

Council For Children
Gary F. Redenbacher, Chair
Gary Richwald, M.D., M.P.H., Vice-Chair
Bill Bentley
Denise Moreno Ducheny
Anne Fragasso
John M. Goldenring, M.D., M.P.H., J.D.
Hon. Leon S. Kaplan (Ret.)
David Meyers
Thomas A. Papageorge
Gloria Perez Samson
Ann Segal
John Thelan

Emeritus Members
Robert L. Black, M.D.¹
Birt Harvey, M.D.
Louise Horvitz, M.S.W., Psy.D.
James B. McKenna²
Paul A. Peterson³
Blair L. Sadler
Alan Shumacher, M.D.
Owen Smith

Executive Director
Robert C. Fellmeth *Price Professor of Public Interest Law, USD School of Law*



Children's Advocacy Institute



University of San Diego School of Law
5998 Alcalá Park / San Diego, CA 92110
(619) 260-4806 / (619) 260-4753 (Fax)

1043 57th Street
Sacramento, CA 95819 / (916) 844-5646

727 15th Street, NW, 12th Floor
Washington, DC 20005 / (917) 371-5191

Reply to: San Diego Sacramento Washington
info@cachildlaw.org / www.cachildlaw.org

March 3, 2024

The Honorable Rebecca Bauer-Kahan
Chair, Assembly Privacy and Consumer Protection Committee
Hon. Committee Members
1020 N Street, Room 162
Sacramento, CA 95814

RE: AB 1949 (WICKS) -- SUPPORT

Dear Chair Bauer-Kahan and Honorable Committee Members:

The Children's Advocacy Institute at the University of San Diego School of Law, which for over 30 years through legal education, advocacy, and litigation has sought to advance the well-being of California's children, is pleased to support sponsor AB 1949 (Wicks) and respectfully asks that you and your Committee colleagues support this urgently needed measure.

A tiny handful of companies are, in the words of one U.S. Senator, taking a page from the playbook of Big Tobacco, robbing children of their childhoods, and causing anguish and pain for millions of American families:

*"Facebook has taken **big tobacco's** playbook ... It's chosen growth over children's mental health and well-being, greed over preventing the suffering of children."*¹

The Case For Urgent Action To Address An Unprecedented Crisis In Two Charts

"Adolescence is ... associated with an increased risk for... addictive disorders."² Nobody seriously contests that we are in an unprecedented teen and youth mental crisis. Suicides, self-harm, major depression are spiking in ways never before seen, especially among teen girls.²

