <https://www.tiktok.com/business/library/the-power-of-tiktok.pdf> (last visited June 6, 2024).

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users on the App. Unfortunately, the result is that TikTok's youngest, most vulnerable users become trapped, spending excessive, unhealthy amounts of time on the App, which TikTok knows is dangerous and contributing to a mental health crisis among teens in New Hampshire.

A. TikTok knows children's prolonged and compulsive use of its App poses a profound risk of harm to the mental health and well-being of New Hampshire's children.

54. The very thing that makes children an appealing target for TikTok also makes them more vulnerable to overuse and its harms. Adolescence is a period of transition from childhood to adulthood, marked by specific developmental and behavioral changes.

55. The brain goes through major alterations during adolescence, including both structural remodeling and neurochemical maturation. Brain regions associated with a desire for risk-taking,³¹ attention, peer feedback, and reinforcement, like the dopamine system, become particularly sensitive in adolescence, while regions like the prefrontal cortex that are associated with maturity and impulse control are not fully developed until adulthood.³²

56. The dopamine system participates in the neural coding of reward and motivated behavior—the precise area that reward patterns (like those used by TikTok) stimulate. Therefore, the particular sensitivity of the dopamine system during adolescence, coupled with the unfinished development of regions like the prefrontal cortex, makes 13- to 17-year-olds on TikTok highly susceptible to risky behaviors, temptations, and manipulations of their reward

³¹ U.S. Dep't of Health & Hum. Servs., *supra* note 14, at 5.

³² Leah Somerville & BJ Casey, *Developmental neurobiology of cognitive control and motivational systems*, 20 *Current Op.in Neurobiology* 236 (2010), <https://www.sciencedirect.com/science/article/abs/pii/S0959438810000073?via%3Dihub>.

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system, all while they remain chemically incapable of the kinds of impulse control that might be expected of adults.³³

57. At the same time, adolescent well-being is also at its most vulnerable. Because identities and sense of self are not yet fully formed, teens are more susceptible than adults to the danger, misinformation, peer pressure, and false images that abound on social media.³⁴

58. TikTok has proven especially adept at exploiting these dynamics to gain popularity among U.S. children. Of the nearly [REDACTED] minors (aged 13 to 17) who use TikTok daily, almost [REDACTED] of them are spending [REDACTED] on the App every day and [REDACTED] are averaging [REDACTED].

59. This compulsive, prolonged use of TikTok is incredibly dangerous. Studies have shown that children who spend more than 3 hours per day on social media face double the risk of experiencing poor mental health outcomes, including symptoms of depression and anxiety.³⁵ Frequent use of TikTok may also result in structural changes to the brain itself,³⁶ and children

³³ Kathryn Mills et al., *The Developmental Mismatch in Structural Brain Maturation during Adolescence*, 36 Dev. Neurosci. 147 (2014), <https://karger.com/dne/article/36/3-4/147/107931/The-Developmental-Mismatch-in-Structural-Brain/>.

³⁴ Ronald C. Kessler et al., *Age of Onset of Mental Disorders: A Review of Recent Literature*, 20 Current Op. Psychiatry 359 (2007), <https://www.ncbi.nlm.nih.gov/pmc/articles/PMC1925038/pdf/nihms25081.pdf>; Daniel Romer, *Adolescent Risk Taking, Impulsivity, and Brain Development: Implications for Prevention*, 52 Dev. Psychobiology 263 (2010), <https://www.ncbi.nlm.nih.gov/pmc/articles/PMC3445337/pdf/nihms-404113.pdf>; Nat'l Academies Scis., Eng'g & Med., *The Promise of Adolescence: Realizing Opportunity for All Youth* (Emily P. Backes, Richard J. Bonnie, eds., 2019).

³⁵ Kira Riehm et al., *Associations Between Time Spent Using Social Media and Internalizing and Externalizing Problems Among US Youth*, 76 JAMA Psychiatry 1266 (2019), <https://www.ncbi.nlm.nih.gov/pmc/articles/PMC6739732/>.

³⁶ Quinghua He, Ofir Turel, & Antoine Bechara, *Brain anatomy alterations associated with Social Networking Site (SNS) addiction*, 7 Sci. Reps. 45064 (2017), <https://www.ncbi.nlm.nih.gov/pmc/articles/PMC5362930/>.

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can emerge from this critical period of adolescent development damaged.³⁷ Scientists report that younger adolescents can experience higher levels of developmental sensitivity to apps like TikTok and rate lower on the life-satisfaction scale than older adolescents.³⁸ The reverse is also true—a decrease in social media use for younger adolescents is predictive of an overall increase in life satisfaction.³⁹

60. Heavy TikTok use also disrupts activities like sleep and physical activity,⁴⁰ which are critical for psychological health and well-being.⁴¹ Research indicates that use of technology, especially social media, within one hour of bedtime is associated with sleep disruptions,⁴² and insufficient sleep is itself associated with disruptions to neurological development in adolescent brains.⁴³ Specifically, lack of sleep can impair teenagers' emotional functioning and heighten suicidal thoughts.⁴⁴

³⁷ Amy Orben et al., *Windows of Developmental Sensitivity to Social Media*, 13 *Nature Commc'ns* 1649 (2022), https://www.ncbi.nlm.nih.gov/pmc/articles/PMC8960761/pdf/41467_2022_Article_29296.pdf.

³⁸ *Id.*

³⁹ *Id.*

⁴⁰ *Health Advisory on Social Media Use in Adolescence*, Am. Psych. Ass'n (2023), <https://www.apa.org/topics/social-media-internet/health-advisory-adolescent-social-media-use.pdf>.

⁴¹ Eduardo Bustamante et al., *Unlocking the Promise of Physical Activity for Mental Health Promotion*, 177 *JAMA Pediatrics* 111 (2023), <https://jamanetwork.com/journals/jamapediatrics/article-abstract/2799813>; Rea Alonzo et al., *Interplay between social media use, sleep quality, and mental health in youth: A systematic review*, 56 *Sleep Med. Revs.* 101414 (2021), <https://www.sciencedirect.com/science/article/abs/pii/S108707922030157X?via%3Dihub>.

⁴² Rea Alonzo, *supra* note 41.

⁴³ Aurore Perrault et al., *Reducing the use of screen electronic devices in the evening is associated with improved sleep and daytime vigilance in adolescents*, 42 *Sleep zsz125* (2019), <https://academic.oup.com/sleep/article/42/9/zsz125/5513278?login=false>.

⁴⁴ Jessica Hamilton et al., *Sleep influences daily suicidal ideation through affective reactivity to interpersonal events among high-risk adolescents and young adults*, 64 *J. of Child Psych. And Psychiatry* 27 (2022), <https://acamh.onlinelibrary.wiley.com/doi/10.1111/jcpp.13651>.

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61. TikTok is fully aware of the risks its App poses for adolescents and acknowledges that children are [REDACTED] and [REDACTED] in comparison to adults users. Specifically, TikTok’s head of Mental Health Policy has acknowledged that [REDACTED]

[REDACTED] In an internal [REDACTED]
[REDACTED]
[REDACTED]

[REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]

62. Many young people using TikTok are in a mental health crisis. Nearly half (45%) of adolescent girls who use TikTok say they feel “addicted” to the App and use it more than intended.⁴⁵ In 2021, almost 60% of adolescent girls across the country reported feeling “persistent feelings of sadness or hopelessness.”⁴⁶ Approximately 1 in 4 teenage girls nationally reported that they had made a suicide plan in an attempt to end their lives, and 40% of the country’s 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”⁴⁷

⁴⁵ Jacqueline Nesi et al., *Teens and mental health: How girls really feel about social media*, Common Sense Media, 6 (2023), https://www.commonsensemedia.org/sites/default/files/research/report/how-girls-really-feel-about-social-media-researchreport_final_1.pdf.

⁴⁶ *Youth Behavior Risk Survey: Data Summary & Trends Report*, Ctrs. for Disease Control and Prevention, 2 (2023), https://www.cdc.gov/healthyyouth/data/yrbs/pdf/YRBS_Data-Summary-Trends_Report2023_508.pdf.

⁴⁷ *Id.*

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Nationally, the suicide rate among youth and young adults has increased 52.2% between 2000 and 2021, and youth and young adults are experiencing high rates of emergency department visits for self-harm.⁴⁸ In 2020, emergency department visits for self-harm in this age group were 354.4 per 100,000, compared with 128.9 per 100,000 among middle-aged adults ages 35–64.⁴⁹ Girls and young women are at particularly high risk, with an emergency department visit rate for self-harm of 514.4 per 100,000—which has approximately doubled since 2001.⁵⁰

63. The mental health crisis is also heavily impacting children in New Hampshire. At the same time TikTok launched and grew in popularity within the U.S., the mental health of New Hampshire’s children rapidly worsened. 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 and a 57.8% increase from 2017.⁵¹ Similarly, between 2017 and 2021, the percentage of New Hampshire high school students who reported seriously considering suicide jumped by an alarming amount: from 16.1% to 24.7%, a 53.4% increase.⁵² And most disturbingly, the percentage of New Hampshire high school students who reported actually attempting suicide leaped from 5.9% to 9.8%—representing a 66.1% increase.⁵³

64. 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

⁴⁸ *Health Disparities in Suicide*, Ctrs. for Disease Control and Prevention (Jan. 17, 2024), https://www.cdc.gov/suicide/disparities/?CDC_AAref_Val=https://www.cdc.gov/suicide/facts/disparities-in-suicide.html.

⁴⁹ *Id.*

⁵⁰ *Id.*

⁵¹ *2021 Youth Risk Behavior Survey Results – Trend Analysis Report*, N.H. Dep’t of Educ., *supra* note 1, at 6.

⁵² *Id.*

⁵³ *Id.*

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educational resources and public outreach to better understand the impacts of social media platforms on New Hampshire youth.⁵⁴

65. In short, TikTok knows the design of its App is harmful—especially to teens—with devastating effect.

B. TikTok uses coercive design elements to manipulate children into unhealthy overuse of the App.

i. Recommendation Engine

66. Every TikTok user’s initial journey begins on the “For You” feed, the App’s flagship feature. On this feed, users can view and scroll through an endless stream of content that TikTok curates to appeal to the individual user. “For You” is fueled by TikTok’s Recommendation Engine and uses what is called “infinite scroll,” meaning that the feed continues to load new videos as the user scrolls on the App. TikTok’s Recommendation Engine is an immensely powerful set of algorithms that collects each user’s personal data which is then utilized to curate a highly personalized stream of videos to keep them scrolling endlessly.

67. TikTok sends newly posted videos along with information about the user and their actions on the App—which include, for instance, videos a user previously watched, liked, or commented on—through its Recommendation Engine. Next, the Recommendation Engine calculates a score to predict how a user will respond to new videos. Using those calculations, the Recommendation Engine then narrows results down from millions of videos to just eight, called a “load.” After each load, the Engine gives TikTok’s algorithm feedback about the accuracy of its predictions. The Engine “learns” from the feedback to select the next “load” of videos to feed to the user in an endless cycle—thus producing an individually curated experience for each user.

⁵⁴ N.H. Exec. Order 2023-04 (June 6, 2023), <https://www.governor.nh.gov/sites/g/files/ehbemt336/files/documents/2023-04.pdf>.

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68. The Recommendation Engine’s predictions are made by a series of machine-learning algorithms, which rely on advanced math to create software that “learns.” After the algorithms are created, they are each fed [REDACTED]

[REDACTED] The algorithm makes connections between certain characteristics and can apply them to new information it receives about videos and users. By finding videos a user is most likely to watch to the end, like, or comment on, the Engine keeps them hooked on the App for as long as possible and keeps them coming back for more.

69. TikTok knows that the Recommendation Engine is incredibly effective at keeping users engaged with the App. This is a carefully designed machine with a clear end goal: to trap a user’s attention and minimize their agency to control their own App experience. Indeed, TikTok does not shy away from admitting that [REDACTED]” of the company:

[REDACTED]

70. The algorithm is designed to give young users immediate gratification and boost rewards to encourage excessive, [REDACTED] of the App. TikTok also knows that its presence in people’s lives monopolizes their time resulting in precisely this effect. *See* Figures 1 and 2 below, showing images from an internal PowerPoint titled [REDACTED]



(Figure 1.)



(Figure 2.)

71. One technique the Recommendation Engine uses to keep users on the App is to trap them in “filter bubbles,” or rabbit holes of dangerously similar content. These filter bubbles learn and then reinforce a user’s video preferences by recommending more *intense* versions of those videos, and isolating the user from other types of videos that might disrupt the feedback loop. When a user is in a filter bubble, TikTok strings related—and increasingly extreme—videos together in an endless reel, which TikTok admits [REDACTED]

[REDACTED]

[REDACTED]

72. The Recommendation Engine can turn a mindless inquiry about a subject matter into a bubble that traps a user for long periods of time—if not indefinitely. These bubbles can keep teenagers virtually surrounded by harmful content, including content about weight loss,

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dieting, and self-harm, sending them spiraling down “endless streams of depressing and suicide-glorifying videos.”⁵⁵

73. In an internal study from 2023, TikTok found that minor users entered a filter bubble featuring [REDACTED]

[REDACTED]

74. TikTok knows that these filter bubbles can expose users to extreme quantities of harmful content. It also knows that eliminating them entirely would decrease the time and attention users give to the platform—so it does not. The same internal study, [REDACTED]

[REDACTED]

75. In addition to its Recommendation Engine, TikTok acknowledges it [REDACTED]

[REDACTED]

[REDACTED] These and other features give children the illusion of control, hide any effective tools to limit time spent on the App, and further amplify and incentivize compulsive, repeated use, which is especially unhealthy for kids whose brains are not yet fully formed.

ii. Infinite Scroll

76. One of TikTok’s coercive design tactics, “infinite scroll,” is particularly pernicious. The “For You” feed constantly loads new videos for the user, in an endless stream of new content.

⁵⁵ Olivia Carville, *TikTok’s Algorithm Keeps Pushing Suicide to Vulnerable Kids*, Bloomberg (Apr. 20, 2023), <https://www.bloomberg.com/news/features/2023-04-20/tiktok-effects-on-mental-health-in-focus-after-teen-suicide>.

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77. Because there is no natural endpoint and content is not presented in chronological order or limited to people followed by the user, it is difficult for young users to disengage from the platform. The infinite scroll feature is designed to counteract a user’s agency to disengage and thereby maximize a user’s time spent in the App. According to TikTok, the [REDACTED]

78. The infinite scroll function of the App, which continually previews and suggests new content, provokes a child’s fear of missing out (commonly referred to as “FOMO”).⁵⁶ Children are particularly susceptible to developing FOMO, which can trigger anxiety and result in sleep deprivation out of a fear that they might be missing important content that is continuously displayed on social media apps like TikTok.

iii. Push Notifications

79. Another example of TikTok’s use of manipulative elements is “push notifications.” Push notifications alert users to new messages or make video suggestions to induce the user to re-open the App. These notifications include, for instance, baiting users to return to the App because someone may have liked or commented on a user’s video or because TikTok wants to inform users about [REDACTED] and/or trends. Regardless of the type of notification, the goal of push notifications, according to TikTok, is to: [REDACTED]

[REDACTED] In other words, the push notifications are advertisements for the App. TikTok admits these notifications, [REDACTED] See Figure 3 below, showing screenshots of what TikTok’s push notifications look like.

⁵⁶ *4 Things to Know About Your Teen’s Brain*, Northwestern Med. (July 2018), <https://www.nm.org/healthbeat/healthy-tips/four-things-about-your-teens-developing-brain>.



(Figure 3.)

80. The goal of push notifications is to [REDACTED]

[REDACTED] TikTok's push notifications are relentless, and drive users, especially children, into checking the App routinely and at all hours of the day. TikTok sends these notifications to users' mobile phones, nudging younger users to engage with the App during both school and sleeping hours: as TikTok acknowledges, [REDACTED]

[REDACTED]

81. Younger users describe their experience using TikTok as a constant struggle to outrun the machine.⁵⁷ In fact, TikTok [REDACTED]

[REDACTED]

[REDACTED] Specifically,

among TikTok's [REDACTED]

[REDACTED]

⁵⁷ Julie Jargon, *She Tried to Block Eating-Disorder Content on TikTok. It Still Pops up Daily.*, Wall St. J. (Sept. 24, 2022, 11:51 AM), <https://www.wsj.com/articles/she-tried-to-block-eating-disorder-content-on-tiktok-it-still-pops-up-daily-11663982648> (documenting the experience of a teenager who attempted to limit the amount of content about eating disorders on her TikTok feed, only to realize that the algorithm failed to capture all the harmful content).

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82. Even when the company introduced a screen-time management tool, it [REDACTED] [REDACTED] so users would not use it.

83. TikTok designed its App to maximize the company’s success while trading-off its users’ well-being and ability to stop using the platform, admitting internally that: [REDACTED]

[REDACTED] This has had particularly devastating and harmful results for TikTok’s young users.

C. TikTok creates and provides children with defective features like “filters” that promote negative social comparison and unattainable beauty ideals.

84. As a content creation platform, TikTok creates “filters” and “effects” (collectively “filters”) that allow users to change their appearance in videos by placing a “filter” over their face and body.

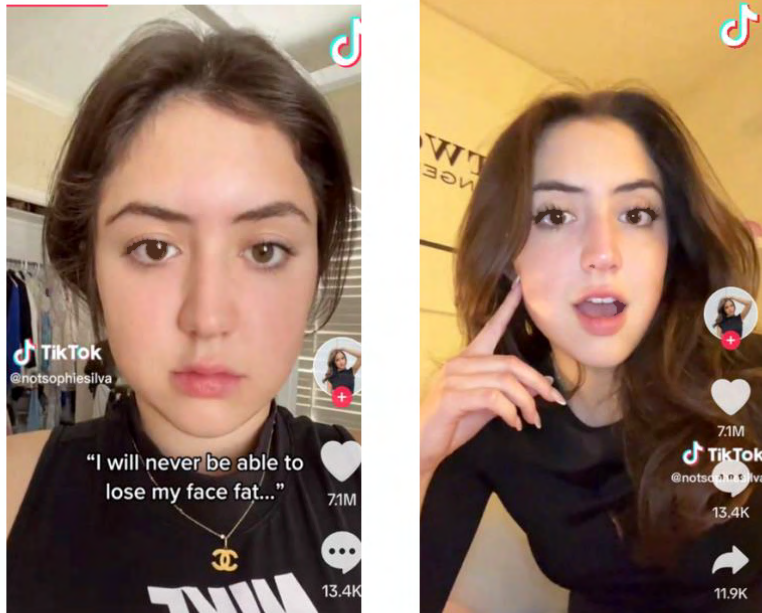
85. These filters include, for example, lightening and smoothing their skin, changing their eye color, altering and giving themselves larger lips, and even modifying their facial features by creating a skinnier face or a smaller nose.

