Protecting Kids Online – About the New Mexico Age Appropriate Design Code

Social media platforms make their money off our attention

How Facebook makes money by targeting ads directly to you

The New York Times

You Are the Object of a Secret Extraction Operation

Former Zuckerberg adviser: Facebook's problem is its business model

Washington MONTHLY

What Your Data Is Really Worth to Facebook

5RIGHTS FOUNDATION

GQR digital

Their products are designed to be addictive

- **Business model is "surveillance advertising."** Platforms generate large profits by tracking us, profiling us, determining what makes us react, and then individually targeting us with ads. They often sell their data to outside advertisers.
- Algorithms are developed to **keep our attention** as long as possible:
  - Developed based on insights from behavioral psychology and gaming research
  - Similar to a casino – want to give you some pleasure when you use it, and a small amount of anxiety when you don't
- **Platforms don't want us to know how algorithms work**
  - Relies on users not fully knowing how their data is being used behind the curtain

Ex-Facebook executive says company made its product as addictive as cigarettes

Social media apps are 'deliberately' addictive to users

2

Social media platforms have policies against...

- Child sexual exploitation

- Sexual solicitation

- Threats of violence

- Violent and graphic content

- Nudity and sexual activity

- Hate speech

- Bullying and harassment

- Privacy violations

- Sale of illicit substances

And yet...

Children experience many online harms, including addiction, mental health issues, & sextortion to name a few

5RIGHTS FOUNDATION

GQR digital

Companies are actively creating ways to track behaviour

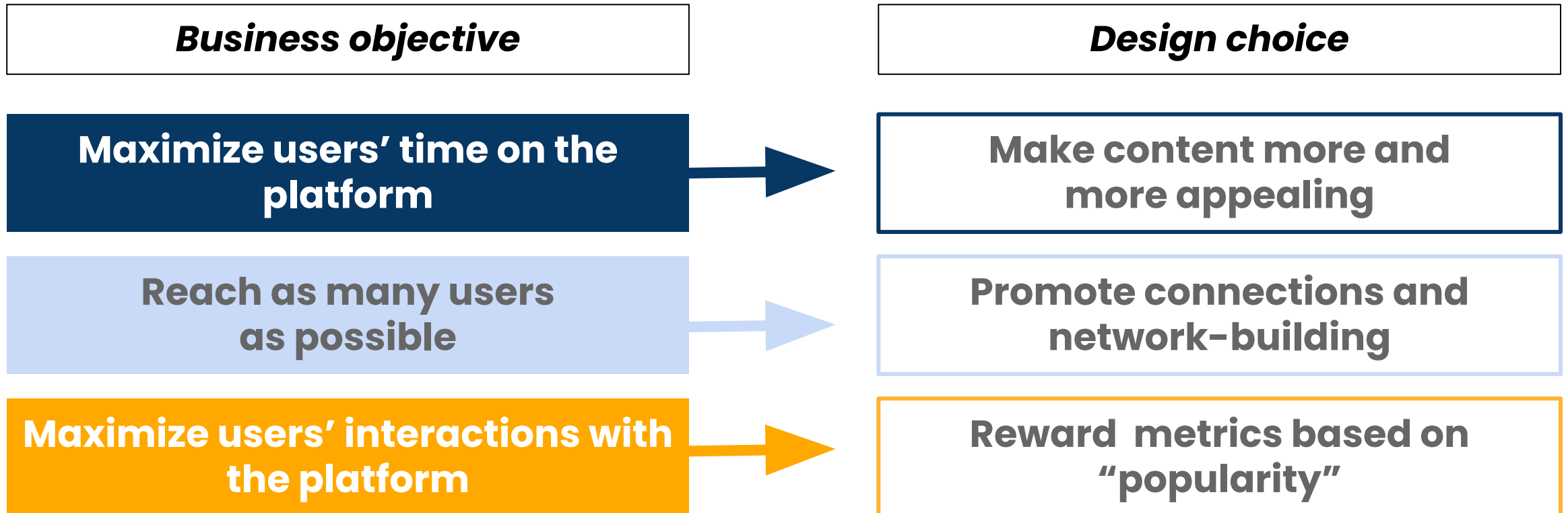resulting in thousands of individual data points - that reveal a child's...