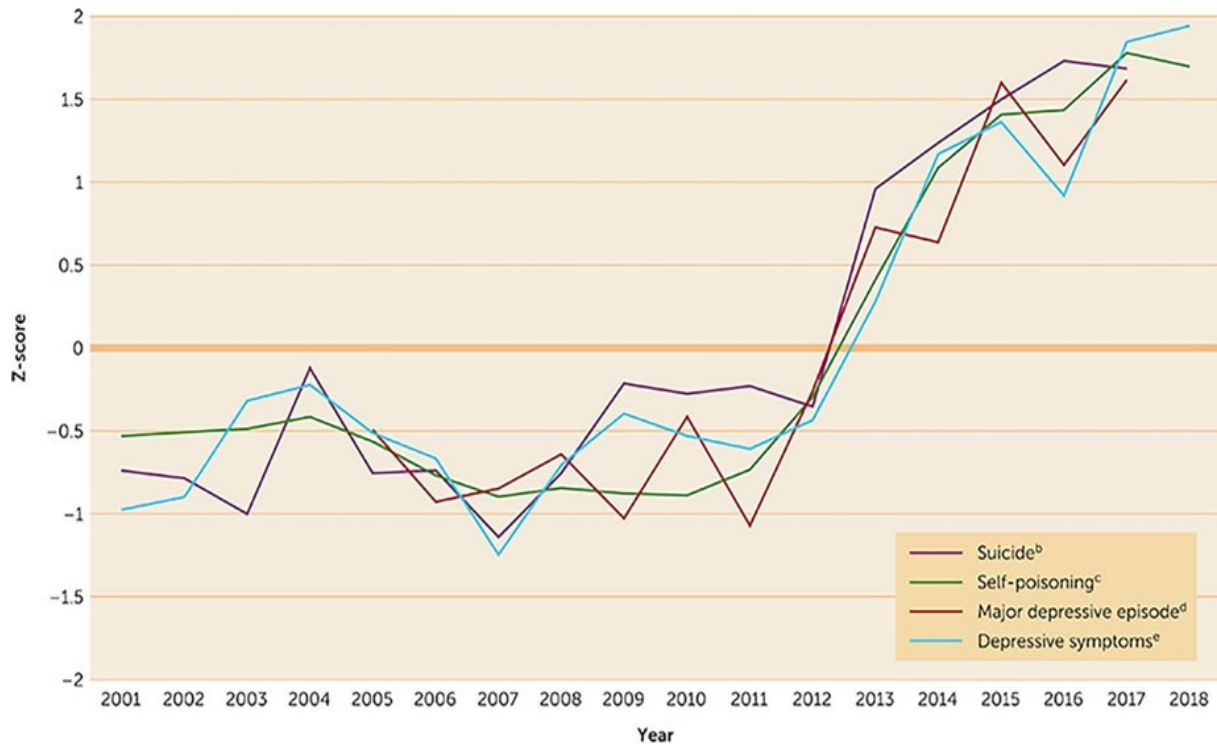
¹ Facebook Head of Safety Testimony on Mental Health Effects: Full Senate Hearing Transcript, REV,

<https://www.rev.com/blog/transcripts/facebook-head-of-safety-testimony-on-mental-health-effects-full-senatehearing-transcript>.

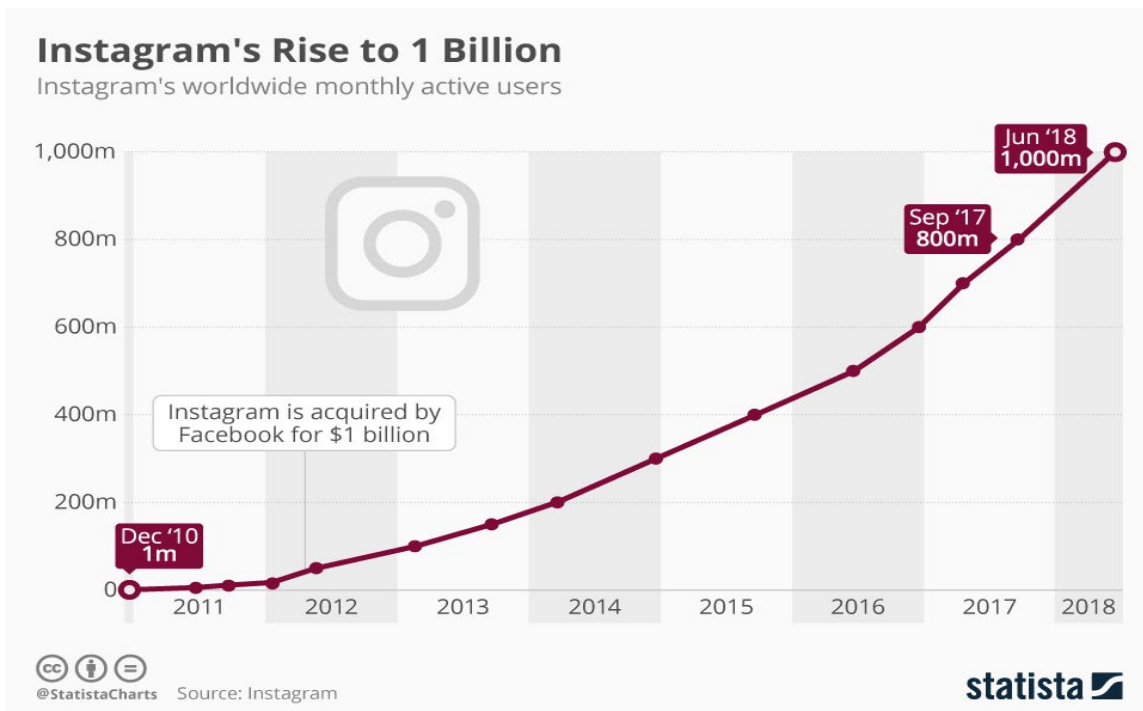
² Christopher J. Hammond et al., *Neurobiology of Adolescent Substance Use and Addictive Behaviors: Prevention and Treatment Implications*, 25 ADOLESC. MED. STATE ART. REV. 15 (Apr. 2014), <https://www.ncbi.nlm.nih.gov/pmc/articles/PMC4446977/>.