86. Some of TikTok’s most popular filters, including “Bold Glamour,” have been used hundreds of millions of times by users. *See* Figures 4, 5, and 6, below, showing the Bold Glamour filter. The Bold Glamour filter, like TikTok’s other filters, uses Artificial Intelligence (“AI”) to cosmetically reshape a user’s face hyper-realistically.

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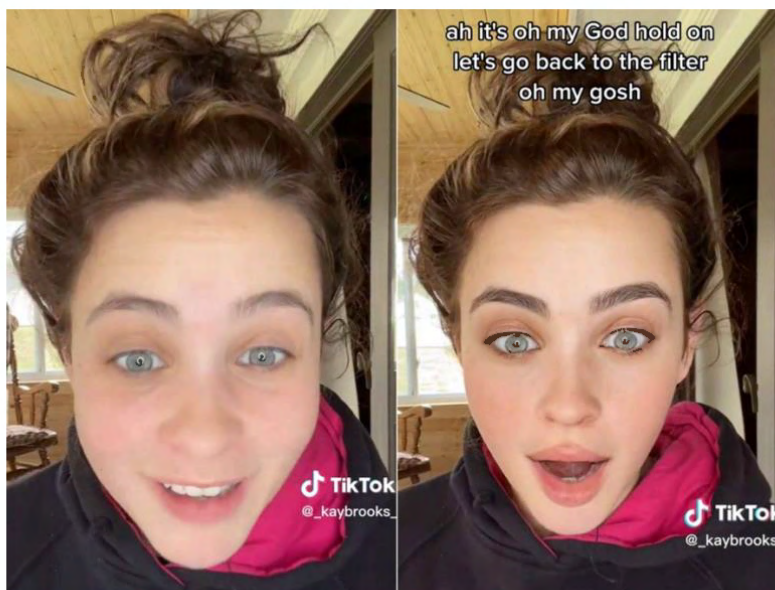


(Figure 4.)



(Figure 5.)

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(Figure 6.)

87. Beauty filters like Bold Glamour are incredibly popular on TikTok—especially among teenage girls. These filters sharpen, shrink, enhance, and recolor the user’s face and body to reflect unattainable conventional beauty standards. The AI allows the algorithm to track a user’s face without common “glitching” or “shifting” that would reveal to the user’s followers that they are using a filter. TikTok’s filters are so advanced and high-tech that they can blur the line between what is real and what is fake—making users’ modified appearance look realistic even in video.

88. But these filters are not safe. Because teenagers’ brains are not yet fully developed, TikTok’s teens often seek out attention, peer feedback, and social comparison reinforcement. Not surprisingly, TikTok’s teen users compare the filtered images of themselves and others they follow on TikTok to their real-life appearances, developing a negative self-image based on TikTok’s unrealistic, artificially enhanced images. Instead of living their lives in a body and face they do not like, users increasingly turn to the App that shows them—and lets them show the world—only the filtered version of themselves.

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89. In a shocking revelation, internal company documents from May 2023 show that beyond *just* promoting harmful beauty filters to children, TikTok [REDACTED]

[REDACTED]

[REDACTED]

90. Beyond just the “auto retouch” filter, even more extreme changes are available to children at the click of a button. When a user takes videos and photos in TikTok, filters are promoted as “effects” in an icon right next to the button to take the photo. Users who navigate to TikTok’s filter page are presented with filters that are “trending,” a common term social media companies use to describe themes, features, or topics that are popular on social media and generating a lot of “buzz.” This function encourages teenagers to use and/or interact with popular

⁵⁸ Emphasis added.

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filters on the App. Several beauty filters are currently trending on TikTok, including Bold Glamour.

91. And if a user clicks to add the Bold Glamour filter, text pops up on the screen that reads: “bring a different version of yourself to life with this effect.” TikTok also provides specific recommendations for filters in a subcategory called “Appearance” within the App.

92. TikTok’s filters cause emotional and psychological harm to its users, especially the App’s young female users, including but not limited to, increasing their risk for eating disorders, depression, anxiety, low self-esteem, and negative body image.⁵⁹

93. The company has acknowledged that filters that alter the face, like those resembling post-plastic surgery, are [REDACTED] particularly for minors. Despite this knowledge, as of May 2023, TikTok did not have [REDACTED]

94. TikTok has specifically admitted internally that there is [REDACTED] associated with under-18 consumers using beauty effects because they create [REDACTED]

95. Additionally, and as TikTok has acknowledged, teens are [REDACTED]
[REDACTED]
[REDACTED]
[REDACTED] Despite this knowledge, TikTok fails to warn young users that its beauty modification filters are damaging to their mental health and well-being.

⁵⁹ Tara Well, *The Hidden Danger of Online Beauty Filters*, Psychology Today (Mar. 25, 2023), <https://www.psychologytoday.com/us/blog/the-clarity/202303/can-beauty-filters-damage-your-self-esteem>.

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96. These filters have real world consequences for children. The American Society of Plastic Surgeons (“ASPS”) has documented notable increases in body modification requests from children, noting: “Digital platforms like TikTok serve as catalysts for trending treatments.”⁶⁰ The rise in teens seeking medical intervention to alter their appearance prompted the ASPS to release new guidance for cosmetic procedures on teens,⁶¹ and the ASPS has specifically noted that platforms like TikTok “are driving the popularity of plastic surgery overall.”⁶²

97. Contrary to public representations that it does not allow the promotion of body modification and plastic surgery, TikTok’s Recommendation Engine is known to push plastic surgery videos and body altering videos to young users—some aged 13 and 14—within *just minutes* of using the App.⁶³

98. Despite knowing that the harms of these filters are very real, especially for its youngest and most vulnerable users, TikTok has routinely deployed hundreds (if not thousands)

⁶⁰ Kayla Peterson, *Circle of influence: How social media influencers are shaping plastic surgery trends*, Am. Soc’y of Plastic Surgeons (Sept. 19, 2023), <https://www.plasticsurgery.org/news/articles/circle-of-influence-how-social-media-influencers-are-shaping-plastic-surgery-trends>.

⁶¹ *American Society of Plastic Surgeons Weighs in On Growing Popularity of Teen Plastic Surgery*, Am. Soc’y of Plastic Surgeons (Aug. 22, 2018), <https://www.plasticsurgery.org/news/press-releases/american-society-of-plastic-surgeons-weighs-in-on-growing-popularity-of-teen-plastic-surgery#:~:text=%22While%20a%20rhinoplasty%20or%20ear,%2C%20including%20lack%20of%20research%2C%22>.

⁶² Ariel Frankeny, *The prevalence of TikTok and its impact on plastic surgery procedures*, Am. Soc’y of Plastic Surgeons (Mar. 11, 2024), <https://www.plasticsurgery.org/news/articles/the-prevalence-of-tiktok-and-its-impact-on-plastic-surgery-procedures>.

⁶³ Joshua Zitser, *Insider created a TikTok account and set the age at 14 to test how long before a plastic surgeon’s promotional video appeared. It only took 8 minutes*, Bus. Insider (Jan. 10, 2021), <https://www.insider.com/rhinoplasty-is-being-promoted-to-teenagers-nose-job-tiktok-2020-12>.

of different beauty and face-altering filters and effects. These filters remain a core feature of the App.

D. TikTok deploys defective user controls to curb unhealthy App usage, including ineffective time management features and parental controls.

99. TikTok has marketed several features to the public as “useful” and effective ways to keep users in full control of their time and usage on the App—but TikTok knows none are effective.

100. Since at least October 2019, TikTok deployed the “You’re In Control” feature—which it describes as an educational video series that presents TikTok’s safety and privacy controls in an accessible and easy to understand fashion.⁶⁴

101. One example of these controls is TikTok’s “Take a Break” (or “TAB”) feature. TAB is a screen time tool that allows users to schedule a video reminder to take a break from using TikTok—and enjoy the world offline.⁶⁵ [REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED] TikTok also acknowledged that late night usage of the App [REDACTED]

[REDACTED]

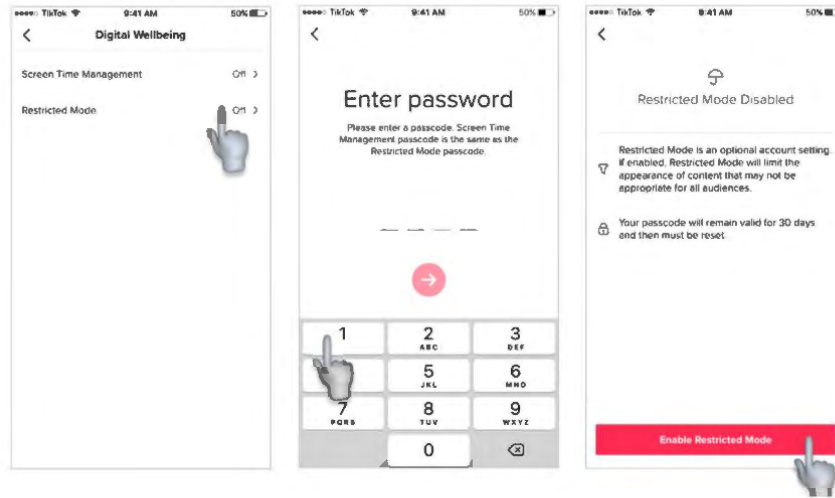
102. Internally, however, TikTok knows this feature is ineffective and [REDACTED]

[REDACTED]—meaning that the App simply allows [REDACTED]

⁶⁴ “You’re in Control” video series stars TikTok creators to educate users about safety features, TikTok (Oct. 22, 2019), <https://newsroom.tiktok.com/en-us/youre-in-control-video-series-stars-tiktok-creators-to-educate-users-about-safety-features>.

⁶⁵ Stephanie Hind, *Helping users manage their screen time*, TikTok (Feb. 13, 2020), <https://newsroom.tiktok.com/en-us/helping-users-manage-their-screen-time>.

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(Figure 7.)

107. But this feature does not work as advertised. Content that TikTok feeds users under Restricted Mode is [REDACTED]

[REDACTED] Further, children who can access the passcode can simply turn off Restricted Mode themselves.

108. Another glaring loophole is that children who are on the App with Restricted Mode enabled can [REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

109. Another ineffective safety feature is TikTok’s “Family Pairing” feature, which the company introduced in April 2020 as a way to advance its commitment to user safety by allowing parents to “customize their safety settings based on individual needs.”⁶⁸ Family Pairing allows parents to link their own TikTok account to their teens’ and to set controls, including

⁶⁸ Jeff Collins, *TikTok Introduces Family Pairing*, TikTok (Apr. 15, 2020), <https://newsroom.tiktok.com/en-us/tiktok-introduces-family-pairing>.

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controlling how long their teens can spend on the App (known as “Screen Time Management”), restricting mature content on the App (known as Restricted Mode, described above), and restricting who can send messages to the connected accounts, including by turning off the App’s Direct Message feature completely.

110. Like the other promised parental control features, this too does not work as advertised: [REDACTED]

[REDACTED]

111. Despite these glaring loopholes and defects to Family Pairing, TikTok’s Trust & Safety Team [REDACTED]

[REDACTED]

112. Effective parental controls are incredibly important to alleviate parental concerns about their children’s use of TikTok and social media. [REDACTED]

[REDACTED] Given widespread reports that TikTok is also a haven for sexual predators,⁶⁹ giving parents knowledge and control regarding, for instance, who their child is messaging online is vitally important for safety.

II. TikTok misrepresents the safety of its App.

113. TikTok uses a combination of tactics to create the impression for New Hampshire users that it is a safe place for children.

⁶⁹ Tawnell D. Hobbs, ‘Every Parent’s Nightmare’: TikTok Is a Venue for Child Sexual Exploitation, Wall St. J. (Feb. 15, 2023), <https://www.wsj.com/articles/tiktok-child-sexual-exploitation-children-teens-29f9ac2>.

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114. First, it maintains publicly available “Community Guidelines,” which provide the rules and policies that govern behavior and activities on the App.⁷⁰ Every New Hampshire user who creates a TikTok account is required to review and agree to TikTok’s Terms of Service. The Terms of Service prompts each potential New Hampshire user to click a link in order to review TikTok’s Community Guidelines, which assure TikTok users that its platform is safe and explain how TikTok uses moderation and enforcement to remove content that violates its guidelines.

115. Second, TikTok publishes posts on its website to explain its policies, announce new safety features, and promise safety.

116. Third, TikTok’s officers, including its CEO, have made public statements about what TikTok allows or does not allow on its App, and its capabilities to enforce those promises.

117. TikTok has long been a haven to incredibly disturbing, gruesome videos, including beheadings,⁷¹ mass shootings,⁷² and videos of both suicide⁷³ and eating disorders.⁷⁴ TikTok also knows sexual predators use the App to solicit nude photographs and other photographs from/of children.⁷⁵

⁷⁰ *Community Guidelines*, TikTok (Apr. 17, 2024), <https://www.tiktok.com/community-guidelines/en/>.

⁷¹ Palmer Haasch, *TikTok removes a graphic video depicting a girl’s beheading after users said they were ‘traumatized’ by the footage*, Insider (June 11, 2021), <https://www.insider.com/tiktok-beheading-video-removing-from-platform-2021-6>.

⁷² Sharda Gray, *TikTok video documents mass shooting in Willowbrook; family of man who dies to file suit*, CBS News (June 21, 2023), <https://www.cbsnews.com/chicago/news/tiktok-video-mass-shooting-willowbrook/>.

⁷³ Taylor Hatmaker, *TikTok is trying to remove a disturbing video showing up on people’s For You pages*, TechCrunch (Sept. 8, 2020), <https://techcrunch.com/2020/09/08/tiktok-suicide-video-facebook-live/>.

⁷⁴ Tawnell D. Hobbs et al., *‘The Corpse Bride Diet’: How TikTok Inundates Teens With Eating-Disorder Videos*, Wall St. J. (Dec. 17, 2021), <https://www.wsj.com/articles/how-tiktok-inundates-teens-with-eating-disorder-videos-11639754848>.

⁷⁵ Joseph Cox, *TikTok, the App Super Popular With Kids, Has a Nudes Problem*, VICE (Dec. 6, 2018), <https://www.vice.com/en/article/j5zbxm/tiktok-the-app-super-popular-with-kids-has-a-nudes-problem>.

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118. TikTok’s relationship-building in New Hampshire—through [REDACTED]

[REDACTED]—intentionally reinforces TikTok’s attempts to create the misleading impression that it prioritizes the well-being of its users and does so directly in New Hampshire.

A. TikTok promises that young users are safe on the App.

119. TikTok’s Community Guidelines, which are published on their website and available to New Hampshire consumers through their Terms of Service, assure TikTok’s users and their parents that TikTok is designed to be a safe environment for users of all ages. Since its U.S. launch, the Community Guidelines have said that TikTok “takes child safety with the utmost seriousness[.]”⁷⁶ and currently, it represents that it is “deeply committed to TikTok being a safe and positive experience for people under the age of 18”⁷⁷

120. To help ensure a “safe” and “trustworthy” in-app experience for children, the Community Guidelines expressly represent that TikTok “remove[s] content including video, audio, image, and text that violates [its] Community Guidelines.”⁷⁸ TikTok also states that its policies are strict and the “guidelines apply to everyone and everything on our platform.”⁷⁹

121. Since 2020, TikTok’s Community Guidelines have expressly represented that TikTok prohibits content that is particularly harmful to children:

- a. “We do not allow showing, promoting, or engaging in youth sexual or physical abuse or exploitation. This includes child sexual abuse material (CSAM),

⁷⁶ *TikTok Global Community Guidelines*, TikTok (Aug. 28, 2018), <https://web.archive.org/web/20181022012206/https://www.tiktok.com/safety/policies/>.

⁷⁷ *Community Guidelines, Youth Safety and Well-Being*, TikTok (Apr. 17, 2024), <https://www.tiktok.com/community-guidelines/en/youth-safety/>.

⁷⁸ *Community Guidelines, Overview*, TikTok (Apr. 17, 2024), <https://www.tiktok.com/community-guidelines/en/>; *Community Guidelines, Enforcement*, TikTok (Apr. 17, 2024), <https://www.tiktok.com/community-guidelines/en/enforcement/>.

⁷⁹ *Id.*

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grooming, sextortion, sexual solicitation, pedophilia, and physical or psychological harm of young people.”⁸⁰

- b. “We do not allow content that may put young people at risk of exploitation, or psychological, physical, or developmental harm. This includes child sexual abuse material (CSAM), youth abuse, bullying, dangerous activities and challenges, exposure to overtly mature themes, and consumption of alcohol, tobacco, drugs, or regulated substances.”⁸¹
- c. “We want TikTok to be a place where you can discuss emotionally complex topics in a supportive way without increasing the risk of harm. We do not allow showing, promoting, or sharing plans for suicide or self-harm.”⁸²
- d. “We want TikTok to be a place that encourages self-esteem and does not promote negative social comparisons. We do not allow showing or promoting disordered eating and dangerous weight loss behaviors.”⁸³
- e. “We do not allow showing or promoting dangerous activity and challenges This includes dares, games, tricks, inappropriate use of dangerous tools, and eating substances that are harmful to an individual’s health.”⁸⁴
- f. “We do not allow the trade of alcohol, tobacco products, and or drugs. We also do not allow showing, possessing, or using drugs.”⁸⁵

122. On its website, TikTok publishes articles and posts information on its Newsroom.

These posts are stylized as consumer-facing articles and contain more detail about how it upholds the promises made to users, including tools it offers to users, and how it moderates posts on the App:

- a. TikTok’s website has made promises to take proactive steps to protect children on the App, and to use specific tools to support the “well-being of everyone in [its]

⁸⁰ *Community Guidelines, Safety and Civility*, TikTok (Apr. 17, 2024), <https://www.tiktok.com/community-guidelines/en/safety-civility/>.

⁸¹ *Community Guidelines, Youth Safety and Well-Being*, TikTok (Mar. 2023), <https://web.archive.org/web/20230703201607/https://www.tiktok.com/community-guidelines/en/youth-safety/>.

⁸² *Community Guidelines, Mental and Behavioral Health*, TikTok (Apr. 17, 2024), <https://www.tiktok.com/community-guidelines/en/mental-behavioral-health/>.

⁸³ *Id.*

⁸⁴ *Id.*

⁸⁵ *Community Guidelines, Regulated Goods and Commercial Activities*, TikTok (Apr. 17, 2024), <https://www.tiktok.com/community-guidelines/en/regulated-commercial-activities/>.

