Tennessee v. Meta
Case No. 23-1364-IV
PX-00009

Message

From: Tim [redacted][/O=THEFACEBOOK/OU=EXCHANGE ADMINISTRATIVE GROUP (FYDIBOHF23SPDLT)/CN=RECIPIENTS/CN=[redacted]
Sent: 2/4/2020 7:55:14 AM
To: Nick Clegg [redacted]@fb.com]
Subject: Re: Age Management Decisions
Attachments: image001.png; image002.png

Hi Nick

On 1, I feel strongly that this work needs to go ahead, for a number of reasons:

- The fact we say we don't allow under-13s on our platforms, yet have no way of enforcing it, is just indefensible.
- We know there are harms associated with pre-teen use of social media (including the evidence that Jon Haidt showed us on IG).
- The UK situation can't be ignored – the age appropriate code is subject to an implementation period but will be enforced from autumn 2021, and it requires us to have a means of identifying under-13s. If we don't act, we will presumably face fines and – which I imagine is more damaging – a legal presumption will kick in that to all users of FB should be treated as children by default, in the absence of age-specific restrictions. Other countries may be lagging behind, but will copy the UK very quickly.
- Advertisers will exert increasing pressure, spurred on by further stories and investigative journalism about young kids on our services.
- The E2E move will put a spotlight on all of this. See e.g. the principles that NCMEC are publishing this week which includes a demand that children should be exempted from E2E services.
- Establishing a working AI model will help to head off calls for collection of state-issued IDs, which would be far more damaging if made mandatory across our services.
- So there are both moral and practical reasons to resist the argument that we should just wait for legislation to force us to do this.
- It is not explained anywhere in the papers what other work product would have to deprioritize in order to do this, so I take their position with a pinch of salt.

On 2, I agree with the recommendation. If you look at the 'decision memo' that is linked to and go to the appendix, you will see the tests that product previously ran based on our guidance that they could run experiments using "are you 13" questions. The mock-ups are very clearly neutral (no highlighted 'preferred option'). The latest proposed tests however are clearly trying to lead users to click the 'right answer', which is something we have been under a lot of scrutiny on and have been trying to phase out across our services (the 'dark design patterns' work that Rob [redacted] has been leading). That might not matter so much when the question is "do you want to receive email updates from us", but when the question determines whether a child under the age of 13 could use our services or not, then we will open ourselves to criticism.

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From: Nick Clegg <[redacted]@fb.com>
Date: Monday, February 3, 2020 at 1:28 PM
To: Tim [redacted] <[redacted]@fb.com>
Subject: FW: Age Management Decisions

Tim

This is important – can you give me your views. I am still a little ambivalent on 2.

BTW, I spoke to Mark briefly re Haidt – he thinks Haidt is overrotating vs FB when other apps like Snap, Tik Tok are used more intensively by the cohort he is concerned about (teenage girls).

N

From: Rob [redacted]@fb.com>
Date: Monday, February 3, 2020 at 7:58 AM
To: Nick Clegg <[redacted]@fb.com>
Cc: Victoria Grand [redacted]@fb.com>, Joel Kaplan <[redacted]@fb.com>, Ankhi [redacted]@fb.com>, Erin Egan [redacted]@fb.com>, Markus Reinisch [redacted]@fb.com>, Kevin Martin [redacted]@fb.com>, Pedro Less <[redacted]s@fb.com>, Tim [redacted]@fb.com>, Page [redacted]@fb.com>, Erin [redacted]k@fb.com>, Delphine Reyre [redacted]@fb.com>, Monika Bickert [redacted]a@fb.com>, Victoria Grand [redacted]@fb.com>, Simon Milner [redacted]@fb.com>, Anna [redacted]@fb.com>, Shane [redacted]@fb.com>, Claire [redacted]@fb.com>, Antigone Davis [redacted]@fb.com>, Shivnath Thukral <[redacted]t@fb.com>
Subject: Age Management Decisions

Hi Nick,

Following up on our discussion in the policy leadership meeting on Thursday, we're writing to get your feedback on two issues that are headed to reviews with Mark and/or Javi around how we handle age. We've summarized both issues below, but you can see more background in decision memos that we've prepared for each.

1. **Proactive Age Enforcement** ***[Decision Memo]***

   - ***Question:*** Should we insist on proactive enforcement of under-13s who lie about their age to create FB/IG accounts?
     - **Policy recommendation:** Yes.

   - ***Context***:
     - We've been pushing for the past year to build AI and Community Operations capacity to proactively detect if under-13s are falsifying their age.
       - If we detect this using AI, we propose that Community Operations would manually review the account and, if the concern is verified, ask the person to produce documentation of their age. *[More info: proposed protocol]*
       - It will likely take us a year to launch this capacity once we start building it.
     - The product organization objects to prioritizing this because they believe there are other issues that are more important and that it's not feasible to staff this without compromising in another area.
     - At the same time, we continue to face increased pressure from policy audiences and advertisers to do more in this area -- including recommendations to Parliament from the UK privacy regulator this past week, which propose meaningful restrictions if we don't more proactively assess age, and a proposal in India to require age verification + parental consent for under-18s. And other companies are beginning to adopt more proactive efforts in this space. *[More info: memo on policy context, FB impact analysis for UK ICO proposal]*

   - ***Next steps:*** Because of the concern that this request involves deprioritizing other work, if you support pushing on this area we would schedule discussions with Javi, and then