² See, e.g., the chart at the end of this letter.

INCREASES IN DEPRESSION, SELF-HARM, AND SUICIDE AMONG U.S. ADOLESCENTS
FIGURE 1. Indicators of poor mental health among U.S. girls and young women, 2001–2018 (note, before COVID)



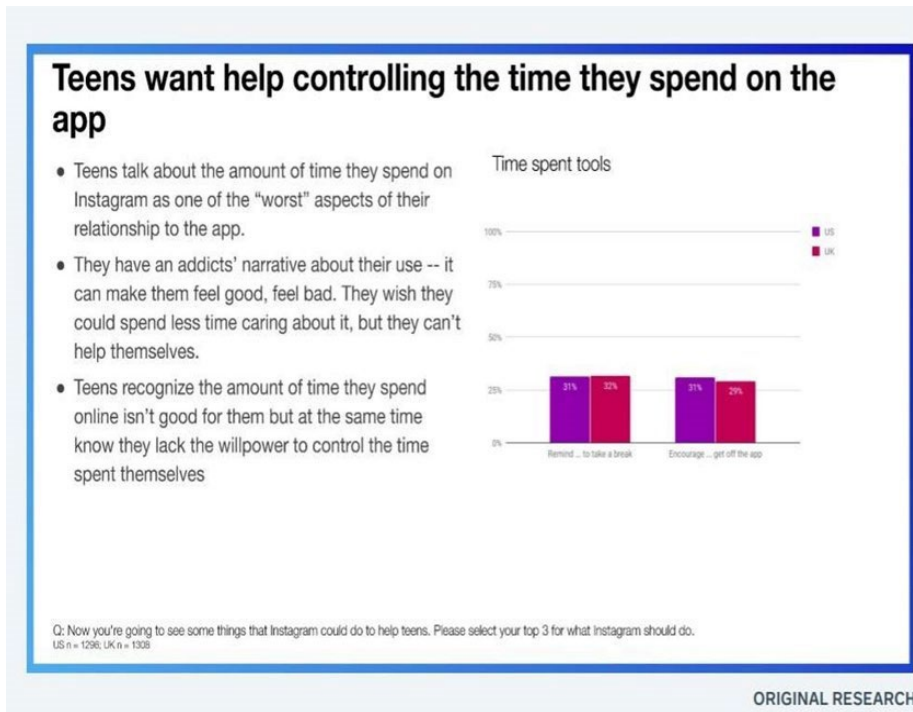
3



³ <https://precp.psychiatryonline.org/doi/full/10.1176/appi.prcp.20190015>

Social Media Addiction And Harm Documented And Admitted By Facebook Itself.