smoking habits

sexuality

bedtime

illnesses, past, present, and future

views, vulnerabilities and when they are most likely to respond

location RIGHT NOW

social value

mood

friendship groups

searches, likes and posts

financial status

break ups

interests

heartbeat
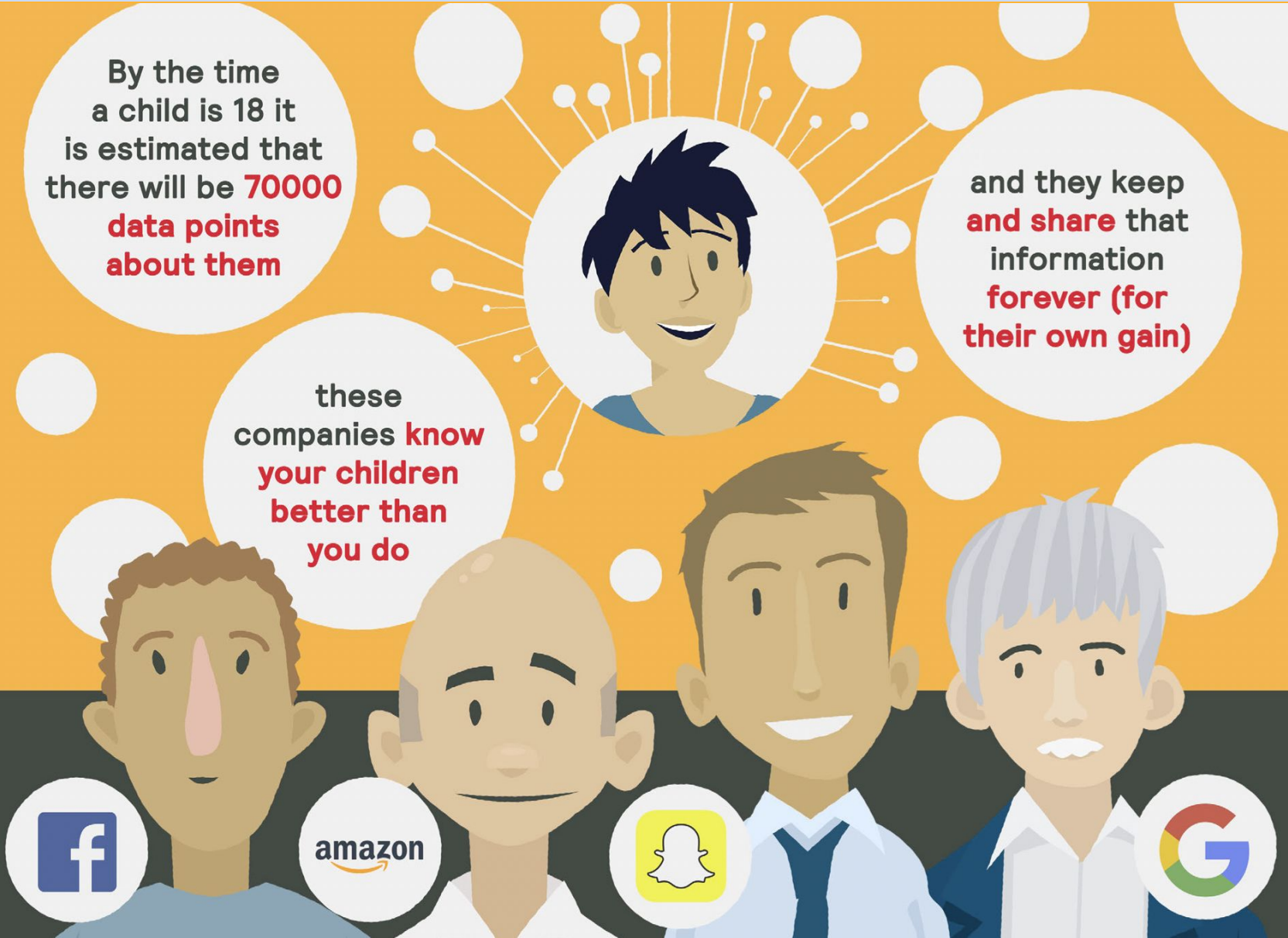
Harmful design choices stem directly from business objectives

