

AMENDED Exhibit 594

PLAINTIFFS' OMNIBUS OPPOSITION TO DEFENDANTS' MOTIONS FOR SUMMARY JUDGMENT

Case No.: 4:22-md-03047-YGR

MDL No. 3047

In Re: Social Media Adolescent Addiction/Personal Injury Products Liability Litigation

Ethical Design in T&S

TL;DR

Tech is having massive social impact across multiple dimensions. Despite all of the innovation it has unleashed, it is creating multiple harms as well. Other competitors are ahead of this on mitigating, but there is still a real opportunity to be leaders in this space. Therefore we propose developing an Ethical Design strategy for T&S that will tackle these issues head on.

Unintended harms

Platforms are barely scratching the surface in their understanding of the unintended consequences of technology especially with regard to its negative impact on human beings. TikTok is not immune to these consequences. If left unaddressed these could lead to serious long term consequences for our users and society overall.

impacts society overall

[HYPERLINK "<https://bytedance.feishu.cn/wiki/wikcnzSL7JRPk7ZI8BP11JOaqyf>" \h]

A primary list of harms can include:

Algorithm/ Product Design	◦ Reduced attention span ◦ Exacerbation of pre-existing mental health conditions such as depression and anxiety. This can be tied to body image. ◦ Rabbit holes which are particularly dangerous with regard to misinformation/disinformation content.
Policies	◦ Inadequate consumer protection and privacy ◦ Over or undermoderation based on policies in place or lack thereof
People	◦ Unconscious biases among those developing our algorithms and product, moderating our content, and writing our policies. This results in product and policy development which is lacking in context (race, gender, class, ethnicity, etc.) and ultimately places limitations on a users freedom of

expression.

Broader ecosystem of users/ society	* TikTok's impact on how our users are processing information and in turn seeing the world around them is relatively unknown. * Some effects include increased polarization in society and corresponding real world harm
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Unintended harms (taken from older version of document)

Platforms are barely scratching the surface in their understanding of the unintended consequences of technology especially with regard to its negative impact on human beings. TikTok is not immune to these consequences. If left unaddressed these could lead to serious long term consequences for our users. On average, users spend 80 minutes at a time on our app. According to a recent survey, [[HYPERLINK "https://www.businessinsider.com/users-spending-more-time-daily-on-tiktok-than-instagram-cowen-survey-2020-7"](https://www.businessinsider.com/users-spending-more-time-daily-on-tiktok-than-instagram-cowen-survey-2020-7) \h]. Our algorithm and [[HYPERLINK "https://www.newyorker.com/magazine/2019/09/30/how-tiktok-holds-our-attention"](https://www.newyorker.com/magazine/2019/09/30/how-tiktok-holds-our-attention) \h] combined with the short form nature of videos and the "in your face" interface has the potential to create highly addictive patterns of video consumption.

These patterns can lower already dwindling attention spans and can exacerbate pre-existing mental health conditions such as depression and anxiety. Our algorithm also has the potential to negatively impact body image and lead our users down rabbit holes- this is particularly dangerous with regard to misinformation/disinformation content. In a recent conversation with Kate Starbird from the University of Washington, our team was told that users who are radicalized prior to using a platform are highly likely to have this radicalization reinforced when using a platform like ours. Aside from our algorithm, users may also be impacted by inadequate consumer protection and privacy. Compliance to regulation is a good first step but insufficient in avoiding the missteps of our peers.

In addition to our product itself, unconscious biases among those developing our algorithms, moderating our content and writing our policies may have far reaching impacts on the types of content appearing on our platform and ultimately on the freedom of expression of our users.