To deny the never-before-seen child and teen mental health crisis we are currently engulfed in is at least partly the cause of social media addiction bizarrely requires denying the research conducted by the world's largest social media company about its very own operations. Here is one of the charts leaked by Frances Haugen, the former Facebook executive. Again, this is Facebook's chart:



“An addict’s narrative” – “they can’t help themselves” -- this how Facebook (now called “Meta”) own researchers described the responses of the teens surveyed. As the Senate Judiciary Committee observed in its June analysis (at p. 8):

A meta-analysis of research on social networking site (SNS) use concluded the studies supported an association between problematic SNS use and psychiatric disorder symptoms, particularly in adolescents. The study found most associations were between such problematic use and depression and anxiety.

There is more. Several former Facebook executives have acknowledged that design features they invented intentionally and neuroscientifically exploit weaknesses in human psychology. Leah Pearlman, co-inventor of Facebook's “like” button, admitted that she herself had become hooked on Facebook because she had begun basing her sense of self-worth on the number of "likes" she had.⁴ Sean Parker, Facebook’s first president, admitted that user interface designers “exploit[ed] a vulnerability in human psychology" by rewarding users with “a little dopamine hit” to ensure Facebook would “consume as much of [the users']

⁴ Hilary Andersson, *Social Media Apps “deliberately” Addictive to Users*, BBC NEWS (Jul. 3, 2018), <https://www.bbc.com/news/technology-44640959>.

time and conscious attention as possible."⁵⁶ The inventor of the infinite scroll at Mozilla has said that behind each phone home screen, there are teams of engineers working on increasing addictiveness.⁵

To stress the point made by the above-quoted former Big Tech executives, this use of neuroscience that can be addictive is all done on purpose. Until recently, some design leaders boasted openly about such tactics in such industry bestsellers like *Hooked: How to Build Habit-Forming Products*⁷ and *Evil by Design*.⁸ As the BBC explained:

“And to do this, [the social media companies] build features into their apps that manipulate our brain chemistry. These tricks are borrowed straight from casinos and slot machines, which are widely considered to be some of the most addictive machines ever invented.”⁹

Of course, the platforms’ competitors for the attention of children are not hiring neuroscientists to addict their child customers. Marvel Studios, for example, does not pump vaporized heroin into theaters. It and all other businesses must compete with social media platforms that make addicts of their child customers.

The result? Let’s once more turn to the world’s expert – Facebook:

- “Facebook’s internal research is aware that there are a variety of problems facing children on Instagram, **they know that severe harm is happening to children.**” – Former Facebook Executive and Whistleblower Frances Haugen.
- “Among teen users [of Instagram] **who reported suicidal thoughts**, 13% of British users and **6% of American [teen] users traced the desire to kill themselves to Instagram.**” –Internal slide of Facebook’s research.
- “Facebook has studied a pattern that they call problematic use, what we might more commonly call addiction. **It has a very high bar for what it believes [“problematic use”] is. It [means] you self-identify that you don’t have control over your usage and that it is materially harming your health, your schoolwork or your physical health.**” –Frances Haugen, former Facebook Executive.
- “**We make body image issues worse for one in three teen girls,**” said one slide from 2019. “Teens blame Instagram for increases in the rate of anxiety and depression,” said another slide. “**This reaction was unprompted and consistent across all groups.**”¹⁰

⁵ Olivia Solon, *Ex-Facebook President Sean Parker: Site Made to Exploit Human “Vulnerability,”* THE GUARDIAN, <http://www.theguardian.com/technology/2017/nov/09/facebook-sean-parker-vulnerability-brain-psychology> (Nov. 9, 2017).

⁶ Andersson, *supra* note 2.

⁷ Nir Eyal & Ryan Hoover, *HOOKED: HOW TO BUILD HABIT-FORMING PRODUCTS* (2014).

⁸ Chris Nodder, *EVIL BY DESIGN: INTERACTION DESIGN TO LEAD US INTO TEMPTATION* (2013).

⁹ Catherine Price, *Trapped – the secret ways social media is built to be addictive (and what you can do to fight back)* (October 29, 2018), <https://www.sciencefocus.com/future-technology/trapped-the-secret-ways-social-media-is-built-to-be-addictive-and-what-you-can-do-to-fight-back/>.