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community.” These promised tools have included features such as “Screen Time Management” and “Restricted Mode.”⁸⁶

- b. Eric Han, former head of TikTok’s U.S. Trust and Safety department, wrote an article on TikTok’s Newsroom in 2020 that promised tools to address the exploitation of children using “human and machine-based moderation tools like photo identification technologies,” filtering “red-flag language,” and sharing information with the National Center for Missing & Exploited Children (“NCMEC”).⁸⁷ He promised “TikTok has a zero tolerance policy for predatory or grooming behavior.”⁸⁸
- c. TikTok has also stated that it “address[es] the challenges of recommendation engines” and “filter bubble[s]”⁸⁹ by “[i]nterrupting repetitive patterns,” “[d]iversifying recommendations,” and “[s]afeguarding the viewing experience.”⁹⁰ According to TikTok, TikTok’s Recommendation Engine “is also designed with safety as a consideration.”⁹¹
- d. In February 2022, Cormac Keenan, then-head of TikTok Trust and Safety Department, announced that it was “[s]trengthening our dangerous acts and challenges policy,” including using a “stricter approach” to prevent them from spreading on TikTok.⁹²
- e. In a December 2022 Newsroom post, TikTok announced it was “[s]trengthening enforcement of sexually suggestive content,” and discussed the “Content Levels” system, designed to keep content with “more mature or complex themes” from children aged 13 to 17.⁹³
- f. In its Transparency Center, TikTok promises a “zero-tolerance polic[y]” for “content that violates our youth safety policies, especially online child sexual exploitation and abuse (CSEA) and the sharing of child sexual abuse material (CSAM).” It claims that it actively looks for underage users on its platform, on which purports to only allow users aged 13 and over, stating “our commitment to

⁸⁶ *Content Controls*, TikTok, <https://www.tiktok.com/safety/en-us/content-controls/> (last visited June 7, 2024).

⁸⁷ Eric Han, *Protecting against exploitative content*, TikTok (Mar. 5, 2020), <https://newsroom.tiktok.com/en-us/protecting-against-exploitative-content>.

⁸⁸ *Id.*

⁸⁹ *How TikTok recommends videos #ForYou*, TikTok (June 18, 2020), <https://newsroom.tiktok.com/en-us/how-tiktok-recommends-videos-for-you>.

⁹⁰ *Id.*

⁹¹ *Id.*

⁹² Cormac Keenan, *Strengthening our policies to promote safety, security, and wellbeing on TikTok*, TikTok (Feb. 8, 2022), <https://newsroom.tiktok.com/en-us/strengthening-our-policies-to-promote-safety-security-and-wellbeing-on-tiktok>.

⁹³ *Strengthening enforcement of sexually suggestive content*, TikTok (Dec. 30, 2022), <https://newsroom.tiktok.com/en-us/strengthening-enforcement-of-sexually-suggestive-content>.

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enforcing our minimum age requirements does not end at the age gate, and we take a number of additional approaches to identify and remove suspected underage account holders.”⁹⁴

- g. On its website, TikTok publishes Quarterly Enforcement Reports, which state the volume and nature of content removed from the App, to support the claim that it effectively removes violative content. The reports show what percentage of videos TikTok removed from its App were removed “proactively.”

123. TikTok’s efforts to create a deceptive public impression about the safety of its App are confirmed through statements made by TikTok’s CEO Shou Chew, under oath, to the U.S. Congress, touting TikTok’s ability to moderate its App:

- a. When asked if TikTok “screen[s] against manipulative content from child predators,” Mr. Chew responded: “Yes we do.”⁹⁵
- b. Mr. Chew reiterated strict prohibitions against content about eating disorders, claiming: “We remove all content that glorifies eating disorders”⁹⁶
- c. Mr. Chew testified that: “Dangerous challenges are not allowed in our platform. If we find them, we will remove them.”⁹⁷
- d. In discussing drug-related content, Mr. Chew stated that TikTok “take[s] illegal drug[] content on our platform very seriously. [If] it violates our guidelines, [we] proactively identify and remove them.”⁹⁸

Mr. Chew’s statements were broadcast live on television in New Hampshire on C-SPAN and remain available to New Hampshire consumers on the C-SPAN website.⁹⁹

⁹⁴ *Protecting Teens Online*, TikTok, <https://web.archive.org/web/20230216111304/https://www.tiktok.com/transparency/en/protecting-teens/> (last visited June 7, 2024).

⁹⁵ *Testimony Before the U.S. House Committee on Energy and Commerce, Testimony of Shou Chew*, 118th Cong. (Mar. 23, 2023) (testimony of Shou Chew), <https://www.c-span.org/video/?526609-1/tiktok-ceo-testifies-house-energy-commerce-committee-hearing>.

⁹⁶ *Id.*

⁹⁷ *Id.*

⁹⁸ *Id.*

⁹⁹ *Id.*

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124. A month later, at the TED Conference¹⁰⁰ in April 2023, Shou Chew claimed that TikTok has “clear community guidelines” and that executives do not “make any ad-hoc decisions” when dealing with “bad actors” who post offensive content on the App.¹⁰¹ Mr. Chew also explicitly represented that TikTok “ha[s] built a team that is tens of thousands of people plus machines in order to identify content that is bad, and actively, proactively remove it from the platform.”¹⁰² CNBC published a news story on these comments, which remains available to New Hampshire consumers.¹⁰³

125. In a 2021 letter, TikTok’s then-Chief Operating Officer publicly announced to the Office of the United Nations High Commissioner for Human Rights that it was using tools—namely NCMEC’s image hashing technology¹⁰⁴—aimed at protecting children from sexual content.

B. TikTok’s public promises and representations about its App’s safety are false and mislead the public.

126. TikTok acknowledges, both internally and publicly, that it is necessary to protect children who use its App. TikTok touts that its Community Guidelines protect children using its App when, in fact, TikTok knows it does not implement the Community Guidelines as promised

¹⁰⁰ TED (or Technology, Entertainment, Design) helps organize and sponsor international talks about various topics, and has a massive global reach, including to New Hampshire consumers, with 180 million monthly followers and 2.5 billion global views. *See About, TED*, <https://www.ted.com/about> (last visited June 24, 2024).

¹⁰¹ Jonathan Vanian, *TikTok has tens of thousands of moderators led by group in Ireland looking for offensive content, CEO says*, CNBC (Apr. 21, 2023), <https://www.cnbc.com/2023/04/20/tiktok-has-tens-of-thousands-of-content-moderators-in-ireland-ceo.html>.

¹⁰² *Id.*

¹⁰³ *Id.*

¹⁰⁴ Letter from Vanessa Pappas, COO TikTok, to Office of the UN High Commissioner for Human Rights (May 28, 2021), <https://spcommreports.ohchr.org/TMResultsBase/DownloadFile?gId=36317>.

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in the Community Guidelines themselves, on its website, or in the public statements its leaders have made.

127. TikTok knows it has failed to uphold its promise to protect children. Internally, it recognizes [REDACTED]

[REDACTED]

- i. Notwithstanding promises made in its publicly promoted Community Guidelines, TikTok knows its automated and human content moderation systems fail to identify and remove violative content as promised.*

128. In its Community Guidelines, TikTok promises to “remove content . . . that violates [its] Community Guidelines,” *supra* ¶ 120.¹⁰⁵ It uses the Quarterly Enforcement Reports, *supra* ¶ 122(g), to support the claim that it effectively removes violating content. But these public-facing statistics are misleading and cover up problems that harm children on the App.

129. [REDACTED]

[REDACTED]

[REDACTED]

[REDACTED], producing ineffective moderation of content and exactly the kinds of “ad-hoc” decisions that TikTok’s CEO promised were not being made. In other words, TikTok knows that millions of videos that violate TikTok’s policies proliferate on the App.¹⁰⁶

130. [REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED] TikTok

¹⁰⁵ *Community Guidelines*, TikTok (Jan. 2020), <https://archive.is/BkRIK>.

¹⁰⁶ Vanian, *supra* note 100.

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knows that its failure to remove this content as promised [REDACTED]
[REDACTED] including children.

131. TikTok acknowledges internally that the metrics it uses to assess moderation accuracy are [REDACTED] because [REDACTED]
[REDACTED] A New Hampshire parent looking at TikTok’s website might feel reassured by TikTok’s increasing rates of moderation success for metrics like “proactive removal” rate. But these metrics share a common flaw: [REDACTED]
[REDACTED]
[REDACTED]

132. In part, TikTok’s moderation problem is attributable to the [REDACTED]
[REDACTED]
[REDACTED]

133. Although, internally, the company admits that it must be more [REDACTED]
[REDACTED]

134. Even as its CEO claims that TikTok “actively, proactively remove[s] [bad content] from the platform,” TikTok, in actuality, moderates [REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]

135. TikTok’s misrepresentations matter. Unlike the proactive, “zero tolerance” system it describes to the public, TikTok’s actual moderation system does not accurately identify policy

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violations. TikTok’s internal analyses from August 2022 demonstrate that its [REDACTED]
[REDACTED]

- a. [REDACTED]
- b. [REDACTED]
- c. [REDACTED]
[REDACTED]
[REDACTED]

136. The same analysis found that for the broad category of [REDACTED] TikTok had an overall moderation accuracy of [REDACTED], but for certain categories of policy violations the percentages were much lower. For example, for [REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]

137. While the Guidelines state that TikTok does “not allow showing, promoting, or sharing plans for suicide or self-harm,” content featuring suicide, self-harm, and eating disorders continues to circulate widely on the App. In July 2022, TikTok admitted internally that it [REDACTED]
[REDACTED]
[REDACTED] In one sample, [REDACTED]
[REDACTED]
[REDACTED]

138. A high-ranking TikTok policy executive has acknowledged that [REDACTED]
[REDACTED]

[REDACTED]

139. TikTok knows all of this but continues to create a deceptive impression about the App’s safety for its users, including New Hampshire consumers.

ii. TikTok knows there are glaring gaps in its enforcement policies even as it publicly claims those policies are effective.

140. TikTok’s Community Guidelines state that TikTok does “not allow content that may put young people at risk of exploitation, or psychological, physical, or developmental harm,” *supra* ¶ 121(b). Similarly, Mr. Chew told the public at the TED Conference that TikTok does not “make any ad-hoc decisions,” that it “identif[ies] content that is bad, and actively, proactively remove[s] it from the platform,” *supra* ¶ 124. But TikTok was aware all along that its policy gaps and moderation failures let content that placed young people at risk proliferate across the App.

141. In direct contradiction to the TikTok CEO’s statement to Congress that TikTok “remove[s] all content that glorifies eating disorders,” *supra* ¶ 123(b), and its Community Guidelines bar against “showing or promoting disordered eating and dangerous weight loss behaviors,” *supra* ¶ 121 (d), TikTok knows it has a [REDACTED]

[REDACTED]

142. In February 2022, TikTok admitted internally that it had [REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

143. Spurred in part as a reaction to the *Wall Street Journal*’s December 2021 investigation into the proliferation and recommendation of eating-disorder content on TikTok,

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TikTok internally acknowledged—but did not admit publicly—that its [REDACTED].

In internal documents, TikTok admitted that its [REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

144. Yet, 6 months later, TikTok’s efforts to address this content were still falling short. TikTok admitted that its policies [REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

145. For another example, while TikTok’s Community Guidelines prohibit performance of “sexual activity,” exposing nudity, and “seductive performance[],” implementation of the Guidelines does not capture videos that promote or normalize risky sexual behaviors to teens, including sexual acts like choking, sex without a condom (known on the App as “breeding kink”), sex work, and relationships between children and older adult men.¹⁰⁷

TikTok’s own Trust and Safety Team acknowledged that the company is not [REDACTED]

[REDACTED]

¹⁰⁷ *Community Guidelines, Sensitive and Mature Themes*, TikTok (Apr. 17, 2024), <https://www.tiktok.com/community-guidelines/en/sensitive-mature-themes>.

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146. Variations in regional policies and [REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]

147. Material in violation of the Community Guidelines exists across the App, despite TikTok’s claims that it will remove such violative content and with TikTok’s full knowledge that it cannot and does not fulfill the promises made.

iii. Despite its public statements, TikTok knows its content moderation system does not work.

148. Publicly, TikTok’s Community Guidelines tell the world that the “guidelines apply to everyone and everything on our platform,” *supra* ¶ 120, and TikTok’s CEO told the public that enforcing the guidelines does not involve “ad-hoc decisions,” *supra* ¶ 124. Privately, however, TikTok knows that its [REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]

149. Chew claims that TikTok’s moderators do not make “ad-hoc decisions,” but enforcement errors occur frequently because TikTok’s moderators misunderstand the company’s policies or miss key contextual or implicit references to violative material. TikTok internally attributes [REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]

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[REDACTED]

[REDACTED]

150. TikTok’s moderators are time strapped and struggle to make sufficient and accurate policy judgment calls, given the inadequate resources the company provides to the effort. Moderators are expected to review up to 1,000 videos a day, which means moderators have less than 20 seconds on average to make careful and sensitive conclusions about potentially harmful content, including self-harm, suicide, sexual behavior, and drug abuse.¹⁰⁸ Former moderators complain that they struggled to meet TikTok’s aggressive quotas while consistently working twelve-hour days under strict working conditions.¹⁰⁹

151. The lack of resources, demands on the moderators, and policy disorganization alone could explain why prohibited content is leaked onto the App, but TikTok goes a step further. TikTok intentionally instructs its moderators to adopt an “if in doubt, leave it up” mantra.¹¹⁰

152. In addition to demanding work conditions, [REDACTED]

[REDACTED]

[REDACTED]

¹⁰⁸ Olivia Carville, *TikTok’s Problem Child Has 7 Million Followers and One Proud Mom*, Bloomberg (Dec. 12, 2022), <https://www.bloomberg.com/news/features/2022-12-12/-teentok-influencers-test-tiktok-s-rules-straining-moderators#xj4y7vzkg>.

¹⁰⁹ Taylor Hatmaker, *Former TikTok content moderators file lawsuit over ‘psychological trauma’*, TechCrunch (Mar. 24, 2022), https://techcrunch.com/2022/03/24/former-tiktok-content-moderators-file-lawsuit-over-psychological-trauma/?guccounter=1&guce_referrer=aHR0cHM6Ly93d3cuZ29vZ2xlLmNvbS8&guce_referrer_sig=AQAAAH2wonVJiODOPjdf57L4svsmyC2GtX2Tql1qWsJnHaT-QKmAck1igMO9YWwJg1O7GnOgwGq2Dn1FQdGu1HKKbGFziTqWuNyerPhf11gCOB5feWm8W4WN1yGSpdfLctXIDxcQUR09_ZuqypF8-hLMPHUIaXjzzRezTAMmrZ0pdb21.

¹¹⁰ Carville, *TikTok’s Problem Child Has 7 Million Followers and One Proud Mom*, *supra* note 107.

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[REDACTED]

[REDACTED]

[REDACTED]

153. TikTok’s failure to implement an effective enforcement system and adequately train and support its moderators has serious consequences for children using the App. Millions of disturbing, harmful videos and user comments that violate TikTok’s policies are unleashed on unsuspecting children—including children here in New Hampshire.

154. TikTok also knowingly fails to even review [REDACTED]

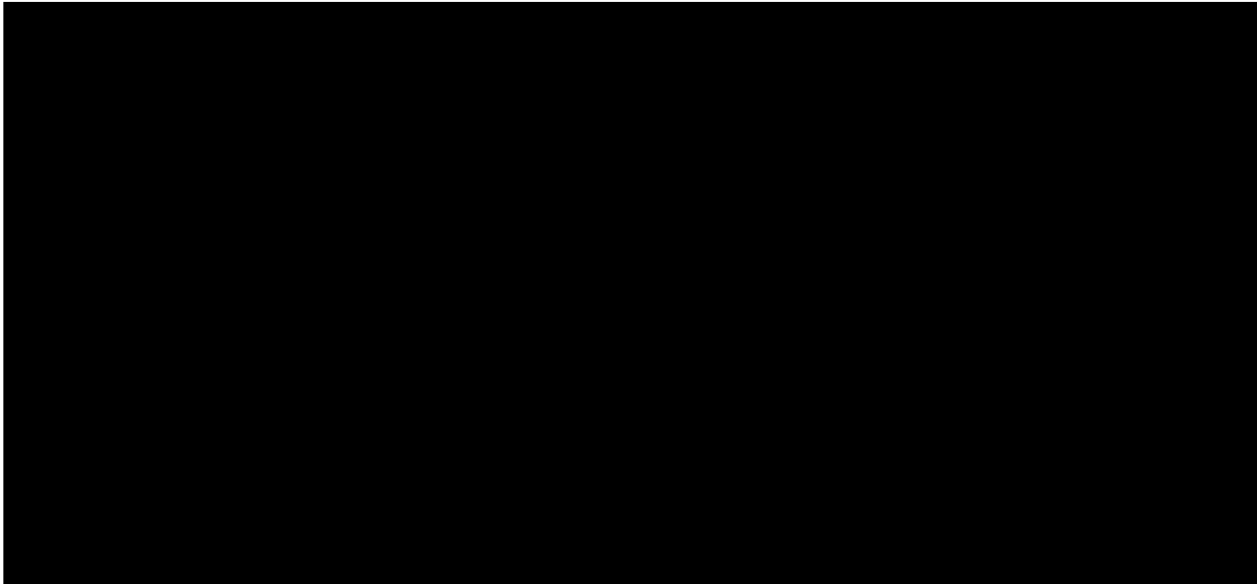
[REDACTED]. For example, despite representing that TikTok’s policies also apply to “comments and messages” and that a violation “will result in the removal of content,” TikTok’s human moderators [REDACTED]

[REDACTED]

[REDACTED]. TikTok claims it has a “zero tolerance policy” for child sexual abuse content, but it allows [REDACTED]

[REDACTED]

[REDACTED]. *See* Figure 8 below, showing TikTok’s internal enforcement gaps.



(Figure 8.)

- iv. *Despite public promises of content moderation, TikTok materially contributes to the prevalence of Child Sexual Abuse Material on its App.*

155. TikTok’s Community Guidelines, website, and public comments all roundly condemn CSAM and promise to keep it off the App. The Community Guidelines state TikTok does “not allow . . . in youth sexual or physical abuse or exploitation. This includes child sexual abuse material,” *supra* ¶ 121(a), for which its website states it has a “zero-tolerance policy,” *supra* ¶¶ 122(b), 122(f). Since 2020, TikTok has promised that it would use “human and machine-based moderation tools like photo identification technologies,” filtering “red-flag language,” and sharing information with the NCMEC to keep CSAM off the App, *supra* ¶¶ 122(b), 124, 125.