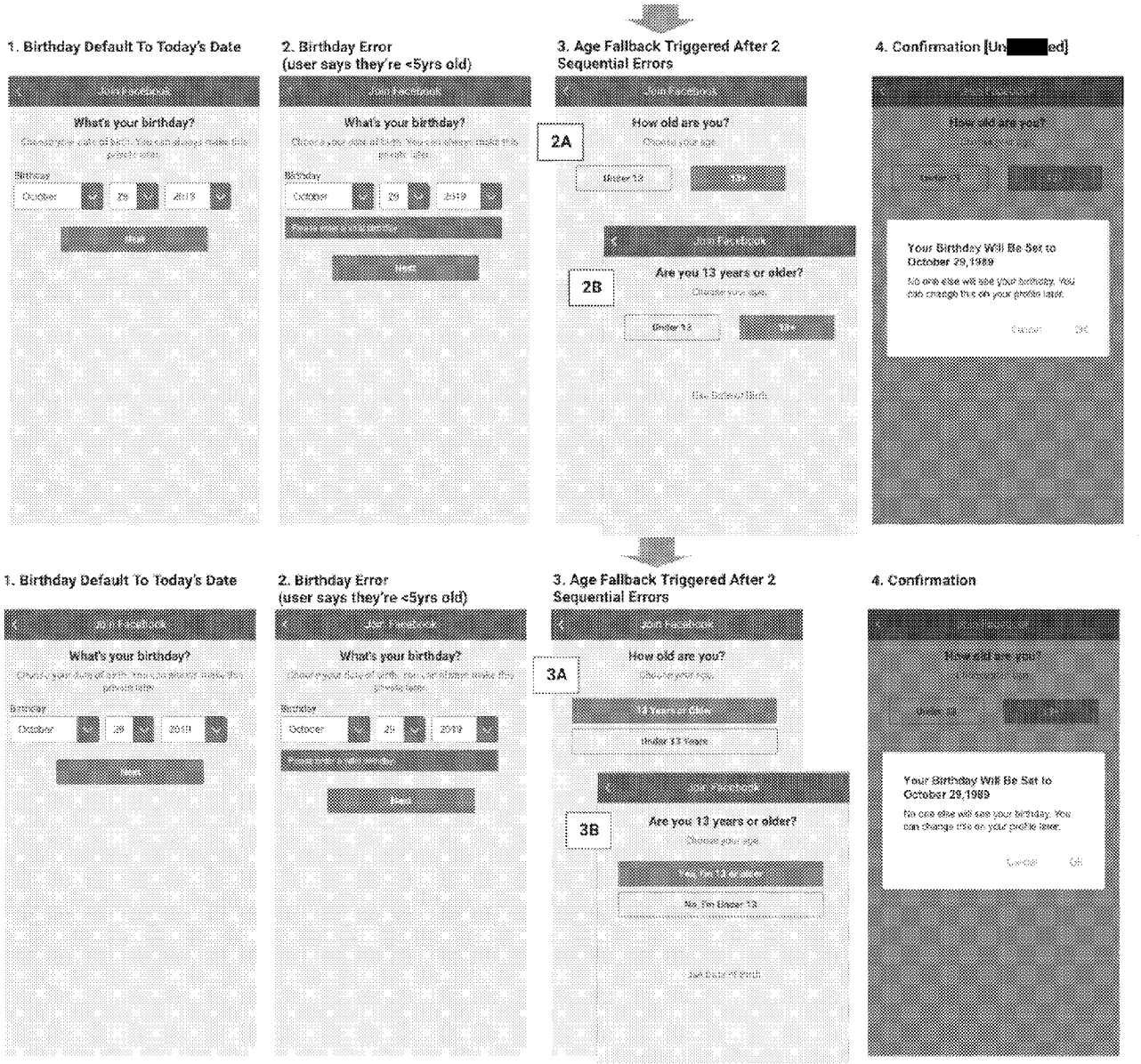
potentially Mark, to discuss prioritization. If we decide not to push on this, the product organization would not prioritize this proactive work until we're legally required to do it (or until we decide to revisit it).

2. **Age Collection at Registration** ***[Decision Memo]***

- ***Question:*** Should we allow Growth to test age gates that lead the user to select the "right" answer to "Are you 13?"
  - **Policy recommendation**: No.

- ***Context***:
  - This past year, we launched improved age gates on FB and IG, which align with industry recommendations by asking people to state their age without indicating that they must say they're over 13 to use our services.
  - Because initial testing showed that people in developing markets struggled to understand this age gate, you agreed that Growth could test versions that ask explicitly "Are you 13," which doesn't align with best practices but may help people more accurately answer the question.
  - Further tests showed that even "Are you 13" doesn't improve people's ability to pass the age gate, so the Growth team wants to use new design variations that use color to suggest the "right" answer. *(See below.)*
  - These prompts would be shown only in cases where a person twice indicates that they are younger than 5, which the Growth team believes reflects an inability to use the interface as opposed to actually being underage. This testing would happen only in developing countries, since we don't see the same pattern in other parts of the world. (As mentioned above, India will soon adopt legislation requiring some form of age verification, and we can expect any standards developed to be responsive to the approaches we take.)
  - We assess that using color to "steer" toward the "right" option is too far from neutral, and that this treatment undermines our ability to say that the age gate is meaningfully protecting against underage users joining FB/IG.

- ***Next steps:*** If you agree, we'll recommend against allowing these variants to be tested. We're agreeing to some other, less aggressive, tests, which are ongoing. But if those are unsuccessful and there is a significant dropoff of people being able to access our services, we'll meet with Javi to discuss next steps but anticipate he'll want to involve Mark in the decision – potentially in combination with Issue 1, above.



Thanks so much for your guidance on these points.

Rob