¹⁰ <https://www.wsj.com/articles/facebook-knows-instagram-is-toxic-for-teen-girls-company-documents-show11631620739?>

Bipartisan Consensus: Addicting Children Is Immoral And Must Be Stopped .

Rarely do our parties see eye-to-eye in our current political climate but on whether social media addiction is real and harmful to vast numbers of children, there is rare political convergence, even outrage. Consider these bluntly written excerpts from the United States Senate’s Republican Policy Committee:



KEY TAKEAWAYS

AN ADDICTION MACHINE

- Social media companies use artificial intelligence to determine people’s interests and desires, and then they feed users content that fulfills those desires. Experts say this can be particularly problematic for adolescents, who may lack the self-discipline and maturity needed to stop watching the content.
- Research has suggested that some people experience addiction to social media in ways that are similar to addiction to drugs and other substances. ...
- One study found excessive use of social media, particularly features like “likes” and “comments,” can activate release of dopamine, sometimes called the “pleasure chemical,” similar to opioids or cocaine. Studies have also found scrolling through a Facebook feed can produce reactions similar to those experienced through cocaine use or gambling. This addiction can have severe consequences. A decade-long study found that as the time teen girls spent on social media goes up, so does their long-term risk of suicide.
- One former Facebook executive, who quit the company and doesn’t allow his children to use social media, has said, “the short-term, dopamine-driven feedback loops that we have created are destroying how society works.” ... ¹¹

As Frances Haugen instructed, ***“Until the incentives change, [Meta] will not change. Left alone, [Meta] will continue to make choices that go against the common good, our common good.”***¹²

What are the incentives she speaks of? We used to think of General Motors as a huge company. In 2021, GM posted a net profit of \$10 billion dollars.¹⁴ In 2021, Facebook netted

¹¹ <https://www.rpc.senate.gov/policy-papers/social-media-and-mental-health>

¹² Facebook Whistleblower Frances Haugen Testifies on Children and Social Media Use: Full Senate Hearing Transcript, <https://www.rev.com/blog/transcripts/facebook-whistleblower-frances-haugen-testifies-on-childrensocial-media-use-full-senatehearing-transcript>.

a profit of over three times that amount; nearly \$40 billion dollars, a whopping 35% increase from the year before.

AB 1949 (Wicks)

Befitting a bill sponsored by the Attorney General, AB 1949 surgically approaches these harms. It simply:

- Prohibits businesses from collecting, using, or disclosing the personal information of Californians under the age of 18 without affirmative authorization. For users under 13, this affirmative authorization must come from a parent,
- Strengthens certain of CCPA’s existing protections against businesses selling or sharing personal information of minors by establishing that those protections apply whether or not the business had actual knowledge that the person is under age 18, where the uncertainty of proving “actual” knowledge in court (how many employees and executive at what level of specificity, etc.) discourages enforcement, especially in light of admissions and disclosures from Facebook that are already public record, and
- Provides additional rulemaking authority to the CPPA to effectuate these protections.

Conclusion

As the San Mateo County Office of Education has correctly observed, “[p]owerful corporations who wield unmatched, highly concentrated technology in pursuit of profit are knowingly creating this unprecedented mental health crisis.... [The] public can now fairly conclude that the [platforms’] conduct was no accident, but rather that [they] acted knowingly, deliberately, and intentionally.”¹³

Please support AB 1949 (Wicks).

Sincerely,



Ed Howard
Senior Counsel, Children’s Advocacy Institute

¹³ [https://www.smcoe.org/assets/files/For%20Communities_FIL/Social%20Media%20Lawsuit_FIL/2023-03-13%20\[1\]%20Social%20Media%20Complaint.pdf](https://www.smcoe.org/assets/files/For%20Communities_FIL/Social%20Media%20Lawsuit_FIL/2023-03-13%20[1]%20Social%20Media%20Complaint.pdf).