156. Despite this, TikTok has acknowledged internally that [REDACTED] [REDACTED] and that the problem continues to grow out of control, in large part because TikTok [REDACTED] [REDACTED] [REDACTED]

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[REDACTED]

157. To further its public deception and maintain a mirage of minor safety, TikTok routinely announces strong commitments to promoting and supporting policies to protect against the sexual exploitation of children—including announcing tools such as the photo identification technologies and hashing (*i.e.*, unique digital fingerprints assigned to images and videos), and announcing partnerships with organizations like the NCMEC.¹¹¹ See, *supra* ¶¶ 122(b), 124, 125.

158. Meanwhile, in 2019, TikTok reported 596 cases of CSAM, but in 2022, that number ballooned to 288,125.¹¹² However, even that, though demonstrating a steep increase, severely underreports the extent to which CSAM proliferates on the App and goes undetected by TikTok.

159. TikTok knows that it currently has low moderation accuracy for harmful CSAM violations. Exploitative CSAM has a [REDACTED] on the App. TikTok has internally acknowledged what this means: [REDACTED]

[REDACTED] Surveys conducted by the company also demonstrate that TikTok knows that [REDACTED]

[REDACTED]

[REDACTED]

[REDACTED] In other words, while TikTok publicly claims to prohibit CSAM material and

¹¹¹ Han, *supra* note 87.

¹¹² 2019 *CyberTipline Reports by Electronic Service Providers (ESP)*, Nat’l Ctr. For Missing & Exploited Children (2020), <https://www.missingkids.org/content/dam/missingkids/pdfs/2019-reports-by-esp.pdf>; 2022 *CyberTipline Reports by Electronic Service Providers (ESP)*, Nat’l Ctr. For Missing & Exploited Children (2023), <https://www.missingkids.org/content/dam/missingkids/pdfs/2022-reports-by-esp.pdf>.

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its CEO claims that TikTok “proactively identifies and removes” violative content, TikTok knows that close to [REDACTED] of its users will see inappropriate content related to children.

160. Internal chats between TikTok employees also show that the company knows CSAM is a big problem on the App. Among children who share [REDACTED]

[REDACTED]
[REDACTED]
[REDACTED]

161. According to some TikTok employees, the problem [REDACTED]
[REDACTED] Despite this knowledge and its promises to consumers that it takes steps to remove this content, TikTok has done little to address this

[REDACTED]

162. In January 2020, years after launching the App, enforcement on CSAM was still [REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]

163. And notwithstanding numerous public comments that the company uses specific, industry-leading tools to monitor and remove CSAM, the company has admitted internally that it

[REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]

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[REDACTED]

[REDACTED]

[REDACTED]

164. TikTok employees know that its current tools allow a significant amount of CSAM to go undetected because TikTok has very limited ways to detect newly created content, including content made by underage TikTok users themselves.

165. Further, TikTok continues to [REDACTED]

[REDACTED]

[REDACTED]

[REDACTED] For example, in the fall of 2020, TikTok figured out that [REDACTED]

[REDACTED]

166. As recently as April 2023, TikTok had only [REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

167. The children whose sexual abuse and exploitation are shared and publicly posted on TikTok suffer obvious and ongoing psychological harms. In addition to the direct effect of the abuse on the child involved, the trauma is amplified by the knowledge that it can then be passed around and viewed by predators (and others) indefinitely. Children who are the subject of sexual videos face an increased number of threats from predators including stalking, unsolicited

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messages, sexual solicitation or grooming behavior, and physical harm. These horrific risks persist for the parents and children of New Hampshire even after TikTok publicly represented that it does not allow youth exploitation or abuse, nor content that may put young people at risk of exploitation and psychological, physical, or developmental harm.

- v. *TikTok promises to protect children from online predators without any meaningful ability to fulfill this promise.*

168. In its Community Guidelines, TikTok assures its users that it “takes child safety with the utmost seriousness[,]” *supra* ¶ 119, is “deeply committed to TikTok being a safe and positive experience for people under the age of 18,” *supra* ¶ 119, and on its website it promises to have a “zero tolerance policy for predatory or grooming behavior” toward minors, *supra* ¶ 122(b). Mr. Chew echoed to Congress when asked if TikTok “screen[s] against manipulative content from child predators.” He responded: “Yes we do.” *See, supra* ¶ 123(a).

169. Yet TikTok lacks the capability to meaningfully and proactively “screen” users to prevent child predators from operating on the App as the company and its CEO claim.

170. Protecting against child predators is an important representation—especially for apps like TikTok that intentionally target young consumers. Child predators are attracted to venues—like TikTok—that children enjoy because they allow these predators easy access to view and interact with children. With its Recommendation Engine that knows *exactly* what users want, TikTok is a perfect playground for child predators. TikTok serves these child predators an infinite amount of videos with children dancing, and myriad ways for them to interact with young users—including through likes, follows, comments, and direct messages.

171. Contrary to its representations, TikTok’s moderators lack sufficient skills to even identify child predatory behavior when they see it. In a January 2021 survey asking [REDACTED]

[REDACTED]

[REDACTED]

172. Despite employees identifying these problems in 2021, TikTok still failed to adequately address this over a year and half later. In July 2022, the [REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

(Figure 9.)

173. Because TikTok fails to adequately moderate or review user comments, the company allows obvious predatory behavior, even as it publicly claims a policy of “zero tolerance.”¹¹³

174. The *Wall Street Journal* recently reported that TikTok has emerged as one the biggest danger zones for children and a venue for child sexual exploitation.¹¹⁴ A 42-year-old Alabama man began uploading videos of himself on TikTok dancing to music and sharing his

¹¹³ *Protecting Teens Online*, TikTok, *supra* note 94.

¹¹⁴ Hobbs, *‘Every Parent’s Nightmare’: TikTok is a Venue for Child Sexual Exploitation*, *supra* note 69.

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depressive thoughts. Before long, he and a 14-year-old Texas girl began exchanging romantic notes via comments that were visible for *anyone* on the platform to see (including TikTok’s content moderators). These messages were obviously inappropriate, including comments like “Yes Baby Married For Life.” Despite numerous users reporting the 42-year-old for inappropriate conduct—including via comments on the App—TikTok failed to act, and the 42-year-old was able to engage in a sexual relationship with the child before eventually being arrested by police. TikTok only deactivated the man’s account after inquiry from the *Wall Street Journal*, perfectly demonstrating that TikTok is committed to the public appearance of safety for its child users, but not to their actual safety.

175. This example highlights just how powerful the App can be in facilitating predatory behavior—especially across U.S. state borders.

176. Despite TikTok telling the public that the App is a safe place for children, TikTok does not adequately moderate predatory behavior, leaving children exposed to predators through comments, video likes, direct messages, and in other harmful ways, such as leading vulnerable children off of TikTok to engage with predators in person.

177. Meanwhile, TikTok enthusiastically analyzes engagement behaviors that actually drive profits—heavily suggesting that it could monitor predatory behavior. For example, TikTok analyzes user likes and comments to increase the sales of advertisements on its App, and TikTok allows businesses to retarget users that have previously engaged with a brand’s ad content, who were initially targeted through user behaviors like video clicks, impressions, and views.¹¹⁵

178. Furthermore, while the company publicly commits to applying its rules to “everyone and everything” on the App, several Trust and Safety policy leaders recall TikTok

¹¹⁵ Kantar | TikTok, *supra* note 30.

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asking them “to be lenient on creators with more than 5 million followers”¹¹⁶—suggesting that TikTok enforces its Community Guidelines only selectively.¹¹⁷

179. In fact, TikTok has a disturbing history of favoring certain content creators who were children just because of their immense popularity on the App—including Charli D’Amelio, a young TikTok mega-star with over 150 million followers.¹¹⁸ [REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

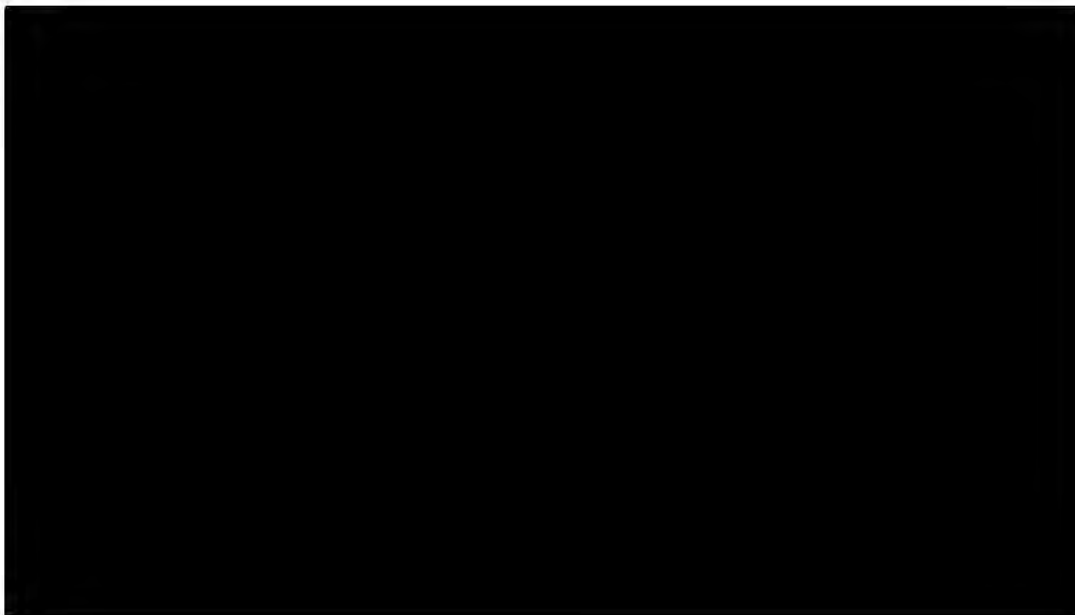
[REDACTED]

[REDACTED]

¹¹⁶ Carville, *TikTok’s Problem Child Has 7 Million Followers and One Proud Mom*, *supra* note 108.

¹¹⁷ *Community Guidelines, Overview*, TikTok (Apr. 17, 2024), <https://www.tiktok.com/community-guidelines/en/>.

¹¹⁸ Laura Ceci, *Most Followed Creators on TikTok Worldwide as of March 2024*, Statista (Mar. 13, 2024), <https://www.statista.com/statistics/1078315/most-followers-tiktok-global/#:~:text=Most%20popular%20TikTok%20users%20worldwide%202024&text=Influencer%20Charlie%20D'Amelio%20followed,total%20of%2093.9%20million%20followers.>



(Figure 10.)

180. These favored child creators are both the subjects of exploitation—financially by TikTok and sexually by adults online—and the cause of harm to other children, who have found TikTok-approved role models of their own age who act and dress like adults.

vi. The compounding harms caused by “filter bubbles” remain unaddressed despite TikTok’s representations.

181. TikTok, through its website, claims that its “recommendation system is [] designed with safety as a consideration,” and it claimed that TikTok took action to “address the challenges of recommendation engines” and “filter bubble[s]” by “[i]nterrupting repetitive patterns,” “[d]iversifying recommendations,” and “[s]afeguarding the viewing experience.” *Supra* ¶ 122(c). Its Community Guidelines tell New Hampshire consumers that TikTok promised it “takes child safety with the utmost seriousness[,]” *supra* ¶ 119, is “deeply committed to TikTok being a safe and positive experience for people under the age of 18,” *supra* ¶ 119, and does “not allow content that may put young people at risk of exploitation, or psychological, physical, or developmental harm,” *supra* ¶ 121(b). These representations are misleading.

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182. In practice, TikTok’s Recommendation Engine works to trap teenagers, who may initially be drawn to watching weight-loss and body-image content, or suicide and self-harm content (or, perhaps, are suggested this content due to their age or other interests), into “filter bubbles” that bombard children with precisely the kinds of content that TikTok claims not to allow. A filter bubble is an algorithmic bias that skews or limits the information the user sees.

183. Concerns about the algorithm sending children into these downward spirals of depressive content have been circulating internally at TikTok since at least 2020—and likely well before. One former employee, Charles Bahr, told his superiors that “the algorithm was sending Generation Z users endless streams of depressing and suicide-glorifying videos.”¹¹⁹ A few months after he raised the problem, TikTok fired Bahr.¹²⁰

184. Physically dangerous activities that continue to slip through TikTok’s content moderation policies remain available to children on TikTok and are increasingly normalized among teens due to filter bubbles in their feeds. Choking, for instance, poses risks of physical harm including death, but has become widespread in teen hookup culture and increasingly normalized by TikTok videos where users invite attractive people to “choke me.”¹²¹ TikTok videos that discuss so-called “breeding kinks” encourage teens to have unprotected sex, which is romanticized on the App and can lead to disease transmission and teen pregnancy.¹²² When this

¹¹⁹ Carville, *TikTok’s Algorithm Keeps Pushing Suicide to Vulnerable Kids*, *supra* note 55.

¹²⁰ *Id.*

¹²¹ Julia Pugachevsky, *Choking without consent is a Gen Z hookup trend. Even if it doesn’t bother you, it can be extremeley dangerous.*, Insider (Nov. 9, 2022), <https://www.insider.com/choking-gen-z-sex-hookups-consent-assault-2022-10>.

¹²² Jessica Cherner, *14 and pregnant: Brooke Morton and other teen moms explode on TikTok*, N.Y. Post (Aug. 5, 2022), <https://nypost.com/2022/08/04/14-and-pregnant-teen-mom-brooke-morton-is-exploding-on-tiktok>.

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type of content appears repeatedly due to a filter bubble on a child’s “For You” feed, the activities start to appear common and normal and the child feels pressure to conform.

185. TikTok knows that “filter bubbles” are harmful but fails to address the problem, citing a [REDACTED]

186. TikTok’s public representations that it “addressed” filter bubbles amount to minor tweaks that have proven ineffective. For instance, TikTok allows users to “refresh” their feeds if “recommendations no longer feel relevant” or do not “provide enough topical variety,” and it does not recommend “two videos in a row made by the same creator or that use the same sound.”¹²³ These modest changes have not stopped the App from recommending increasingly despairing messages, adult themes, and other dangerous content.

187. Other efforts backfired completely. When running [REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]

188. Unsurprisingly and disturbingly, nothing has changed; the App continues to quickly recommend graphic, violent, and distressing content to children, including showing a thirteen-year-old videos about disordered eating, self-harm, and videos celebrating or encouraging suicide within 30 minutes of creating an account.¹²⁴ Since TikTok’s launch, videos

¹²³ Sandeep Grover & Mabel Wang, *Introducing a way to refresh your For You feed on TikTok*, TikTok (Mar. 16, 2023), <https://newsroom.tiktok.com/en-ca/introducing-a-way-to-refresh-your-for-you-feed-on-tiktok-ca>.

¹²⁴ *Deadly by Design: TikTok pushes harmful content promoting eating disorders and self-harm into users’ feeds.*, Ctr. for Countering Digit. Hate (Dec. 15, 2022), <https://counterhate.com/research/deadly-by-design/>.

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tagged with suicide content amassed over 1.43 million posts and 8.8 billion views and were readily available to children.¹²⁵

189. TikTok’s representations to New Hampshire consumers that its App is safe for children are deceptive because the App feeds children videos that encourage suicide, normalize dangerous sexual behavior, and promote eating disorders.

vii. TikTok fails to rein in dangerous challenges that push children to participate.

190. The TikTok Community Guidelines bar dangerous challenges, *supra* ¶ 121(e), a promise that Mr. Chew promoted, saying “[d]angerous challenges are not allowed in our platform,” and that TikTok “actively, proactively remove[s] [bad content] from the platform,” *supra* ¶¶ 123, 124. TikTok announced on its website in February 2022 that it was strengthening efforts to regulate and remove content about dangerous challenges by taking a “stricter approach.” *Supra* ¶ 122(d).

191. Challenges are videos and content that encourage others to create and post their own videos of them performing a certain activity. Daily challenges were a defining feature of TikTok’s predecessor app, Musical.ly, and one that TikTok actively sought to amplify by reaching out to influencers and encouraging them to participate in challenges. TikTok wanted to increase participation in these challenges, in part, because it generates significant user interest and engagement on the App—and therefore increases TikTok’s income.

192. But what began as innocuous, goofy, and even altruistic challenges have transformed into twisted, dangerous, and deadly for the App’s youngest users. These dangerous challenges operate much like peer pressure, taunting teenagers into perilous, destructive action.

¹²⁵ Ekō, *Suicide, Incels, and Drugs: How TikTok’s Deadly Algorithm Harms Kids*, Amazon Web Servs. 4 (Mar. 2023), https://s3.amazonaws.com/s3.sumofus.org/images/eko_Tiktok-Report_FINAL.pdf.

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They encourage teens to engage in reckless conduct in exchange for more dopamine-rewarding “likes” on the App, and they spread horrific hoaxes about topics including sexual assault, all of which deepen anxieties and spread fear. Dangerous challenges are nominally prohibited on the App, but [REDACTED]

[REDACTED].

193. In remarks to reporters that were published in New Hampshire, TikTok claims it takes “each and every report of an alleged dangerous act or challenge incredibly seriously.”¹²⁶ However, its internal investigations [REDACTED]

[REDACTED]

194. When the “Skullbreaker Challenge” emerged in February 2020 (involving two people tricking a third person into jumping into the air and then intentionally tripping the jumper on the way down—resulting in a hard fall and potentially severe injuries), TikTok only

[REDACTED]

195. These challenges have killed children. The blackout challenge, which went viral on TikTok in early 2021, encourages the viewer to try to hold their breath or asphyxiate (either manually or by having someone else choke them) until they pass out. In just 18 months, the

¹²⁶ Olivia Carville, *TikTok’s Viral Challenges Keep Luring Young Kids to Their Deaths*, Bloomberg (Nov. 29, 2022), <https://www.bloomberg.com/news/features/2022-11-30/is-tiktok-responsible-if-kids-die-doing-dangerous-viral-challenges>.

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blackout challenge was linked to the deaths of at least 20 kids under the age of 15, at least 15 of whom were 12 or younger when they died.¹²⁷ In January 2021, for instance, a 10-year-old girl in Italy died after attempting the “blackout challenge.” She spent as much as 10 hours a day on TikTok and, like many kids her age, had falsely claimed she was older than 13 when she created her account.¹²⁸

196. Despite announcing in February 2022 that it was strengthening efforts to regulate and remove content about dangerous challenges,¹²⁹ dangerous challenges still appear widespread on the App.