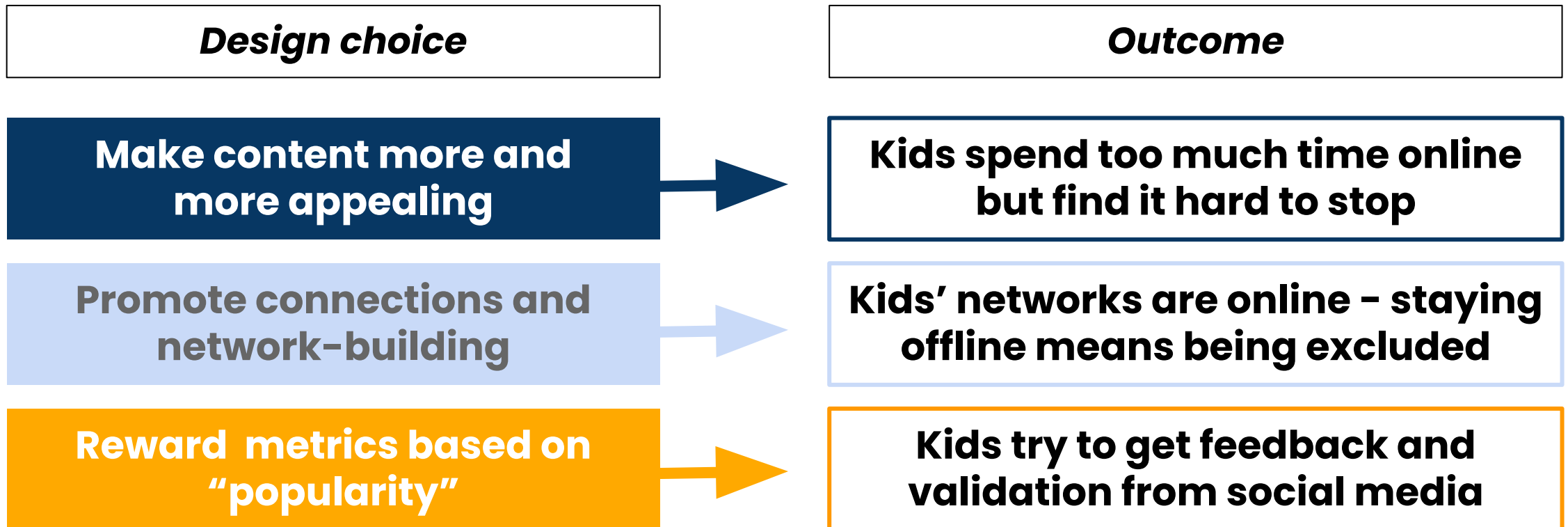| *Business objective*	*Design choice*
Maximize users' time on the platform	**Make content more and more appealing**
Reach as many users as possible	**Promote connections and network-building**
Maximize users' interactions with the platform	**Reward metrics based on "popularity"**