Competitor responses

Platform companies have faced a large degree of bad publicity from these harms. [[HYPERLINK "https://www.wsj.com/articles/facebook-knows-it-encourages-division-top-executives-nixed-solutions-11590507499"](https://www.wsj.com/articles/facebook-knows-it-encourages-division-top-executives-nixed-solutions-11590507499) \h]. [[HYPERLINK "https://www.wsj.com/articles/facebook-knows-it-encourages-division-top-executives-nixed-solutions-11590507499"](https://www.wsj.com/articles/facebook-knows-it-encourages-division-top-executives-nixed-solutions-11590507499) \h] [[HYPERLINK](#)

"<https://www.wsj.com/articles/facebook-knows-it-encourages-division-top-executives-nixed-solutions-11590507499>" \h]both internally and externally on the company's unwillingness to confront the divisive nature of the platform even after extensive studies conducted on this topic. Recent literature and movies on the business models of major social media companies have furthered the accusation (albeit largely true) that platforms act as surveillance capitalists through the "[HYPERLINK

"<https://www.theguardian.com/technology/2019/jan/20/shoshana-zuboff-age-of-surveillance-capitalism-google-facebook>" \h]". The Social Dilemma is the latest illustration of the ways in which platforms are designed to encourage addictive patterns of consumption and can contribute to real world harm as a result of polarization.

Company responses on this topic vary. [HYPERLINK "<https://www.blog.google/technology/ai/ai-principles/>" \h] and [HYPERLINK "<https://www.microsoft.com/en-us/ai/responsible-ai?activetab=pivot1:primaryr6>" \h], have adopted AI principles which attempt to incorporate the respect for privacy, transparency and inclusivity into product design and development. These principles are executed across various teams. At Microsoft, the Office of Responsible AI (ORA) and the AI, Ethics, and Effects in Engineering and Research (Aether) Committee oversee the integration of the principles in the day to day work of the company. The Aether Committee advises leadership teams on trends concerning AI innovations. ORA sets the rules and governance processes in collaboration with teams across the company. Facebook has its own set of [HYPERLINK "<https://about.fb.com/realitylabs/responsible-innovation-principles/>" \h] (e.g. never surprise people, provide controls that matter, consider everyone and put people first), however these seem to apply to its augmented reality products as opposed to its social media platforms.

Facebook has made investments in teams working on a variety of cross-cutting issues. Its responsible innovation team seeks to incentivize and promote responsibility in product design on a variety of different topics (e.g. civil rights). This team draws from the expertise of members of civil society to build its policies and advocates on behalf of Facebook and its work on responsible innovation externally. In addition, Instagram has an [HYPERLINK "<https://www.wsj.com/articles/facebook-creates-teams-to-study-racial-bias-on-its-platforms-11595362939>" \h] which assesses the impact of its algorithm on minority users. Facebook also has a dedicated team of security and privacy researchers across disciplines (software engineering, usability, penetration testing, spam-prevention and detecting). Their focus is staying ahead of immediate challenges, such as protecting accounts from phishing and malware, as well as developing long-term solutions.

<https://techcrunch.com/2020/09/09/instagram-is-building-a-product-equity-team-and-hiring-a-director-of-diversity-and-inclusion/>

Example roles

Uber -

* [HYPERLINK "https://www.uber.com/global/en/careers/list/61764/" \h]

FB

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* [HYPERLINK "https://www.facebook.com/careers/jobs/313066483095184/" \h]

YouTube

* [HYPERLINK "https://careers.google.com/jobs/results/8735430223262406-strategy-and-operations-lead-diversity-and-inclusion-youtube/?category=ADMINISTRATIVE&category=BUSINESS_STRATEGY&category=FINANCE&category=GOOGLEORG&category=LEGAL&category=MARKETING&category=PARTNERSHIPS&category=PEOPLEOPS&category=PRODUCT_SUPPORT&category=PROGRAM_MANAGEMENT&category=REAL_ESTATE&category=SALES&category=SALES_OPERATIONS&company=YouTube&jlo=en_US&location=" \h]

TikTok proposal

TikTok has the timely opportunity to build out a strategy and team which can work towards combatting the risk of unintended harms posed by our platform today and in the future. In order to do so, the following steps are needed:

1. Determine the overarching framework against which to ethically design and innovate. E.g. Human rights framework, Principles of Safe Design, AI principles.
2. Build a strategy of ethical design which incorporates the framework and determines the list of cross-cutting focus areas of relevance to TikTok. E.g. D&I, Privacy, Human Rights.
3. Incorporate external feedback and perspective
4. Implement a company-wide strategy which touches on

We propose a multi-part proposal across OPM, Issue Policy, and P&P.