197. New Hampshire teens were exposed to videos encouraging them to vandalize and destroy school restrooms as part of the “Devious Licks” challenge, leading to over \$1,000 worth of damage at one school in just a single week.¹³⁰ TikTok posts made claims that on December 17, 2021 there would be a “Shooting Challenge” in schools, including in New Hampshire, leading to an investigation by the New Hampshire Department of Safety, Homeland Security and Emergency Management, and the state police, as well as notifications to parents by the Concord School District.¹³¹

198. Despite TikTok’s and its CEO’s representations that it takes dangerous challenges seriously and that they are not allowed on the platform, the experience of parents and children in

¹²⁷ *Id.*

¹²⁸ *Id.*

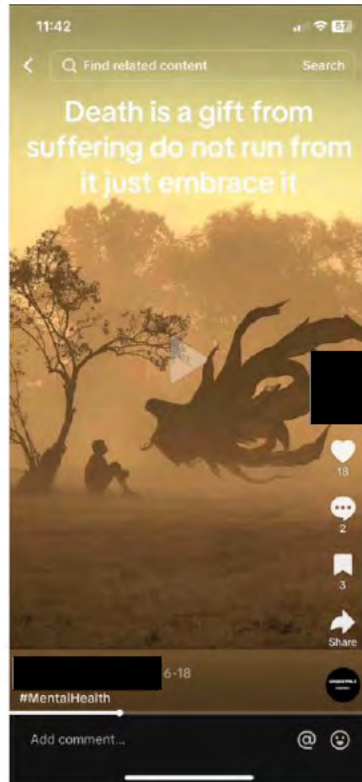
¹²⁹ Jennifer Korn, *TikTok says it will strengthen policies in effort to prevent spread of hoaxes and dangerous challenges*, CNN (Feb. 8, 2022), <https://www.cnn.com/2022/02/08/tech/tiktok-hoax-policies/index.html>.

¹³⁰ Mike Cherry, *TikTok trend leads to vandalism at some New Hampshire Schools*, WMUR (Sept. 21, 2021), <https://www.wmur.com/article/tiktok-trend-leads-to-vandalism-at-some-new-hampshire-schools/37670220#>.

¹³¹ Tony Schinella, *Concord School District Warned About ‘Vague Social Media’ Threats*, Patch (Dec. 16, 2021), <https://patch.com/new-hampshire/concord-nh/concord-school-district-warned-vague-social-media-threats>.

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New Hampshire prove differently. Even today, harmful challenges and hoaxes, including those that encourage self-harm and suicide, *still* persist on the App—even with obvious searchable names such as “choking yourself,” “NyQuil Chug,” and “death is a gift.”¹³² See Figure 11, depicting TikTok videos using the search terms “choking myself with scarf” and “death is a gift.”



(Figure 11.)

viii. Age-gating is ineffective because TikTok does not verify users' ages.

199. Because TikTok makes a number of promises about protecting children, including bans on exploitation of children and CSAM, *supra* ¶¶ 121(a), 122(f), and it knows people lie about their age, it also promises to actively look for underage users on its platform, which

¹³² TikTok continues to publish, distribute, and promote many videos through its search function and recommendation algorithm, which depict extremely harmful, dangerous challenges. In the interest of respecting user privacy and mental health, they are not included in this Complaint.

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purports to only allow users aged 13 and over, *supra* ¶ 122(f). On its website, TikTok said “our commitment to enforcing our minimum age requirements does not end at the age gate, and we take a number of additional approaches to identify and remove suspected underage account holders.” *Id.*

200. Over the years, TikTok has publicly advertised new tools to help moderate and limit distribution of certain material. One of these is TikTok’s half-hearted effort to age-gate both the App itself and certain content. “Age-gating” refers to the practice of blocking certain content or features based on a user’s age.

201. In December 2022, TikTok announced it was “[s]trengthening enforcement of sexually suggestive content,” and discussed the “Content Levels” system, designed to keep content with “more mature or complex themes” from children aged 13 to 17.¹³³ Similarly, in December 2022, TikTok announced the ability to filter profanity for certain ages; [REDACTED]

[REDACTED]

[REDACTED]

202. Yet all of TikTok’s age-gating policies are plagued by a fundamental flaw: TikTok allows underage users to falsify their birthday and does nothing to verify their stated age.

203. Because the company fails to identify users’ ages, it exposes children to content and themes that it knows are inappropriate—or even dangerous.

204. One of those innocent children was nine-year-old Arriani Arroyo, who died from asphyxiation while participating in the blackout challenge, or, as her five-year-old brother who watched her get strangled to death put it: “playing a game . . . they saw on TikTok.”¹³⁴

¹³³ *Strengthening enforcement of sexually suggestive content*, TikTok, *supra* note 93.

¹³⁴ Carville, *TikTok’s Viral Challenges Keep Luring Young Kids to Their Deaths*, *supra* note 125.

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205. Though TikTok claims it actively looks for suspected underage user accounts, Arriani Arroyo’s account was never removed even though her young age was obvious; her profile picture was of her nine-year-old face, and she routinely posted videos of herself laughing and dancing.¹³⁵ Her account had 260 followers, and her final post had 457 views.

206. TikTok knows its efforts to detect underage users fall short, yet it has not implemented easily available age-estimating software that can immediately identify children under 13 years old.¹³⁶ Such technology exists, and it works. When investigative reporters sent a video of Arriani a few weeks before her death to one such company, it took only 3 seconds to estimate that Arriani was 10 years old. She died just 3 months shy of her 10th birthday.¹³⁷

ix. By failing to enforce its drug policies, TikTok allows drug promotion and sales to flourish on its App.

207. Despite representing in its Community Guidelines, *supra* ¶ 121(f), that TikTok does “not allow” the depiction, promotion, or trade of drugs or other controlled substances, TikTok inconsistently enforces rules against drug-related content. As a result, videos with drug content surface on users’ “For You” feeds, including children’s. TikTok’s failure to live up to its promises has had devastating consequences for children.

208. As of December 2021, TikTok’s policies for [REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]

135 *Id.*
136 *Id.*
137 *Id.*

209. TikTok even fails to adequately enforce its drug-content policies from this reactive posture. For years, TikTok has received external, public reports that drug-glamorizing content and drug sales were proliferating on its App. In a September 2021 report by the *Washington Post*, Drug Enforcement Administration Administrator Anne Milgram said that fentanyl- and meth-laced counterfeit pills were being sold on TikTok.¹³⁸ More than a year later, drug content and sales remained easily accessible on the App, including prescription drugs such as Xanax, Percocet, and OxyContin, as well as illegal drugs like cocaine, MDMA, LSD, and marijuana.¹³⁹ Pills like these fuel the deadly opioid epidemic.¹⁴⁰ From July 2019 to December 2021, 1,808 adolescents died from fentanyl overdoses. And the occurrence of fatal overdoses has rapidly increased; between the last half of 2019 and the last half of 2021, the number of adolescents fatally overdosing on fentanyl more than doubled.¹⁴¹

210. TikTok is now also a key marketing channel for off-label performance enhancements and steroid drugs, such as selective androgen receptor modulators (commonly

¹³⁸ Devlin Barrett & Elizabeth Dvoskin, *With overdose deaths soaring, DEA warns about fentanyl-, meth-laced pills*, Wash. Post (Sept. 27, 2021), https://www.washingtonpost.com/national-security/dea-warning-counterfeit-drugs/2021/09/27/448fcb18-1f27-11ec-b3d6-8cdebe60d3e2_story.html.

¹³⁹ Ekō, *supra* note 125, at 5.

¹⁴⁰ Vanessa Arredondo, *'No child should be dying': Fentanyl-related deaths among kids rising, Yale study says*, L.A. Times (May 11, 2023), <https://www.latimes.com/world-nation/story/2023-05-11/fentanyl-deaths-children-teens-opioids-yale-school-of-medicine-study-jama-julie-gaither>; *Drug Overdose Death Rates*, Nat'l Inst. on Drug Abuse (May 14, 2024), <https://nida.nih.gov/research-topics/trends-statistics/overdose-death-rates>.

¹⁴¹ Lauren J. Tanz et al., *Drug Overdose Deaths Among Persons Aged 10-19 Years — United States, July 2019-December 2021*, 71 Morbidity and Mortality Wkly. Rep. (Dec. 16, 2022), <https://www.cdc.gov/mmwr/volumes/71/wr/mm7150a2.htm>.

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called “SARMs”), which are synthetic variations of the male sex hormone testosterone.¹⁴² These steroid-like drugs are subject to strict regulation under the Controlled Substances Act and are not approved by the U.S. Food Drug and Administration (“FDA”).

211. These steroid drugs have racked up hundreds of millions of views on TikTok in the U.S. Some reports have found that these drugs have racked up *over 500 million views* among U.S. users on TikTok alone.¹⁴³

212. Steroids are dangerous to teens and are associated with serious and life-threatening health problems, like heart attacks, hallucinations, sleep disturbances, and liver failure. The FDA recently issued a warning to consumers specifically that these drugs are being marketed and targeted to teenagers and young adults on social medias channels as a “quick or easy way to improve physical appearance, gain muscle mass, or increase athletic performance.”¹⁴⁴ SARMs and steroid-related drugs remain searchable on TikTok and are actively pushed to children on their “For You” feeds.

213. TikTok creates the deceptive impression that the App is a place where children are safe from drugs, but drug content and drug sales proliferate on the App.

¹⁴² *TikTok’s Toxic Trade: How TikTok promotes dangerous and potentially illegal steroids and steroid-like drugs to teens*, Ctr. for Countering Digital Hate (Sept. 28, 2023), <https://counterhate.com/wp-content/uploads/2023/09/TikToks-Toxic-Trade-Steroids-and-Steroid-Like-Drugs.pdf>.

¹⁴³ *Id.*

¹⁴⁴ *FDA Warns of Use of Selective Androgen Receptor Modulators (SARMS) Among Teens, Young Adults*, U.S. Food and Drug Admin. (Apr. 26, 2023), <https://www.fda.gov/consumers/consumer-updates/fda-warns-use-selective-androgen-receptor-modulators-sarms-among-teens-young-adults>.

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III. Because of its defective age gate, TikTok illegally collects personal information from New Hampshire children under 13 without providing proper disclosures, obtaining parental consent, or giving them the opportunity to opt out.

214. TikTok knowingly collects personal data, including the name, address, email address, persistent identifiers, geolocation information, advertising information, and photographs or videos from millions of children under the age of 13, including from children under 13 in New Hampshire. In doing so, TikTok violates New Hampshire law.

215. TikTok fails to obtain verifiable parental consent, instead relying on faulty product features, such as ineffective age gating, inconsistent account bans and enforcement, and the ineffective segregation of self-identified children under 13, to avoid its responsibility under New Hampshire law to protect children online.

216. TikTok's records show that it has actual knowledge it is collecting personal information from children under 13 who use the platform, and that TikTok itself is directed to children.

A. TikTok entered the U.S. market through its acquisition of Musical.ly, an app which historically violated COPPA by unlawfully collecting and using children's data.

217. As described at length above, *supra* ¶ 45, TikTok made its grand debut in the U.S. market in December 2017 after acquiring Musical.ly, a popular social media app launched in 2014 that allowed users to create and post short videos of themselves lip-syncing and dancing to

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popular songs.¹⁴⁵ Musical.ly was particularly popular with American teens¹⁴⁶ and had at least 60 million users, most of whom were based in the U.S.¹⁴⁷

218. In August 2018, TikTok merged the Musical.ly app with the TikTok App and began operating it under the name TikTok.¹⁴⁸

219. Less than a year later, in February 2019, Musical.ly, who by that time was operating as TikTok, entered into a \$5.7 million agreement with the FTC to settle allegations that Musical.ly had violated the Children's Online Privacy Protection Rule (“COPPA”) by illegally collecting and using personal information from children under 13 without parental consent.¹⁴⁹

220. Shortly thereafter, in March 2019, TikTok split its App into 2 distinct versions: (1) “Kids Mode” (intended for use by children who report their own age as under 13); and (2) a standard version, which TikTok calls the 13+ or [REDACTED] experience (available to everyone who reports their own age as 13 or older). Kids Mode is a TikTok experience “designed for younger people”¹⁵⁰ under the age of 13 and features [REDACTED]

[REDACTED]

¹⁴⁵ Paul Mozur, *Musical.ly, a Chinese App Big in the U.S., Sells for \$1 Billion*, N.Y. Times (Nov. 10, 2017), <https://www.nytimes.com/2017/11/10/business/dealbook/musically-sold-app-video.html>.

¹⁴⁶ Paresh Dave, *China’s ByteDance Scrubs Musical.ly Brand in Favor of TikTok*, Reuters (Aug. 2, 2018), bit.ly/3kEOBcg.

¹⁴⁷ Jon Russell & Katie Roof, *China’s Bytedance is buying Musical.ly in a deal worth \$800M-\$1B*, TechCrunch (Nov. 9, 2017), <https://techcrunch.com/2017/11/09/chinas-toutiao-is-buying-musical-ly-in-a-deal-worth-800m-1b/>.

¹⁴⁸ Dave, *supra* note 146.

¹⁴⁹ *Video Social Networking App Musical.ly Agrees to Settle FTC Allegations That it Violated Children’s Privacy Law*, Fed. Trade Comm’n (Feb. 27, 2019), www.ftc.gov/news-events/news/press-releases/2019/02/video-social-networking-app-musically-agrees-settle-ftc-allegations-it-violated-childrens-privacy.

¹⁵⁰ *TikTok Under 13 Experience*, TikTok, <https://support.tiktok.com/en/safety-hc/account-and-user-safety/tiktok-under-13-experience#1> (last visited June 24, 2024).

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221. TikTok collects personal data from users in both experiences. Because the 13+ version of the App is purportedly only available to users aged 13 or older, TikTok does not seek any parental consent before collecting any of the users’ personal data, which is unfair, unsafe, and in practice, runs afoul of federal law.

222. Among the personal information TikTok currently collects from each user in its 13+ experience is: first and last name; online contact information; screen or username functioning in the same manner as online contact information; telephone number; persistent identifiers (including IP address and “cookies”); photo, video, and audio files containing user content such as images of face and body features, which as described herein includes a child’s image or voice; and unique device identifiers.¹⁵¹

223. TikTok also collects personal information for the users who admit to being under the age of 13 and must use the Kids Mode version of TikTok. In 2020, TikTok reported [REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED] Because these identifiers [REDACTED],

TikTok, its advertisers, and vendors can use those identifiers to look at what the Kids Mode users do over time. With these, an advertiser or vendor can see what a Kids Mode user is doing elsewhere on the Internet.

224. In addition to collecting persistent identifiers, TikTok collects a host of other information from children on both Kids Mode and the 13+ experience including, but not limited

¹⁵¹ *Privacy Policy: What Information We Collect*, TikTok, <https://www.tiktok.com/legal/page/us/privacy-policy/en> (last updated Mar. 28, 2024).

to, [REDACTED]

[REDACTED]

[REDACTED]

225. As of 2023, [REDACTED] New Hampshire children under the age of 13 have registered accounts on TikTok’s Kids Mode.¹⁵² Likewise, [REDACTED] New Hampshire children under the age of 18 have registered accounts on TikTok’s 13+ and over App.¹⁵³ On information and belief, a substantial number of the accounts in the 13+ experience are likely users under the age of 13 for the reasons explained below.¹⁵⁴

B. TikTok knows young users flock to its platform and incentivizes them to do so.

226. As explained above, *supra* ¶¶ 7–11, TikTok’s business depends on keeping younger users glued to its platform, because they are easy targets for addiction and because they are highly valued by advertisers. An internal review of user engagement noted that [REDACTED]

[REDACTED]

According to internal data from 2019, users aged [REDACTED]

[REDACTED] One TikTok 2019 internal presentation states that the App’s [REDACTED]

[REDACTED]

[REDACTED]

227. With a relentless focus on young people, TikTok’s growth in the United States exploded. One internal chart detailing [REDACTED]

¹⁵² Letter from TenBroeck to Benjamin, *supra* note 5, at 11.

¹⁵³ *Id.* at 14.

¹⁵⁴ *Id.*

228. In 2020, the New York Times reported that more than one-third of TikTok's 49 million daily users in the United States were 14 or younger.¹⁵⁵ TikTok's internal data estimated that [REDACTED] of Americans between the ages of 13 and 17 who used a smartphone were on the App at least monthly. See Figure 12 below, showing TikTok's U.S. market penetration by age group.



(Figure 12.)

C. TikTok's age verification systems are ineffective, allowing children under 13 to easily bypass and access the full experience on the App.

229. When a user signs up for TikTok, the user will self-report their date of birth before gaining access to the App. The process relies on the user, whether a child or adult, to accurately input their actual age. TikTok knows that users under the age of 13 routinely input a

¹⁵⁵ Raymond Zhong & Sheera Frenkel, *A Third of TikTok's U.S. Users May Be 14 or Under, Raising Safety Questions*, N.Y. Times (Sept. 17, 2020), <https://www.nytimes.com/2020/08/14/technology/tiktok-underage-users-ftc.html>.

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false date of birth when registering for the App but continues to use an age gate that relies on children self-reporting their true age.

230. [REDACTED]

231. TikTok also knows that its age-gating processes incentivize children to lie about their age and knows that it is collecting personal information from children under 13 without the requisite parental consent.

232. An internal TikTok survey of children aged [REDACTED]

233. In a separate parent survey on [REDACTED]

234. Internal documents show that accounts belonging to children under 13 are

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[REDACTED]

235. In addition to [REDACTED]

[REDACTED]

236. TikTok's age verification system thus had a critical loophole: [REDACTED]

[REDACTED]

237. This loophole resulted in approximately [REDACTED]

[REDACTED]

238. This was not an isolated incident. TikTok has known that there were, and continue to be, large numbers of children under 13 on the platform. For example, internal TikTok documents from 2018 demonstrate that it knew over [REDACTED]

REDACTED PUBLIC FILING

[REDACTED]

239. In February 2020, upon learning that [REDACTED]

[REDACTED]

240. TikTok still had not implemented an age gate for the accounts created through

[REDACTED]

241. In May 2022, TikTok described its plan [REDACTED]

[REDACTED]

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242. A document from April 2023 shows that TikTok was aware that a total of [REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]



(Figure 13.)

243. TikTok was [REDACTED]

[REDACTED]

D. TikTok knowingly collects personal data from under-13 users because its age-gating and account-removal policies allow under-13 accounts to remain on the App and because its moderation and enforcement of those policies is ineffective and lax.