Social media's core design puts children at risk

- 5Rights Foundation research found that after creating 10 child avatar accounts, **ALL were directly messaged by accounts they did not follow**.
- This included being added to group chats by strangers with other adults. Within a day of account creation, 14-year-old "Justin" received **three solicitations with porn**.
- After spending 5 minutes on Instagram for 2 days, 2 accounts were **followed by pages that featured racist and derogatory content.**
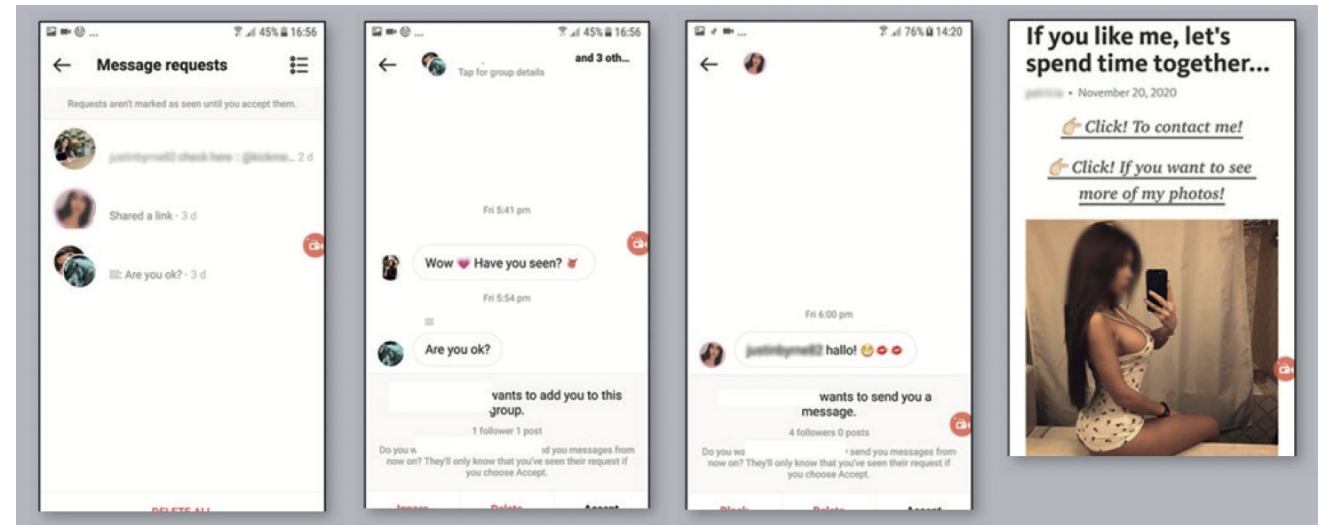
Harmful design choices in turn create harmful outcomes for kids

Design choice	*Outcome*
Make content more and more appealing	**Kids spend too much time online but find it hard to stop**
Promote connections and network-building	**Kids' networks are online - staying offline means being excluded**
Reward metrics based on "popularity"	**Kids try to get feedback and validation from social media**

8

The end result: what social media looks like for kids

Sharing pictures of themselves online

Using filters and editing apps

Engaging with content that lowers self-esteem

Engaging with people they don't know

Seeing explicit or upsetting content

New Mexico's kids are also impacted

Data Privacy violations

> In December 2021, former AG Balderas announced a settlement with Google to resolve claims that it was violating children's privacy on gaming apps and on Ed Tech products.

Mental health crisis

New Mexico Mental Health **Facts**

Youth Mental Health

- **Two out of Five** high school students (40%) **felt sad or hopeless** in 2019[2]

- **One out of Six** youth aged 12-17 (17%) experienced a **major depressive episode** in the past year in 2019-2020[4]