- a. [HYPERLINK "https://bytedance.feishu.cn/docs/doccnAEVbtrpQ5jt8Fqm2vh7VAW" \h] -- We propose a dedicated OPM manager for each hub that is focused on user/constituent outreach, with a particular focus on underrepresented voices and communities (a common practice in real-world policy making). External orgs have increasingly noted the importance of outreach to demographics who don't often get heard. Other tech companies have roles like this (e.g., Uber has a Transportation Equity outreachlead) all have these roles. We have received solid input from this from Gisselle Ruiz who leads HRBP D&I efforts in the US, as well as our D&I consultant. Placing a role like this in OPM would demonstrate a lived commitment to the diversity we publicly celebrate.

b. Ethical design team -- -- We propose a global "pod" of internal facing Product Policy & PnP roles that would engage orthogonally across existing Issue verticals and Features. These roles would ensure that our DEI, ethical, human rights, and privacy frameworks were embedded into our day-to-day policy development and enforcement operations, as we minimize blind spots. We propose a pod that has two components.

i. Product Policy experts on highly-complex issues (e.g., Diversity & Inclusion, Tech Ethics, Human Rights, Privacy) Example job descriptions below:

1. [HYPERLINK
"https://bytedance.feishu.cn/docs/docnaPwDVkO72m6VBoPEwBdeMc" \h]

2. [HYPERLINK
"https://bytedance.feishu.cn/docs/doccn6DnEmADqn8FAdjKfYqwoDF" \h]

ii. PnP Product lead + supporting analysts:

1. [HYPERLINK
"https://bytedance.feishu.cn/docs/doccnbcdBH87NKZldY2kdTcBDPg" \h]

Commented [1]: Compare to TikTank role they drafted: [HYPERLINK
"https://bytedance.feishu.cn/docs/doccnfqueiEzcSU1rb1lgUdIGVe" \h]

Appendix

Technology companies have been actively thinking and making strides in "responsible innovation". The [HYPERLINK "https://www.techradar.com/news/what-is-responsible-innovation-and-why-should-tech-giants-take-it-seriously" \h] offers the following definition "an approach that anticipates and assesses potential implications and societal expectations with regard to research and innovation, with the aim to foster the design of inclusive and sustainable research and innovation."

The table below summarizes some of the steps made by our peer companies. These initiatives are both inward looking (internal teams incorporating responsible innovation strategies in product and policy) and externally facing (designing cross-industry initiatives, inviting external experts to provide feedback). A holistic strategy for TikTok should incorporate both of these areas while going further. Tackling unintended harms will involve buy in across the company (especially at the highest levels) and incorporating responsible innovation across all functions.

Policies /Principles	Responsible Innovation	Tech Ethics Advisory	Diversity & Inclusion	Policy Advising	Privacy	Cross-Industry Efforts
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Commented [2]: I think there's also a column just around Policy advising? For example, I think FB hires Ethics managers, there are product policy managers who advise engineering teams on specific product roadmaps, while i * think * that Responsible Innovation is more like trainings (but not sure - i'm friends with the head of it so can ask)

Commented [3]: Would include a column on privacy in particular. For example, I know FB has a whole division just on privacy.

		Teams	Councils/ Board Membership	
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Commented [4]: Do we know if Google and YouTube approach this different? Btw, we could probably ask some of our colleagues who used to work at these companies what they do as well

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	ty" \h]	n	staying ahead of E.g. immediate challenges, such as protecting accounts from phishing and malware, as well as developing long-term solutions
		Global Safety & Well-Being Summit invitin g external expert s to discus s	
Twitter	https://www.cnn.com/2020/05/12/twitter-adds-former-google	2025 vision 50% of the workforce are female 25% of US workforce	

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Resources

<https://www.nytimes.com/2018/10/21/opinion/who-will-teach-silicon-valley-to-be-ethical.html>

[HYPERLINK "https://www.nytimes.com/2020/04/22/podcasts/rabbit-hole-prologue.html" \h]