244. Despite knowledge that under-13 users are common on the App, TikTok does little to enforce its age-gate policies.

245. An internal document from 2020 detailing TikTok's [REDACTED]

[REDACTED]

[REDACTED]

246. An internal TikTok Trust and Safety Memo from May 2020 states that [REDACTED]

[REDACTED]

247. In September 2020, one TikTok employee noted a study on the [REDACTED]

[REDACTED]

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[REDACTED]

[REDACTED]

248. Following an August 2021 [REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

249. And an internal 2022 document from TikTok's [REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

250. Before April 1, 2020, TikTok's [REDACTED]

[REDACTED]

Under that policy, [REDACTED]

[REDACTED]

[REDACTED]

251. In other words, for example, [REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

252. A more recent policy amended this process, but it was still fundamentally flawed.

As recently as June 2023, if [REDACTED]

REDACTED PUBLIC FILING

[REDACTED]

E. TikTok’s “audience composition” includes millions of children under 13, and children are an intended audience of TikTok.

253. As alleged above—and in part due to its lax age gate, youth appeal, and lax moderation—there are [REDACTED] of under-13 users on TikTok today, including, upon information and belief, under-13 users from New Hampshire.

254. The sheer number of under-13 users composing TikTok’s audience demonstrates that TikTok is targeted to children. By September 2020, TikTok had over [REDACTED] users who self-identified as under 13 on Kids Mode in the U.S., and as alleged above, TikTok regularly acknowledges the fact that there are many [REDACTED]

255. TikTok [REDACTED]

[REDACTED]

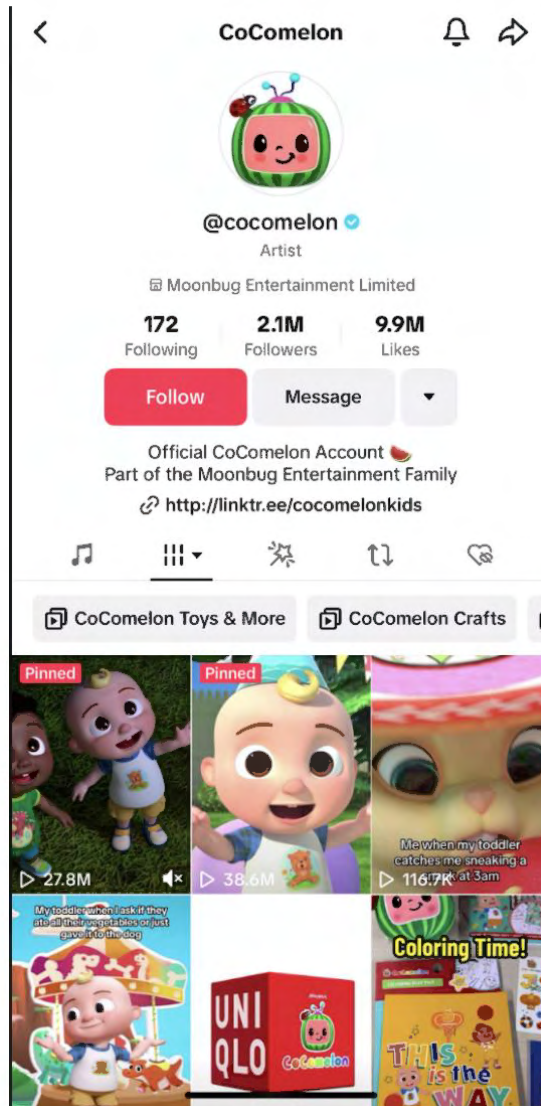
REDACTED PUBLIC FILING

256. TikTok also does not shy away from presenting the App with child-oriented appeal, including animated characters and pages that target and/or appeal to children. TikTok publicly hosts thousands of accounts on the 13+ App experience that feature child-oriented subject matter, characters, activities, music, and other categories of content for children. To list only a few representative examples, TikTok currently hosts the following accounts or pages on TikTok.

257. CoComelon: CoComelon is an American entertainment program that includes a Netflix show and a YouTube channel and posts animated videos of traditional nurse rhymes and their own original children's songs. CoComelon is incredibly popular with children today, and the show has 3.6 billion views on YouTube.¹⁵⁶ See Figure 14, Screenshot of CoComelon TikTok page.

¹⁵⁶ Alana Semuels, *Inside the Making of CoComelon, the Children's Entertainment Juggernaut*, Time (Mar. 16, 2022), <https://time.com/6157797/cocomelon-success-children-entertainment/>.

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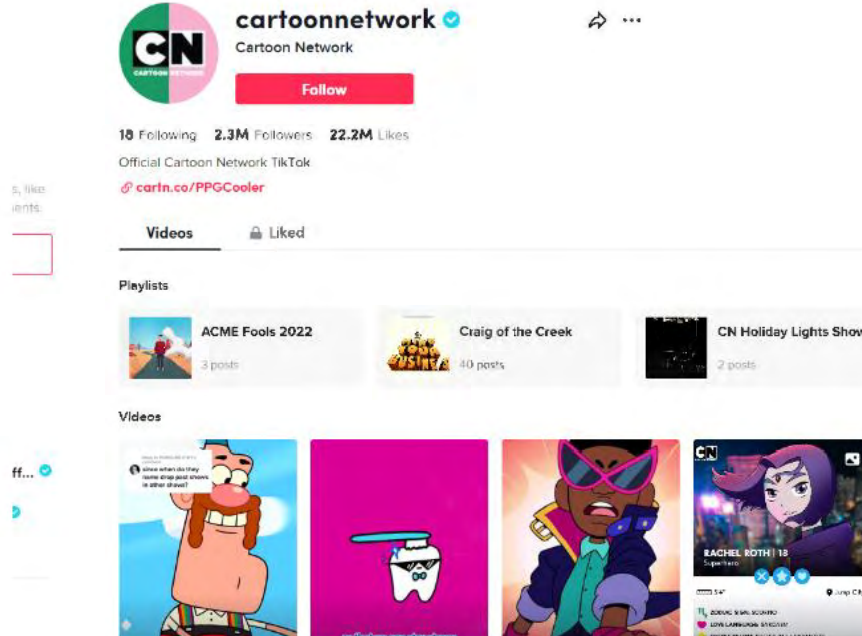
(Figure 14.)

258. Cartoon Network: According to Warner Bros. Discovery, “Cartoon Network is a kid’s channel delivering the best comedy and adventure shows. It’s filled with universal humor and fun, promoting the value of friendship and stimulating imagination of its core audience—boys and girls aged 6-12.”¹⁵⁷ The Cartoon Network TikTok account features cartoons for

¹⁵⁷ *About Cartoon Network*, Warner Bros. Discovery, <https://press.wbd.com/ro/brands/cartoon-network-10> (last visited June 7, 2024).

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children. The FTC has previously recognized that Cartoon Network's content is directed at children.¹⁵⁸ See Figure 15, screenshot of Cartoon Network TikTok page.



(Figure 15.)

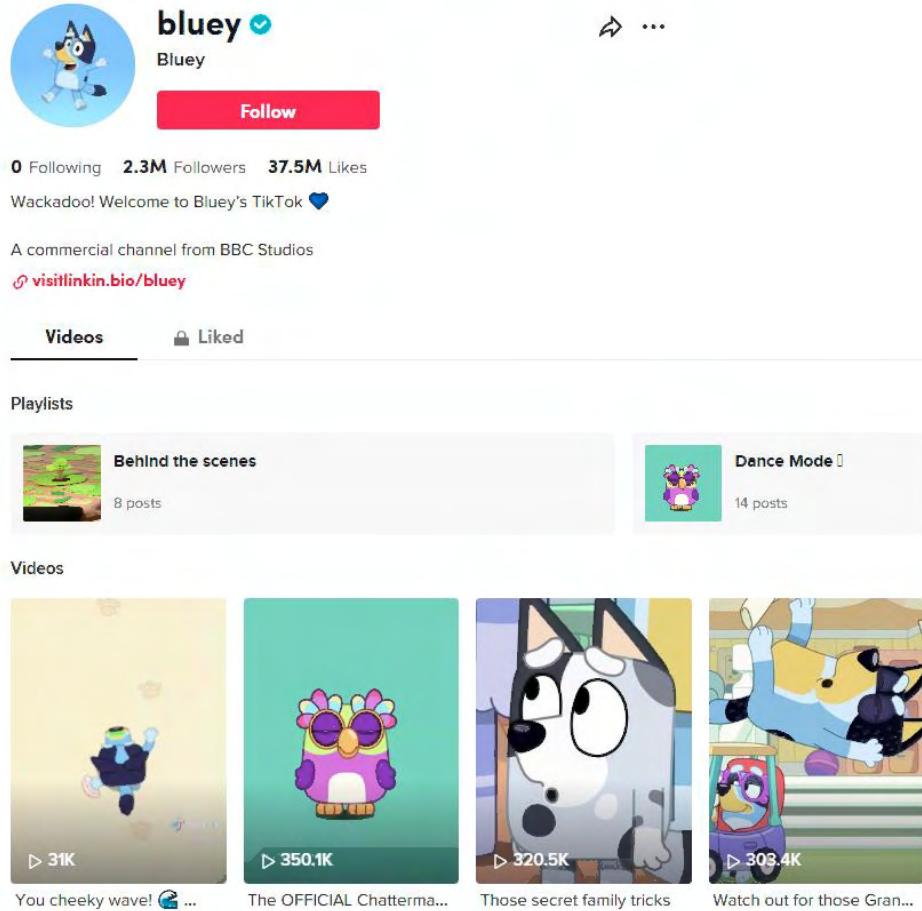
259. Bluey: Bluey is an Australian television program created for preschool-aged children.¹⁵⁹ The show, and its associated TikTok account, feature the adventures of Bluey, an animated anthropomorphic puppy, and her family. The show premiered in the U.S. on Disney Junior.¹⁶⁰ See Figure 16, screenshot of Bluey TikTok page.

¹⁵⁸ Complaint for Permanent Injunction, Civil Penalties, and Other Equitable Relief, *F.T.C. v. Google LLC*, No. 1:19-cv-2642, dkt. 1 (D.D.C. Sept. 4, 2019), https://www.ftc.gov/system/files/documents/cases/youtube_complaint.pdf.

¹⁵⁹ *ABC KIDS and BBC Worldwide partner with award-winning Ludo Studio on new preschool animated series*, ABC Television (July 20, 2017), <https://web.archive.org/web/20190706100849/https://tv.press.abc.net.au/abc-kids-and-bbc-worldwide-partner-with-award-winning-ludo-studio-on-new-preschool-animated-series#>.

¹⁶⁰ Aja Styles, *Disney has high hopes for Bluey as Heeler family earns its stripes in US*, *The Sydney Morning Herald* (Jan. 19, 2020), <https://www.smh.com.au/culture/tv-and-radio/disney-has-high-hopes-for-bluey-as-heeler-family-earns-its-stripes-in-us-20191111-p539lr.html>.

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(Figure 16.)

260. Each TikTok account listed above is a “verified” account, as indicated by the blue checkmark next to its name, meaning that TikTok has independently reviewed the account upon receipt of an application, determined the account to be “notable,” and “confirmed the account belongs to the person or brand it represents.”¹⁶¹

261. TikTok also prominently features celebrities and models who are children and/or appealing to children. To list only a few representative examples, TikTok currently hosts the following accounts or pages on TikTok:

¹⁶¹ *Verified Accounts on TikTok*, TikTok, <https://support.tiktok.com/en/using-tiktok/growing-your-audience/how-to-tell-if-an-account-is-verified-on-tiktok> (last visited June 7, 2024).

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- a. Charli D’Amelio: Charli is a young TikTok influencer. While she is 20 years old now, she was only 15 when she joined TikTok, and many of her videos were created when she was younger. She won awards in 2021, 2022, and 2023 at the Nickelodeon Kids’ Choice Awards, and co-hosted the awards in 2023.¹⁶² The 2023 Kids’ Choice Awards were ranked as the top cable telecast among kids 2-14.¹⁶³ Charli’s videos primarily feature her dancing. She is one of the most popular creators on TikTok, and TikTok is aware that she is particularly popular with children. [REDACTED]
- b. Loren Gray: Loren is a musician and TikTok influencer. While she is 22 years old now, she was 13 when she joined TikTok (then operating as Musical.ly).¹⁶⁴ Early in TikTok’s lifespan, Loren was one of the most popular creators on the platform.¹⁶⁵ Her videos primarily feature her dancing, singing, or lip-syncing.
- c. Eva Diana Kidisyuk: Eva is a 9-year-old child influencer. Her videos feature herself and her brother, and include children’s songs, unboxings, vlogs, educational entertainment, and roleplays. *See* Figure 17 below, screenshot of the Kids Diana Show TikTok Page.
- d. Txunamy: Txunamy is a 12-year-old child actress and influencer. Her videos feature her in various natural scenes, posing as a model, dancing or just walking around, often to modern music. *See* Figure 18 below, screenshot of txunamy TikTok Page.

¹⁶² Dylan Horetski, *Charli D’Amelio, Bella Poarch & MrBeast win big at 2023 Kids’ Choice Awards*, Dexerto (Mar. 6, 2023), <https://www.dexerto.com/entertainment/charli-damelio-bella-poarch-mrbeast-win-big-at-2023-kids-choice-awards-2079242/>; Denise Petski, *Nate Burleson & Charli D’Amelio To Host Nickelodeon’s Kids’ Choice Awards; ‘Stranger Things’ Leads 2023 Nominations – Full List*, Deadline (Jan. 31, 2023), <https://deadline.com/2023/01/nate-burleson-charli-damelio-host-nickelodeons-kids-choice-awards-stranger-things-leads-2023-nominations-full-list-1235244799/>.

¹⁶³ Katie Campione, *Nickelodeon’s Kids’ Choice Awards Grows Audience By 40%, Ranks As Top Telecast Among Ages 2-14*, Deadline (Mar. 7, 2023), <https://deadline.com/2023/03/2023-nickelodeons-kids-choice-awards-ratings-1235282177/>.

¹⁶⁴ Kat Tenbarge, *The most popular TikToker is on track to lose her throne, and she’s looking to Taylor Swift and Shawn Mendes for the next leg of her career*, Bus. Insider (Mar. 13, 2020), <https://www.insider.com/loren-gray-tiktok-popular-music-the-man-taylor-swift-2020-3>.

¹⁶⁵ *Id.*

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kids.diana.show ✓

Kids Diana Show



Follow

1 Following **908.7K** Followers **4.3M** Likes

👤 KIDS DIANA SHOW 👤

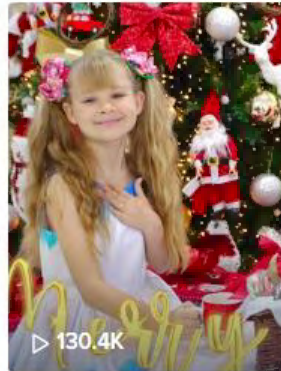
🌟 YouTuber with 200,000,000+ subs 🌟
account is run by mom

Videos

🔒 Liked



Lego Man 😊



What is your favorite holi...



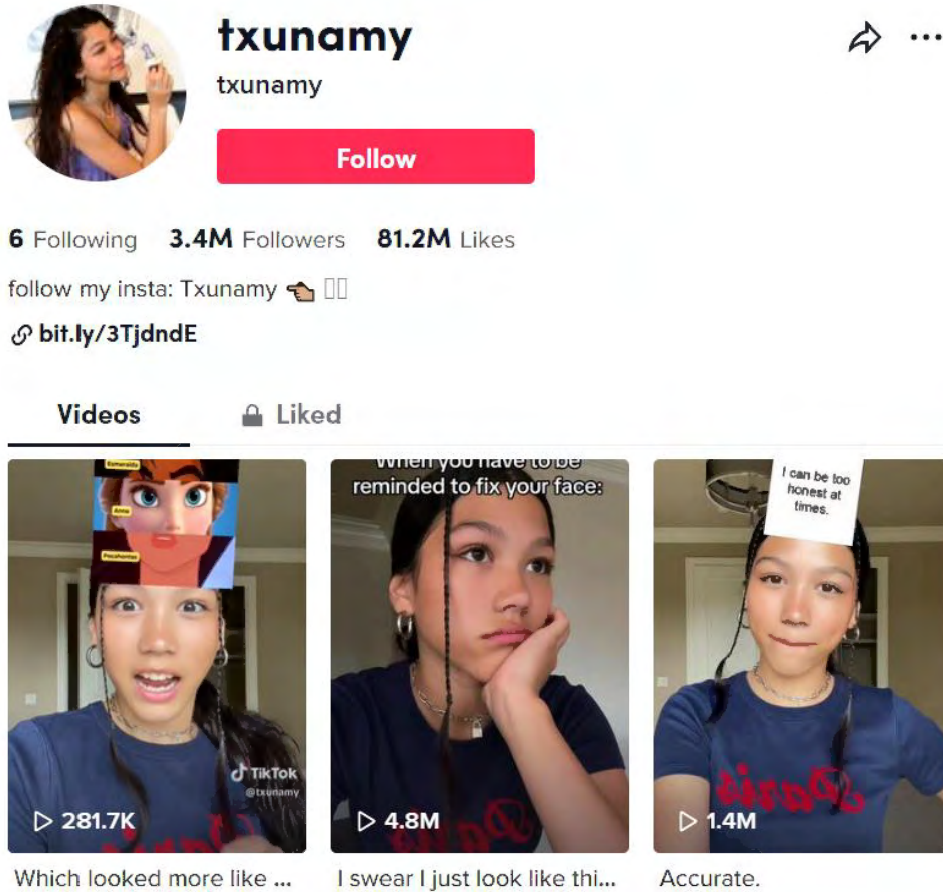
Giant lego room! 🤩🐱



(Figure 17.)



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(Figure 18.)

262. Each celebrity TikTok account listed above is a “verified” account, meaning that TikTok has independently reviewed the account upon receipt of an application, determined the account to be “notable,” and “confirmed the account belongs to the person or brand it represents.”¹⁶⁶

263. TikTok has even [REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

¹⁶⁶ *Verified Accounts on TikTok*, TikTok, *supra* note 161.

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[REDACTED]
[REDACTED]
[REDACTED]
[REDACTED] New Hampshire creators specifically received as much as [REDACTED] in just the three months of September 2023 to November 2023 through TikTok’s various monetization programs, including the Creator Fund.¹⁶⁷

264. TikTok also routinely features advertisements directed to children, with characters, franchises, and subject matter appealing to children. To list only a few representative examples:

- a. Bluey: This advertisement promotes a theatrical adaption of the popular children’s show Bluey, discussed above, depicting actors wearing costumes resembling Bluey characters, with visuals and music taken from the television show.¹⁶⁸
- b. Roblox: Roblox is a videogame that is incredibly popular among children. In April of 2020, Roblox boasted that two-thirds of all U.S. kids between 9 and 12 years old use Roblox, and it is played by over half of all Americans under the age of 16.¹⁶⁹ This advertisement promotes the videogame, showing activities users can do within the game, including dance routines.¹⁷⁰
- c. Minecraft: Minecraft is a videogame popular among children.¹⁷¹ This advertisement promotes the videogame, showing footage of the game being

¹⁶⁷ Letter from TenBroeck to Benjamin, *supra* note 5, at 27.