5RIGHTS FOUNDATION

GQR digital

Approaches to protecting kids online

2023 State Children's Privacy Law Tracker
Click the states to view various resources.

Navigate to: [Select State ▼]
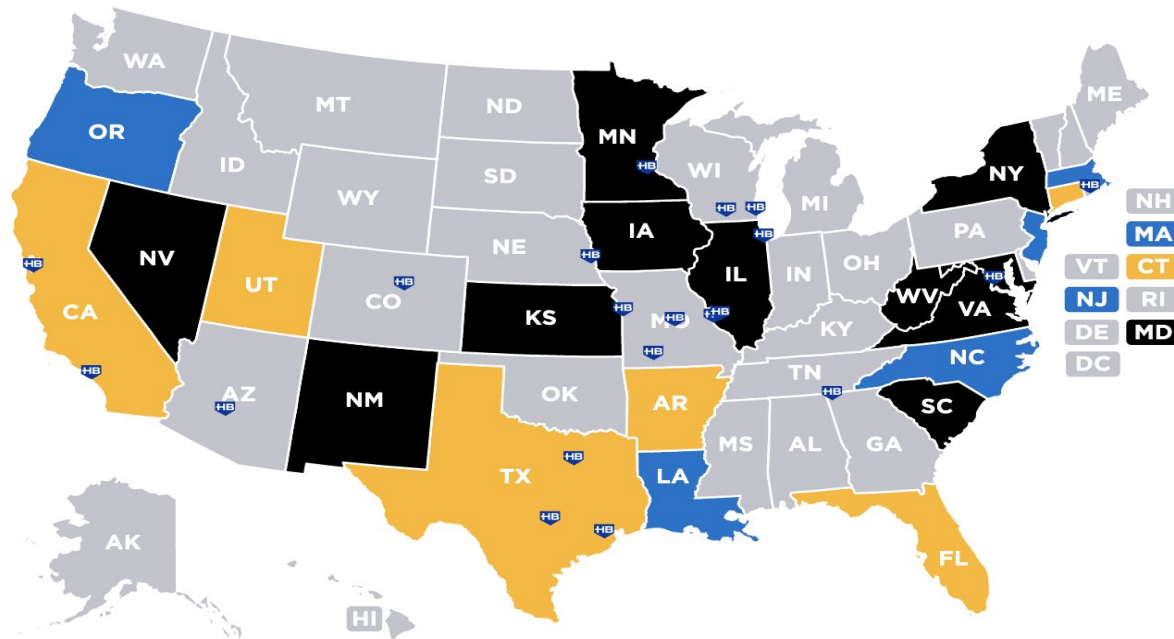
■ Enacted legislation
■ Active legislation
■ Did not pass in 2023
■ No bill proposed

More than 30 bills in almost 50% of US states. We believe the AADC represents the most carefully calibrated framework that considers competing interests.

Other approaches include:
- parental consent / controls
- age verification
- platform bans
- enumerated harms
- enhanced data privacy
- design

High data privacy by default

"By default" removes the onus on the parent or child to exercise privacy settings on every website.

"High privacy" means strict data minimization requirements, Prohibitions on profiling of children, prohibitions on selling children's data.

Data Protection Impact Assessments

Classic products liability approach which asks platforms to analyze their own products and mitigate risks of material harm to children before online products are offered to the public.

Creates a law that is flexible enough to account for harms both of today and the future.

Goal: Compliance not Punishment

AADC structured to prevent harm rather than punish for harm after the fact.

Liability based on design. We don't have to wait for another child to be harmed.

Platforms that complete an impact assessment have benefit of a 90 day right to cure.

Online services that comply with the code will...

1 give children high privacy settings by default

2 mitigate harms from features such as autoplay, nudges, excess notifications , and endless feeds

3 stop tracking children without real-time notice, and making kids' data accessible to others

4 provide tools, like save buttons, opportunities to quit, child-friendly explanations

5 take the LEAST amount of data for the LEAST amount of time and got rid of it at the FIRST OPPORTUNITY

6 stop using children's data to target them with detrimental material (i.e., pro-anorexia, self harm)

7 TURN OFF GPS – unless they need it

8 perform an impact assessment to show they have thought about children's needs in advance.

9 make choices about their service that prioritize children's best interests over profits

10 make sure that a child can be treated like a child

5RIGHTS FOUNDATION

GQR digital

How it's working

Since the AADC's passage in the UK, tech companies have added new protections for children:

States are debating a children's online safety law modeled after the U.K.'s Children's Code, passed in 2020. Here's how tech companies have started to comply. While some pledged to roll out changes globally, it's unclear how many have started to do so:

The **Google Play Store** now prevents children from viewing and downloading adult-only rated apps.

YouTube turned off autoplay for children. It also turned on break and bedtime reminders as default settings.

TikTok does not push notifications to children ages 13 to 15 after 9 p.m., and does not send push notifications to children ages 16 to 17 after 10 p.m.

Instagram and **TikTok** have disabled direct messages between children and adults they do not follow.

Google made SafeSearch the default browsing mode for users younger than 18.