Elections - [HYPERLINK "https://www.nytimes.com/2020/08/12/technology/google-facebook-coalition-us-election.html" \h]

- * **Engagement:** Making sure everyone who should be involved in the discussion, such as society as a whole, other researchers and policy makers have knowledge of innovation.
- * **Gender equality:** Ensuring equality in gender across all aspects of research and innovation.
- * **Science Education:** Making sure future researchers have knowledge and tools to engage with the same process.
- * **Open Access:** Making sure the research and innovation process is both transparent and accessible, usually through the internet.
- * **Ethics:** To ensure all research and innovation reaches the highest ethical standards to ensure it has high societal relevance.
- * **Governance:** How responsibility should ultimately lie at policymakers to ensure there aren't harmful or unethical effects to innovation.

Google: <https://www.blog.google/technology/ai/google-ai-principles-updates-six-months/>

Facebook: <https://www.axios.com/facebook-hire-ethics-product-design-dac5a71b-f264-4988-b4c7-1e229c544bd6.html>

<https://www.wsj.com/articles/facebook-creates-teams-to-study-racial-bias-on-its-platforms-11595362939>

<https://www.facebook.com/careers/jobs/2537073536607922/>

Twitter: <https://www.cnn.com/2020/05/12/twitter-adds-former-google-vp-and-ai-guru-fei-fei-li-to-board.html>

Each platform seems to be hiring a person who can oversee ethics and/or diversity in on some level in platform.

Misinfo is another leading area. If you look at the Consumer Affairs article, we are doing pretty good on our policy.

Something to consider - if there was a way to do research, using our data (in platform), with leading academic researchers, that would be industry leading. We've been discussing this for a while in house, but it's hard to share the data and protect user privacy (conversation with TikTank). Think Cambridge Analytica.

Thinking about our ML - I think there are ways we can accelerate that by working with a 3rd party vendor for moderation (using AI). Pinterest, Riot Games, etc work with the same company. A lot of hurdles there, but we could mature that AI pretty quick.

Global Principles:

[HYPERLINK "https://www.esafety.gov.au/key-issues/safety-by-design" \h]

Privacy By Design

D&I

Twitter: <https://careers.twitter.com/en/tweep-life/diversity.html>

FB: <https://www.facebook.com/careers/facebook-life/diversity>

Our D&I team is doing good work with a lens on company culture and impact. I've met with them twice, they are being thoughtful and will rollout some good work.

[HYPERLINK

"https://docs.google.com/document/d/1dPpgbpvM3jKB2WMQ7Ta381G6CSt0S_tLrvQPjXs8fFo/edit"
\\h]

<https://turner.substack.com/p/the-rise-of-tiktok-and-understanding>

Social engagement metrics increases vulnerability:

https://misinforeview.hks.harvard.edu/article/exposure-to-social-engagement-metrics-increases-vulnerability-to-misinformation/?mc_cid=ceede5fb0b&mc_eid=993f98ca34

Omidyar Network

<https://thebridgework.com/events/unintended-consequences-tech-ethics-and-human-centered-design-all-tech-is-human-thebridge>

- * Developing holistic strategy for privacy, ethics, and safety for product coverage (AR, VR, Assistant, Portal).
- * Develop principles and implement frameworks for building privacy, safety, and ethics values into the product development process.
- * Drive cross-functional consideration of privacy, safety, and ethics in new and existing features.
- * Identify, escalate, and resolve tension between product objectives and organizational values.
- * Help direct long-term goals of product and engineering teams as they relate to privacy, safety, and ethics.

https://www.fastcompany.com/90557306/the-social-dilemma-netflix-reading-list?mc_cid=502a01a647&mc_eid=993f98ca34

<https://jobs.thebridgework.com/jobs/40230203-privacy-policy-manager-responsible-ai-at-facebook>

Filter bubble zoom session with Eli Paiser

Zoom recording link: <https://us02web.zoom.us/rec/share/0eUwall3a-H3k5Dx1dfyiXIOHqJeA52G52jKk3Jt3Nik9c0vNz2iwrVuAUHUrFzj.spMr3W7TYe0Z2Pag>

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