¹⁶⁸ *Explore Top Ads on TikTok*, TikTok, <https://ads.tiktok.com/business/creativecenter/topads/7286958902033793025/pc/en?countryCode=US&from=001110&period=30> (last visited June 7, 2024).

¹⁶⁹ Taylor Lyles, *Over half of US kids are playing Roblox, and it’s about to host Fortnite-esque virtual parties too*, The Verge (July 21, 2020), <https://www.theverge.com/2020/7/21/21333431/roblox-over-half-of-us-kids-playing-virtual-parties-fortnite>.

¹⁷⁰ *About this Ad*, TikTok, <https://ads.tiktok.com/business/creativecenter/topads/7323282833940774914/pc/en?countryCode=US&from=001110&period=30> (last visited June 7, 2024).

¹⁷¹ See Matthew Woodward, *Minecraft User Statistics: How Many People Play Minecraft in 2024?*, Search Logistics (Feb. 15, 2024), <https://www.searchlogistics.com/learn/statistics/minecraft-user-statistics/> (20% of players <15 years old, with hundreds of millions of players).

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played.¹⁷² The game is rated as appropriate for users 9 and older on Apple's App Store.¹⁷³

F. TikTok does not obtain verifiable parental consent before collecting or maintaining personal information from TikTok users under the age of 13.

265. As discussed above, TikTok collects personal information from under-13 users on TikTok's Kids Mode and from under-13 users who have passed the age gate on TikTok's 13+ experience.

266. TikTok has not provided direct notice to parents, including New Hampshire parents, of its practices regarding the collection, use, or disclosure of personal information from under-13 users, including New Hampshire children under 13.

267. TikTok has not provided, and does not currently provide, sufficient notice on the TikTok website or App about what information it collects from children under 13, how it uses such information, its disclosure practices, and parents' rights to review or delete their under-13 children's information.

268. It is TikTok's standard practice to not provide parental notice, even though it knows this is required under federal laws like COPPA, and the company has acknowledged this, stating [REDACTED]

269. The FTC, which is tasked with promulgating rules interpreting COPPA, has listed at least 5 specific ways for an operator like TikTok to satisfy its obligation to obtain verifiable parental consent:

- a. Providing a consent form to be signed by the parent and returned to the operator by postal mail, facsimile, or electronic scan;

¹⁷² *Explore Top Ads on TikTok*, TikTok, <https://ads.tiktok.com/business/creativecenter/inspiration/topads/pc/en?period=30®ion=US> (last visited June 7, 2024).

¹⁷³ *Minecraft*, Apple, <https://apps.apple.com/us/app/minecraft/id479516143> (last visited June 7, 2024).

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- b. Requiring a parent, in connection with a monetary transaction, to use a credit card, debit card, or other online payment system that provides notification of each discrete transaction to the primary account holder;
- c. Having a parent call a toll-free telephone number staffed by trained personnel;
- d. Having a parent connect to trained personnel via video-conference; and
- e. Verifying a parent's identity by checking a form of government-issued identification against databases of such information. 16 C.F.R. § 312.5(b)(2).

270. On information and belief, TikTok does not use any of those methods.

271. Some of the personal information that TikTok collects from children under 13 without obtaining verifiable parental consent is information that the company itself has acknowledged is covered by COPPA. In June 2020, the company reported to the FTC that

[REDACTED]

272. Internal TikTok documents also reveal that TikTok [REDACTED]

[REDACTED]

273. The State has reason to believe that TikTok has violated and continues to violate COPPA's notice and verifiable parental consent requirements with respect to under-13 users in the State by collecting personal information from under-13 users without notice.

IV. TikTok misrepresents itself as an independent U.S. company when it is still firmly controlled by its Chinese parent company.

274. TikTok consistently portrays itself as a U.S.-based company independent of ByteDance, its Chinese parent company. It engages in this deception in part to avoid scrutiny from regulators, but also to avoid questions and skepticism from consumers about the safety of

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their data. In truth, however, TikTok remains firmly controlled and managed by ByteDance and TikTok's representations of independence mislead consumers.

275. For example, TikTok's Terms of Service, provided to each New Hampshire consumer, state that the App "is provided by TikTok Inc. in the United States."¹⁷⁴ In recent public postings on its website, TikTok creates the appearance that it is independent from its parent company by claiming that it is a myth that "[d]ecisions about TikTok are made in Beijing," and that its headquarters are in China, stating instead: "TikTok, which is not available in mainland China, has established Los Angeles and Singapore as headquarters locations to meet its business needs."¹⁷⁵

276. Similarly, on March 23, 2023, TikTok's CEO Shou Zi Chew told the U.S. House of Representatives Committee on Energy and Commerce that there has been no Chinese control or influence over TikTok or its App, claiming:

As CEO, I am responsible for all business operations and strategic decisions for TikTok. TikTok, as a U.S. company incorporated in the United States, is subject to the laws of the United States. TikTok has never shared, or received a request to share, U.S. user data with the Chinese government. Nor would TikTok honor such a request if one were ever made.¹⁷⁶

These statements were broadcast on live television to New Hampshire consumers and remain available for replay by New Hampshire consumers on C-SPAN's website.¹⁷⁷

¹⁷⁴ *Terms of Service*, TikTok (Nov. 2023), <https://www.tiktok.com/legal/page/us/terms-of-service/en>.

¹⁷⁵ *The Truth about TikTok: Separating Fact from Fiction*, TikTok (Apr. 16, 2023), <https://newsroom.tiktok.com/en-au/the-truth-about-tiktok>.

¹⁷⁶ *Testimony Before the U.S. House Committee on Energy and Commerce, Written Statement of Testimony Shou Chew*, 118th Cong. 9 (Mar. 23, 2023) (written statement of Shou Chew, Chief Executive Officer, TikTok Inc.), <https://docs.house.gov/meetings/IF/IF00/20230323/115519/HHRG-118-IF00-Wstate-ChewS-20230323.pdf>.

¹⁷⁷ *Id.*

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277. TikTok instructs employees to publicly downplay the relationship between ByteDance and TikTok. Internal company documents leaked to Gizmodo suggested “key messages” such as to “[d]ownplay the parent company ByteDance, downplay the China association.” TikTok similarly tells its spokespeople to say effectively what its CEO said to House of Representatives: “We have not and will not share user data with the Chinese government, and would not do so if asked.”¹⁷⁸

278. These statements and the impression they create are deceptive. Though TikTok itself is headquartered in both Los Angeles and Singapore, which is not in mainland China, the company remains heavily controlled by ByteDance, which is headquartered in Beijing. Indeed, TikTok employees raised alarms internally after its CEO’s March 2023 statements about TikTok’s alleged independence because “they felt Chew’s statements to Congress misrepresented TikTok’s relationship with ByteDance.”¹⁷⁹

279. TikTok is, at most, a nominally separate corporate entity. It is unable to operate independently from ByteDance, which continues to house TikTok’s HR department and in-house legal department. TikTok’s e-commerce department reports directly to ByteDance’s CEO, rather than TikTok’s CEO. TikTok also continues to rely on access to ByteDance’s resources, expertise, and code to operate.¹⁸⁰

¹⁷⁸ Chris Stokel-Walker, *Inside TikTok’s Attempts to ‘Downplay the China Association’*, Gizmodo (July 27, 2022), <https://gizmodo.com/tiktok-master-messaging-pr-playbook-china-music-1849334736>.

¹⁷⁹ Georgia Wells, *TikTok Employees Say Executive Moves to U.S. Show China Parent’s Influence*, Wall St. J. (Sep. 27, 2023), <https://www.wsj.com/tech/tiktok-employees-say-executive-moves-to-u-s-show-china-parents-influence-ef5ff21f>.

¹⁸⁰ 谁在管理 TikTok: 没有中心的网状组织、字节的全球化构想’, LatePost via Laohu8 (Apr. 7, 2022), <https://archive.ph/yLV9W>.

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280. ByteDance therefore continues to make decisions “both large and small” about all aspects of TikTok.¹⁸¹ [REDACTED]

[REDACTED] And, throughout 2023, ByteDance transferred some of its own high-level executives into key positions at TikTok, including some directly from ByteDance’s Beijing headquarters.¹⁸²

281. The companies remain so enmeshed that all TikTok employees have ByteDance listed on their checks and tax returns. TikTok employees also have both ByteDance and TikTok email addresses—the ByteDance email addresses deliver mail to their TikTok email addresses, and vice versa.¹⁸³

282. [REDACTED]

[REDACTED]

[REDACTED]

¹⁸¹ Rachel Lee et al., *TikTok, ByteDance, and Their Ties to the Chinese Communist Party*, SCRIBD, 42 (Mar. 14, 2023), <https://www.scribd.com/document/633015202/TikTok-ByteDance-And-Their-Ties-to-the-Chinese-Communist-Party>; Salvador Rodriguez, *TikTok insiders say social media company is tightly controlled by Chinese parent ByteDance*, CNBC (June 25, 2021), <https://web.archive.org/web/20221104203859/https://www.cnbc.com/2021/06/25/tiktok-insiders-say-chinese-parent-bytedance-in-control.html>; Emily Baker-White, *TikTok Is Bleeding U.S. Execs Because China Is Still Calling The Shots, Ex-Employees Say*, Forbes (Sep. 21, 2022), <https://archive.ph/YQVm7>; Emily Baker-White, *TikTok Parent ByteDance Planned To Use TikTok To Monitor The Physical Location Of Specific American Citizens*, Forbes (Oct. 20, 2022), <https://www.forbes.com/sites/emilybaker-white/2022/10/20/tiktok-bytedance-surveillance-american-user-data/?sh=2d97f66a6c2d>; Drew Harwell & Elizabeth Dvoskin, *As Washington wavers on TikTok, Beijing exerts control*, Wash. Post (Oct. 28, 2022), <https://web.archive.org/web/20221101005158/https://www.washingtonpost.com/technology/interactive/2022/bytedance-tiktok-privacy-china/>; Ryan Mac & Chang Che, *TikTok’s C.E.O. Navigates the Limits of His Power*, N.Y. Times (Sep. 16, 2022), <https://web.archive.org/web/20221102210817/https://www.nytimes.com/2022/09/16/technology/tiktok-ceo-shou-zi-chew.html>.

¹⁸² Wells, *supra* note 179.

¹⁸³ Lee et al., *supra* note 181.

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(Figure 19.)

283. And though the TikTok App is not available for users in China, much of TikTok’s



284. Since January 2023, TikTok has operated a subsidiary corporate entity known as TikTok U.S. Data Security (“USDS”). TikTok has also set up a partnership with Oracle, a U.S.-owned cloud-based services provider located wholly within the United States, and now routes its U.S. traffic through Oracle’s network. The purported purpose of USDS is to protect the data TikTok collects on its U.S. users from TikTok’s own employees, as well as from ByteDance’s employees. TikTok employees’ requests for U.S. data, allegedly, must undergo review by USDS employees. As of March 2023, TikTok and USDS had not yet fully implemented this review process.¹⁸⁴ These minor changes are no more than a window dressing because China’s export technology laws have not permitted ByteDance to sell TikTok or USDS to an independent, non-

¹⁸⁴ *Testimony Before the U.S. House Committee on Energy and Commerce, Testimony of Shou Chew, 118th Cong., supra note 95.*

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Chinese company. That is, TikTok’s algorithms or true control over its users’ data cannot be sold to a U.S.-based company without the approval of the Chinese government, according to the Chinese Commerce Ministry.¹⁸⁵

285. On the website it publishes to New Hampshire consumers, TikTok explicitly represents that it does not believe it is subject to Chinese data policy laws. It has said “We have never been asked by the Chinese government to remove any content and we would not do so if asked”¹⁸⁶; “Our data centers are located entirely outside of China, and none of our data is subject to Chinese law”¹⁸⁷; and “We have made clear that TikTok has never shared user data with the Chinese government, nor censored content at its request.”¹⁸⁸

286. Those representations also mislead consumers, however, because ByteDance, which continues to control TikTok, is subject to the laws of China, including technology export laws and laws requiring tech companies to provide user data to the Chinese government. Chinese companies are required by China’s 2017 National Intelligence Law to “provide support and assistance to and cooperate with the State intelligence work, and keep secret the State intelligence work that they know.” According to experts, this law makes it mandatory for Chinese companies to turn over data to the government even where the data is collected outside of China.¹⁸⁹ A 2020 Data Security Law, which explicitly applies extraterritorially, also demands

¹⁸⁵ Raffaele Huang, *China Says It Opposes Forced Sale of TikTok*, Wall St. J. (Mar. 23, 2023), <https://www.wsj.com/articles/china-says-it-opposes-a-forced-sale-of-tiktok-1a2ffc62>.

¹⁸⁶ *Statement on TikTok’s content moderation and data security practices*, TikTok (Oct. 24, 2019), <https://newsroom.tiktok.com/en-us/statement-on-tiktoks-content-moderation-and-data-security-practices>.

¹⁸⁷ *Id.*

¹⁸⁸ *Statement on the US Administration’s Executive Order*, TikTok (Aug. 7, 2020), <https://newsroom.tiktok.com/en-gb/statement-on-the-us-administrations-executive-order>.

¹⁸⁹ Arjun Kharpal, *Huawei says it would never hand data to China’s government. Experts say it wouldn’t have a choice*, CNBC (Mar. 4, 2019), <https://www.cnbc.com/2019/03/05/huawei->

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that businesses keep all data “generated” in China within China, and that they conduct a government-mandated security assessment before transferring it abroad.¹⁹⁰

287. In short, TikTok’s public statements that it is independent of its Chinese-based parent company, and thus Chinese law, are false and misleading.

**COUNT I
VIOLATIONS OF THE CONSUMER PROTECTION ACT**

**RSA § 358-A:2
(Unfair Acts or Practices-Manipulative and Addictive Design Features)**

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

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

290. 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.

291. TikTok, at all relevant times, was engaged in trade and commerce through advertising and distributing its App in the State, by selling its App in the State in an in-kind transaction in exchange for the ability to collect valuable personal data from New Hampshire users, and by using its App to advertise third-party products and services in the State, thus directly and/or indirectly affecting the people of this State.

would-have-to-give-data-to-china-government-if-asked-experts.html; NCSC Director William Evanina, Keynote Address as Prepared for Delivery at International Legal Technology Association (ILTA) LegalSEC Summit (June 4, 2019), https://www.dni.gov/files/NCSC/documents/news/20190606-NCSC-Remarks-ILTA-Summit_2019.pdf; *Applicability of Chinese National Intelligence Law to Chinese and non-Chinese Entities*, Mannheimer Swartling (Jan. 2019), https://www.mannheimerswartling.se/app/uploads/2021/04/msa_nyhetsbrev_national-intelligence-law_jan-19.pdf.

¹⁹⁰ Christian Perez, *Why China’s New Data Security Law Is a Warning for the Future of Data Governance*, Foreign Pol’y (Jan. 28, 2022), <https://foreignpolicy.com/2022/01/28/china-data-governance-security-law-privacy/>.

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292. TikTok has committed 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) have caused substantial injury to consumers in the State.

293. As described in detail in the Complaint, TikTok, at all relevant times, intentionally incorporated addictive design features and algorithms into its App notwithstanding a thorough understanding of the harms suffered by children who use its App and the role its App plays in exacerbating existing harms. Instead of taking measures to mitigate these damaging effects, TikTok turned a blind eye to these damaging effects and persisted in exploiting children's psychological vulnerabilities. TikTok's acts and omissions constitute knowing decisions causing unnecessary and unjustified harm to children for TikTok's financial gain.

294. TikTok's 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 TikTok's acts and omissions, including because TikTok misrepresented and failed to disclose the dangerous nature of its App and because TikTok utilized psychologically manipulative, engagement-inducing features, knowing that children are especially susceptible to those psychologically manipulative tactics, creating unreasonable obstacles to the independent decision-making of New Hampshire children.

295. TikTok's unfair acts and practices include its choice to target its App to children while knowingly designing its App to include features known to promote compulsive, prolonged, and unhealthy use by children.

296. Such unfair and addictive design features that TikTok incorporates into its App include: (1) the Recommendation Engine; (2) push notifications and alerts; (3) infinite scroll; (4)

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defective time management and parental controls; and (5) filters and effects (together, the “Addictive Features”).

297. The Addictive Features were unfairly used by TikTok to extract additional time and attention from children whose developing brains were not equipped to resist those manipulative tactics.

298. TikTok designed, developed, and deployed disruptive audiovisual and vibrating notifications and alerts in a way that exploited children’s psychological vulnerabilities and cultivated a sense of “fear of missing out” to induce children to spend more time on TikTok’s App than they would otherwise.

299. By using its Recommendation Engine to algorithmically serve content to children, TikTok manipulated dopamine releases in children who use its platform, unfairly inducing them to engage repeatedly with its products—much like a child gambling at a slot machine.

300. TikTok’s App features are addictive to children. Indeed, they were designed to be addictive. TikTok further hid or disincentivized features that could decrease children’s time spent on the App, or their engagement with the App.

301. At all times relevant to this Complaint, TikTok was aware of the addictive nature of the TikTok Recommendation Engine and the App, and jointly exercised control over the design and implementation of the Engine and the App.

302. TikTok directly profited from addicting children to the App and continued to capitalize on the addictive nature of the App despite knowing the harm that addiction would cause New Hampshire’s children.

303. The unfair conduct alleged herein is not based on the content posted, but rather the Addictive Features that TikTok intentionally and unilaterally incorporated into its App.

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304. Thus, in numerous instances, TikTok engaged in unfair practices by taking actions to facilitate children's addiction to or unhealthy use of its App. TikTok's choices to expose children to each of the Addictive Features, individually, constitute unfair acts or practices. TikTok's further choices to expose children to the combinations of any 2 or more of the features described above is also an unfair act and practice, 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.

305. TikTok'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.

306. New Hampshire consumers have suffered substantial injury as described above by reason of TikTok's conduct. They have suffered substantial injury because TikTok's conduct unreasonably creates obstacles to the free exercise of consumer decision-making and induces users to spend significant time on the App, including time the users themselves report they do not want to spend on the App. The Addictive Features negatively impact children's brain development, sleep, and overall mental health and well-being, and have caused serious harm to youth in New Hampshire. As time spent on the App rises, users have also spent more money purchasing items, subscriptions, and virtual currency on the App. TikTok also uses the Addictive Features to collect more data about the users, which is itself an injury to the users.

307. While users may also suffer other harms from third-party content on TikTok's App, 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 App; and negative impacts to brain development, sleep, and overall

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mental health and well-being—result, at least in part, from TikTok’s unilateral and intentionally addictive design choices, and not from third-party content on the App.

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

309. Each instance in which TikTok engaged in an unfair act or practice as recited above constitutes a separate violation of the CPA.

310. TikTok’s violations present a continuing harm, and the unfair acts and practices complained of here affect the public interest.

311. Pursuant to RSA § 358-A:4, III(a), the State requests an order permanently enjoining TikTok from engaging in these unfair acts and practices.

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

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

314. 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)**

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

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

317. 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.

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318. TikTok at all relevant times was engaged in trade and commerce through advertising and distributing its App in the State, by selling its App in the State in an in-kind transaction in exchange for the ability to collect valuable personal data from New Hampshire users, and by using its App to advertise third-party products and services in the State, thus directly and/or indirectly affecting the people of this State.

319. By engaging in the acts and practices alleged herein, TikTok 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 had a tendency to mislead consumers and by omitting material facts that are likely to confuse and/or mislead consumers regarding the nature and safety of TikTok's App, in violation of RSA § 358-A:2. These deceptive statements are made in New Hampshire to New Hampshire consumers through TikTok's Terms of Service, which provide each consumer in the State a link to TikTok's Community Guidelines and require them to agree to abide by the Community Guidelines.

320. In numerous instances in connection with the advertising, marketing, promotion, and other representations regarding its products, including through the actions described herein, TikTok uses deceptive practices within this State, directly or indirectly, expressly or by implication, with the intent that consumers rely on TikTok's deceptive practices, including but not limited to creating or reinforcing the following deceptive impressions:

- a. TikTok's App is a safe environment for users of all ages and children, specifically;
- b. TikTok works to support teen users and parents by building effective controls;
- c. TikTok works to support the well-being of everyone on the App;

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- d. TikTok worked to address issues with its Recommendation Engine, including filter bubbles, as early as June 2020;
- e. TikTok's policies are strict and apply to everyone;
- f. TikTok prohibits content about dangerous challenges, bullying, drugs, mature themes, disordered eating and weight loss, suicide and self-harm, and content that exploits children, including CSAM;
- g. TikTok identifies and proactively removes content that violates those policies; and
- h. TikTok addresses filter bubbles and algorithm recommendations that lead to extreme harmful content.

321. 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.

322. In addition to TikTok's misleading statements, TikTok's omissions, which are false and misleading in their own right, rendered even seemingly truthful statements about TikTok's App false and misleading.

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

324. TikTok 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 App.

325. TikTok'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.

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

327. Each instance in which TikTok engaged in a deceptive act or practice as recited above constitutes a separate violation of the CPA.

328. TikTok's violations present a continuing harm, and the unlawful acts and practices complained of here affect the public interest.

329. Pursuant to RSA § 358-A:4, III(a), the State requests an order permanently enjoining TikTok from engaging in these deceptive acts and practices.

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

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

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

**COUNT III
VIOLATIONS OF THE CONSUMER PROTECTION ACT**

**RSA § 358-A:2
(Unfair Acts or Practices—Collection of Children's Data)**

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

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

335. 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.

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336. TikTok, at all relevant times, was engaged in trade and commerce through advertising and distributing its App in the State, by selling access to the App in an in-kind transaction in exchange for the ability to collect personal data from users, and by using the App to advertise third-party products and services in the State, thus directly and indirectly affecting the people of this State.

337. By the actions it has taken in violation of the Children’s Online Privacy Protection Act, TikTok has committed 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, the collection of under-13 children’s data without proper notice, consent, or opportunity to opt out; (2) an act that is immoral, unethical, oppressive, and/or unscrupulous; and (3) has caused substantial injury to consumers in the State.

338. “If conduct that is not proscribed by any statute may be found ‘unfair’ under the CPA, section 2, conduct squarely within the proscriptive penumbra of a consumer protection statute surely satisfies the ‘unfairness’ requirement.” *Chroniak v. Golden Inv. Corp.*, 983 F.2d 1140, 1147 (1st Cir. 1993) (finding that a violation of New Hampshire’s Second Mortgage Home Loan Act constituted both an “unfair” and a “deceptive” practice within the meaning of the CPA).

339. The Children’s Online Privacy Protection Act, 15 U.S.C. § 6501, *et seq.*, is just such a consumer protection statute, requiring the “operator of any website or online service directed to children that collects . . . or . . . has actual knowledge that it is collecting personal information from a child—(i) to provide notice on the website of what information is collected from children by the operator, how the operator uses such information, and the operator’s disclosure practices for such information; and (ii) to obtain verifiable parental consent for the

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collection, use, or disclosure of personal information from children[.]” *Id.* § 6502(b)(1)(A).

COPPA also requires that the operators protect the data, give parents the chance to refuse data collection on behalf of their children, and let parents obtain the personal information it collected from the child. *Id.* §§ 6502(b)(1)(B), (D).

340. As described in detail in the Complaint, TikTok, at all relevant times, knowingly collected personal information from children under the age of 13 through its App squarely violating the proscriptive penumbra of COPPA and the harm caused by under-13 children’s unknowing loss of control over their data and invasion of their privacy.

341. Instead of taking measures to remove children under 13 from the App, stop collecting under-13 children’s data, or make required disclosures and gain the consent of their parents, TikTok persisted in collecting data from unaware children under 13 that it could use for its algorithms, advertising, or any other purposes. TikTok’s acts and omissions constitute knowing decisions causing unnecessary and unjustified harm to children for TikTok’s financial gain.

342. TikTok’s acts and omissions alleged herein have caused and continue to cause substantial injury to consumers that could not be reasonably avoided. Children under 13 will lose control over their data in ways they cannot reasonably be expected to comprehend at their age and cannot consent to. TikTok can then share their data in ways the children do not fully understand, causing a broader invasion of their privacy. Because TikTok failed to disclose its collection of under-13 children’s data, knowing that it is required to do so under COPPA, children under 13 and their parents could not reasonably avoid this harm.

343. TikTok’s unfair acts and practices include both its knowing violations of COPPA and its actions: collecting data from users, with actual knowledge that a large number of those

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under-13 users are children, and without providing the required notice, consent, and an opportunity to opt out of data collection.

344. TikTok collects this data without giving users and their parents the knowledge and opportunity to opt out, with the intent that consumers rely on TikTok's deceptive practices by using or allowing children under 13 to use its App.

345. At the times TikTok collected the data, TikTok was aware that it was collecting data from children under 13, that it did not properly disclose the data collection to users, and that it did not provide users or their parents the opportunity to opt out of data collection.

346. At all times TikTok collected the data, TikTok was aware that collecting this data from children under the age of 13 without verified parental consent was a violation of COPPA.

347. TikTok directly profited from collecting under-13 children's data.

348. Thus, in numerous instances, TikTok engaged in unfair practices in violation of the CPA by engaging in conduct within the proscriptive penumbra of COPPA and collecting data from children under 13 without notice, consent, or the opportunity to opt out. TikTok's choice to collect data from each under-13 child user in violation of COPPA individually constitutes unfair acts or practices in violation of the CPA.

349. TikTok'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.

350. New Hampshire children under 13 (and users who were children under 13 when their data was collected) have suffered substantial injury as described above by reason of TikTok's conduct, because TikTok's conduct resulted in children under 13 losing control over their own data. These children lost control over their data under circumstances in which they

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could not fully comprehend the extent of possible injuries both due to their age and because TikTok failed to provide disclosures and the opportunity to opt out. These practices are specifically proscribed by federal law due to the harm they cause to children under 13.

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

352. Each instance in which TikTok engaged in an unfair act or practice as recited above constitutes a separate violation of the CPA.

353. The State brings this action exclusively under the law of the State of New Hampshire. No federal claims are being asserted, and to the extent that any claim or factual assertion set forth herein may assert violations of federal law, the State is seeking relief for the Defendant's actions in violation of state law. The State's citation to federal statutes is only to underscore public policy and standards that inform the State's claims that Defendant's conduct is deceptive, unfair, and unconscionable under New Hampshire law and are not alleged as independent claims or causes of action. To avoid any doubt, the State does not assert a claim pursuant to its authority to enforce COPPA, but asserts instead that TikTok's practices in violation of COPPA constitute unfair practices under New Hampshire law.

354. TikTok's violations present a continuing harm, and the unfair acts and practices complained of here affect the public interest.

355. Pursuant to RSA § 358-A:4, III(a), the State requests an order permanently enjoining TikTok from engaging in these unfair acts and practices.

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

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

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

**COUNT IV
VIOLATIONS OF THE CONSUMER PROTECTION ACT**

**RSA § 358-A:2
(Deceptive Acts or Practices—Collection of Children’s Data)**

359. The State realleges and incorporates all other paragraphs of this Complaint, as if fully set forth herein.

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

361. 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.

362. TikTok, at all relevant times, was engaged in trade and commerce through advertising and distributing its App in the State, by selling access to the App in an in-kind transaction in exchange for the ability to collect personal data from users, and by using the App to advertise third-party products and services in the State, thus directly and/or indirectly affecting the people of this State.

363. By engaging in the acts and practices alleged herein, TikTok 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, deceptive representations in violation of RSA § 358-A:2.

364. The Children’s Online Privacy Protection Act, 15 U.S.C. § 6501, *et seq.*, requires the “operator of any website or online service directed to children that collects . . . or . . . has actual knowledge that it is collecting personal information from a child—(i) to provide notice on

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the website of what information is collected from children by the operator, how the operator uses such information, and the operator's disclosure practices for such information; and (ii) to obtain verifiable parental consent for the collection, use, or disclosure of personal information from children[.]” *Id.* § 6502(b)(1)(A). COPPA also requires that the operators protect the data, give parents the chance to refuse data collection on behalf of their children, and let parents obtain the personal information it collected from the child. *Id.* §§ 6502(b)(1)(B), (D).

365. TikTok collects data from users, with actual knowledge that a large number of those users are children under the age of 13, and without providing the required notice and consent.

366. TikTok failed to disclose to users that it collects under-13 children's data and what it uses that data for, with the intent that consumers rely on TikTok's deceptive practices by using or allowing children under 13 to use its App.

367. This omission constitutes a deceptive act or practice within the meaning of the CPA.

368. At the times TikTok failed to disclose this information, TikTok knew or recklessly disregarded that its omissions were false or misleading and therefore likely to deceive consumers and the public.

369. TikTok knew or recklessly disregarded that its deceptive practices, including its omissions, created a false or misleading impression of the risks associated with the use of its App.

370. TikTok'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.

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

372. Each instance in which TikTok engaged in a deceptive act or practice as recited above constitutes a separate violation of the CPA.

373. TikTok's violations present a continuing harm, and the unlawful acts and practices complained of here affect the public interest.

374. The State brings this action exclusively under the law of the State of New Hampshire. No federal claims are being asserted, and to the extent that any claim or factual assertion set forth herein may assert violations of federal law, the State is seeking relief for the Defendant's actions in violation of state law. The State's citation to federal statutes is only to underscore public policy and standards that inform the State's claims that Defendant's conduct is deceptive, unfair, and unconscionable under New Hampshire law and are not alleged as independent claims or causes of action. To avoid any doubt, the State does not assert a claim pursuant to its authority to enforce COPPA, but asserts instead that TikTok's practices in violation of COPPA constitute unfair practices under New Hampshire law.

375. Pursuant to RSA § 358-A:4, III(a), the State requests an order permanently enjoining TikTok from engaging in these deceptive acts and practices.

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

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

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

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**COUNT V
VIOLATIONS OF THE CONSUMER PROTECTION ACT**

**RSA § 358-A:2, IV
(Deceptive Practices of Geographic Origin)**

379. The State realleges and incorporates all other paragraphs of this Complaint, as if fully set forth herein.

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

381. 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.

382. TikTok, at all relevant times, was engaged in trade and commerce through advertising and distributing its App in the State, by selling its App in the State in an in-kind transaction in exchange for the ability to collect valuable personal data from New Hampshire users, and by using its App to advertise third-party products and services in the State, thus directly and/or indirectly affecting the people of this State.

383. By engaging in the acts and practices alleged herein, TikTok 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, deceptive representations or designations of geographic origin, in violation of RSA § 358-A:2, IV. These deceptive statements are made in New Hampshire to New Hampshire consumers through TikTok's Terms of Service.

384. In numerous instances in connection with the advertising, marketing, promotion, and other representations regarding its products, including through the actions described herein, TikTok deceived users about the geographic origin of its products, directly or indirectly, expressly or by implication, with the intent that consumers rely on TikTok's deceptive practices, by misrepresenting in this State that TikTok is a company located, controlled, and/or

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headquartered in the United States when it continues to be controlled by its China-based parent company, ByteDance.

385. This misrepresentation constitutes a deceptive act or practice within the meaning of the CPA.

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

387. TikTok 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 App.

388. TikTok'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.

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

390. Each instance in which TikTok engaged in a deceptive act or practice as recited above constitutes a separate violation of the CPA.

391. TikTok's violations present a continuing harm, and the unlawful acts and practices complained of here affect the public interest.

392. Pursuant to RSA § 358-A:4, III(a), the State requests an order permanently enjoining TikTok from engaging in these deceptive acts and practices.

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

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

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

**COUNT VI
STRICT PRODUCTS LIABILITY**

(Defective Design)

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

397. TikTok's App and its features are products, and TikTok is in the business of, and generates a profit from, supplying its App to consumers.

398. TikTok sells the use of its App to consumers in an in-kind transaction in exchange for consumers' time, attention, and data, as memorialized in the contracts that TikTok enters into with users of the TikTok App.

399. TikTok is engaged in the business of designing, developing, programming, marketing, distributing, and profiting from its App.

400. TikTok has complete control over the design of its App.

401. The manipulative design features and algorithms that TikTok intentionally includes in its App create defective conditions that are unreasonably dangerous to children.

402. TikTok intentionally designed its App to addict children or to otherwise cause them to compulsively use its App.

403. TikTok profits from children's use of the product.

404. TikTok's App was defective at the time the product left TikTok's control and reached the user or consumer without substantial change in condition.

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405. Children's compulsive and excessive use of the product was reasonably foreseeable by TikTok.

406. A great portion of children who use TikTok's App suffer severe psychological and other harms, as alleged throughout this Complaint.

407. TikTok's App is a defective product because: (a) the risks of TikTok's App, including the risks of addiction or compulsive use, outweigh the benefits of the App; 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 App—omitting the alternative designs render TikTok's App not reasonably safe.

408. The Addictive Features, among other design features, render TikTok's App unreasonably dangerous because they disrupt sleep, negatively impact children's brain development, and promote problematic and compulsive use.

409. TikTok could have feasibly made TikTok's App less dangerous by omitting or modifying its harmful features like the Addictive Features. Those design elements could be modified without substantially affecting the products' cost or effectiveness.

410. Additionally, TikTok's App is defectively designed in that it fails to perform as safely as an ordinary consumer or user would reasonably expect when put to its foreseeable or intended use.

411. TikTok's defective design of its App causes children serious harm as set forth throughout this Complaint. The Addictive Features of its App negatively impact children's brain development, sleep, and overall mental health and well-being, and have caused serious harm to youth in New Hampshire.

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412. The State and its citizens have suffered and will continue to suffer substantial injury as a result of TikTok's defective product and the unlawful acts and practices complained of here affect the public interest.

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

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

COUNT VII STRICT PRODUCTS LIABILITY

(Failure to Warn)

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

416. TikTok's App and its features are products, and TikTok is in the business of, and generates a profit from, supplying its App to consumers.

417. TikTok sells the use of its App to consumers in an in-kind transaction in exchange for consumers' time, attention, and data, as memorialized in the contracts that TikTok enters into with users of the TikTok App.

418. TikTok is engaged in the business of designing, developing, programming, marketing, distributing, and profiting from its App.

419. TikTok has complete control over the design of its App.

420. The manipulative Addictive Features that TikTok intentionally includes in its App create defective conditions that are unreasonably dangerous to children.

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421. TikTok intentionally designed its App to addict children or otherwise cause them to compulsively use its App.

422. TikTok profits from children's use of the product.

423. TikTok's App is more dangerous than an ordinary user, with ordinary knowledge available in the community, would anticipate.

424. TikTok's App is a defective product because the instructions and warnings TikTok supplies are inadequate and not sufficiently understandable to warn users of the dangers of the App that are not readily apparent.

425. While TikTok knows of these foreseeable risks, the existence and magnitude of these risks are not readily apparent and not reasonably known to ordinary users, and the App is not obviously inherently dangerous.

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

427. The omissions of those instructions or warnings render TikTok's App not reasonably safe.

428. TikTok's failure to warn of the risks associated with the use of its App has caused children serious harm as set forth throughout this Complaint. TikTok's App negatively impacts children's brain development, sleep, and overall mental health and well-being, and has caused serious harm to youth in New Hampshire.

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

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

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

COUNT VIII NEGLIGENCE

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

433. TikTok has a duty to exercise due care in the design, manufacture, marketing, distribution, and labeling of its App and to make its App reasonably safe for its anticipated users, who include children.

434. TikTok breached that duty by including the Addictive Features that caused children to compulsively and excessively use its App and by failing to warn children and their parents of the risks children face when using its App.

435. TikTok's negligence is both the proximate and actual cause of harm to the State and the State's youth.

436. TikTok's negligence causes children serious harm as set forth throughout this Complaint. The Addictive Features negatively impact children's brain development, sleep, and overall mental health and well-being, and have caused serious harm to youth in New Hampshire.

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

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438. The State, on behalf of itself and its citizens, has suffered damages in an amount within the jurisdictional limits of the Court.

439. The wrongful acts of TikTok 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 respectfully requests this Court enter a judgment in its favor and grant relief against Defendant as follows:

- (a) Permanently enjoin TikTok from engaging in the unlawful acts alleged in the Complaint including the deceptive and unfair acts and practices;
- (b) Order TikTok 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, within the jurisdictional limits of the Court;
- (e) Award the State enhanced compensatory damages in an amount to be proven at trial, within the jurisdictional limits of the Court;
- (f) Award the State all legal costs and expenses, including reasonable attorneys' fees, as permitted by law; and
- (g) Award the State such further relief as the Court deems just and proper.

JURY DEMAND

The State demands a trial by jury.

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Dated: June 25, 2024

Respectfully Submitted,

THE STATE OF NEW HAMPSHIRE

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**Pro Hac Vice applications forthcoming*