12:01
FaceTime Camera Snapchat YouTube
Google Instagram TikTok Calendar

Source: POLITICO reporting

17

5RIGHTS FOUNDATION

GQR digital

TikTok's latest action:

TikTok to set one-hour daily screen time limit by default for users under 18
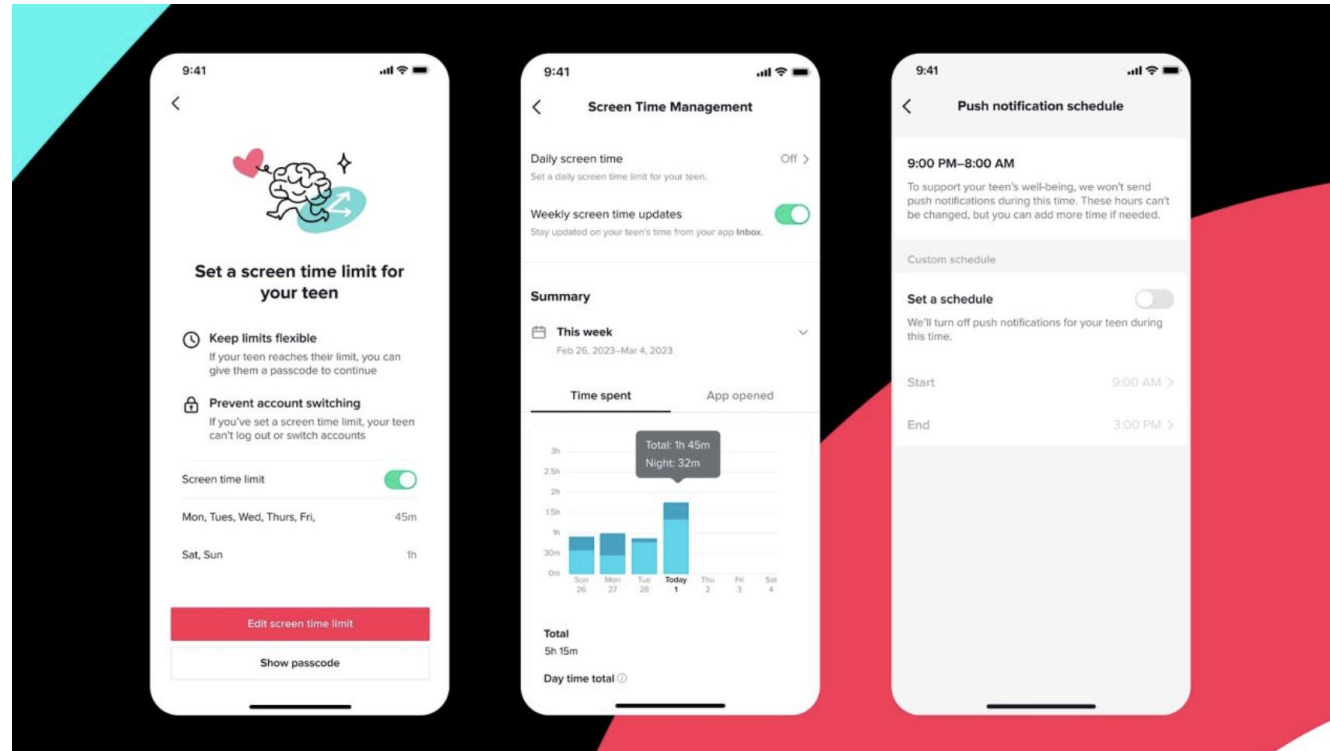
TikTok

Constitutional challenge to AADC

4 main arguments:

1) The AADC violates the 1st Amendment.
2) The AADC is preempted by Section 230.
3) The AADC is preempted by COPPA.
4) The AADC violates the Dormant Commerce Clause.

Constitutional responses from AADC

1) The AADC is a data protection and design bill, not a content moderation bill.
2) Section 230 only immunizes platforms for liability re third party content, not for their own conduct, as in the AADC.
3) The Ninth Circuit has held that COPPA does not conflict with state privacy law, and therefore doesn't preempt it.
4) Platforms already comply with a patchwork of laws globally.

Support for the New Mexico Kids Code

Supporting Organizations: