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EXHIBIT E

EXPERT REPORT OF DR. BRIAN N. LEVINE

State of New Mexico v. Meta Platforms, Inc., et al.

State of New Mexico, First Judicial District Court, Santa Fe County

No. D-101-CV-2023-02838

July 11, 2025

stated that it is committed to deploying E2EE for Instagram Direct by default.⁶³ (E2EE communications is available on both apps, but in Instagram, the user has to enable it before it is active, thus it is not “by default”.)

Meta’s child safety controls are critically based on knowing the true age of its users.⁶⁴ Meta has had a variety of methods of validating user ages.⁶⁵ In 2013, this included manual review of accounts reported to be under 13 years of age. Meta reports that since 2022, it has partnered with Yoti, an external company that has a variety of methods including validating government ID and biometrics.⁶⁶

4.2 Overview of Meta’s CSAM/CSEC detection policies on its platforms

Although technology is rapidly adopted by perpetrators who sexually exploit children, it can also be an effective tool for supporting humans working to prevent, detect, investigate, and report CSAM and CSEC crimes. That said, CSAM/CSEC content that is encrypted cannot be accessed, inspected, or reported by Meta.

decrease value of those reports, and in cases of severe harm, make it close to impossible for victims to pursue legal action.”)

⁶³ Crisan, L., *Launching Default End-to-End Encryption on Messenger*, Meta (Dec. 6, 2023), <https://about.fb.com/news/2023/12/default-end-to-end-encryption-on-messenger/>; Jeff Horwitz and Katherine Blunt, *Meta Starts Fully Encrypting Messages on Facebook and Messenger App*, The Wall Street Journal (Dec. 6, 2023), <https://www.wsj.com/tech/meta-to-start-fully-encrypting-messages-on-facebook-and-instagram-a936c4f9>. “Direct messages on Instagram also will shift to such encryption by default somewhat later, likely in the new year, according to people familiar with the matter. A Meta spokesman said the company doesn’t have a date for that.”. Full text: <https://archive.ph/zOjB1>. See also “Meta refreshes promise to roll out default end-to-end encryption in Messenger this year. Protection for Instagram will come shortly after,” Makena Kelly. The Verge. August 22, 2023. <https://www.theverge.com/2023/8/22/23841490/meta-facebook-messenger-instagram-encryption-default>: “‘We remain committed to rolling our default end-to-end encryption for private conversations on Messenger in 2023, and shortly afterwards for Instagram,’ [Meta’s deputy privacy officer, Rob] Sherman wrote. ‘End-to-end encryption is the best technology we have today to protect people’s messages, and we also see it as an important reason why people might choose to use our products over competitors’.”

⁶⁴ See, e.g., Jayakumar Ex. 46 (“Youth Safety & Well-Being Deep Dive February 2021” presentation noting “Age verification is both an independent requirement and necessary foundation for all other requirements”).

⁶⁵ See page 8 of Meta’s Third Supplemental Responses and Objections to Second Set of Interrogatories.

⁶⁶ See <https://www.yoti.com/business/age-verification/>; I have no information on which of Yoti’s specific technologies are used by Meta.

- [REDACTED]
- [REDACTED]
- [REDACTED]
- [REDACTED]
- [REDACTED]
- The IG Relevance Integrity team does not always flag non-recommendable media when the classifier scores exceed predetermined thresholds. As a result, users may be exposed to sensitive content via content recommendation surfaces.”

5.1.5 Meta tolerated minors on its platforms & knew many children under 13 years of age were users

Meta decided more than nearly two decades ago to allow children 13 years and older on its platforms and let them interact with adults. As a result of their decision, they can protect children only when they know their true age; and they can restrict adults from interacting with children only when they know the ages of adults.²⁹⁸ In other words, the features and controls that Meta has in place to protect children are not effective when they don’t know the correct ages of users.

In my 2022 Report to Congress, I note that Android and Apple iPhone apps are used heavily by minors, and under-moderated apps are rich “hunting grounds” for individuals looking to exploit minors. This holds true here for Meta’s platforms.

As far back as 2007, a Reuters article stated, “Chief Privacy Officer Chris Kelly said Facebook has privacy features unlike other social network sites that segment users by age,

²⁹⁸ See, e.g., Jayakumar Ex. 46 (“Youth Safety & Well-Being Deep Dive February 2021” presentation noting “Age verification is both an independent requirement and necessary foundation for all other requirements.”)

5.2 Possible Abatement Interventions

Meta is a technology company whose revenue is tied to the number of users of its apps, the time those users spend on those apps, and the amount of advertising it can show them. Meta is not concerned only with the number of users, but the amount of engagement they have with their products. As the above sections illuminate, too often Meta’s approach, prioritization, and resource allocations related to protecting children from sexual exploitation are enmeshed with considerations regarding its business model. Additionally, Meta fails to make decisions that take into consideration that the safety and privacy needs of children are often different from adults.

Abatement interventions include convening a person or board of experts to monitor Meta’s decisions to protect children. Those decisions need to be independent of Meta’s business considerations and revenue interests. Meta has a history of their business interests preventing, thwarting, and delaying decisions, methods, and resources that would increase the safety of children on its platforms. The monitor could make recommendations to disable features and products globally or for certain age ranges until specific criteria are met. A summary of items for a monitor to consider includes the following.⁴⁶⁷

- Meta’s safety controls rely critically on the knowing the true age of its users. Age verification is a challenging problem that is best when it is comprised of an ensemble of components, including validation of government-issued ID, biometrics, liveness testing, and more. No method has a non-zero error rate for all cases.⁴⁶⁸ While it would be helpful if devices or App Stores asserted the age of users, they are unlikely to do so, or unlikely to do so with a sufficiently low degree of error. A monitor may require Meta to outsource its age validation to a third party that has low error rates if it cannot develop its own accurate process. And it may determine that Meta must disallow features based on the certainty of the age of the users involved. For example, if a person is validated as an adult through a method that is known to be unreliable, then they may have a restricted access to features, groups, pages. Or they may not be recommended to others, or have others recommended to them. I provide other examples below.
- A monitor could conduct an on-going independent audit of accounts after an age validation solution is in place. The audit would detect indications that adults are children, or that children are adults. The audit could also conduct “red team” exercises where accounts are set up that test Meta’s operations. For example, in the complaint, New Mexico set up an account claiming to Meta to be 21 years old during

⁴⁶⁷ See also “What countries do to regulate children’s social media access” By Reuters. November 28, 2024. <https://www.reuters.com/technology/what-countries-do-regulate-childrens-social-media-access-2024-11-28/>.

⁴⁶⁸ For example, to see error rates of algorithms to estimate age from photos of faces, see the US National Institute for Standards and Technology’s “Face Analysis Technology Evaluation (FATE) Age Estimation & Verification” results. https://pages.nist.gov/frvt/html/frvt_age_estimation.html.