

UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA

**IN RE: SOCIAL MEDIA ADOLESCENT
ADDICTION/PERSONAL INJURY
PRODUCTS LIABILITY LITIGATION**

MDL No. 3047

Case No. 4:23-cv-05448-YGR

This Document Relates to:
4:23-cv-05448

**ORDER DENYING DEFENDANT’S MOTION
FOR SUMMARY JUDGMENT AND DENYING
IN PART AG PLAINTIFFS’ CROSS-
MOTION FOR PARTIAL SUMMARY
JUDGMENT**

People of the State of California, *et al.*,

Plaintiffs,

v.

Meta Platforms, Inc.,

Defendants.

Before the Court are (i) defendant Meta Platforms, Inc.’s (“Meta”) motion for summary judgment on the state Attorneys General (“AG”) plaintiffs’ claims for deception, unfairness, and violations of the Children’s Online Privacy and Protection Act (“COPPA”) (Dkt. No. 2704 [“MSJ”]) and (ii) the AG plaintiffs’ cross-motion for partial summary judgment regarding certain elements of the AGs’ deception and COPPA claims (Dkt. No. 2695 [“Partial MSJ”]).

The Court has carefully considered the parties’ briefs, evidence, and argument at the April 15, 2026 hearing and, as explained below, **DENIES** defendant’s motion for summary judgment and **DENIES IN PART** plaintiffs’ cross-motion for summary judgment.¹ In this regard, the Court finds that material disputes of fact exist as to whether Meta is required to comply with COPPA. That

¹ The Court notes that, as is relevant to much of the analysis in this Order, and as defendants conceded on the record at the April 15, 2026 hearing, neither party identified for the Court the actual statements on which plaintiffs proceed for their deception claims. Therefore, the Court declines to make any legal or factual determinations as to those specific statements. The Court ordered plaintiffs to identify these statements in advance of trial. (Dkt. No. 3139, Pretrial Order No. 2.)

1 said, no dispute exists that Meta has not, in fact, complied with COPPA’s notice and parental
2 consent requirements which is consistent with its position. As to this element, summary judgment
3 is **GRANTED**.

4 **I. INTRODUCTION**

5 **A. MOTIONS TO SEAL**

6 As a preliminary matter, both sides have submitted numerous motions to seal documents or
7 portions of documents offered in support of their summary judgment briefing. At summary
8 judgment, materials may be sealed if there are “compelling reasons” to do so. *Ctr. for Auto Safety*
9 *v. Chrysler Grp., LLC*, 809 F.3d 1092, 1096-97 (9th Cir. 2016). The Court finds that many of the
10 sealing requests here based upon “confidential” or “proprietary” information are overbroad and
11 compelling reasons have not been established to seal certain documents to the extent requested. At
12 the June 26, 2026 hearing, the Court warned that it would not entertain requests to seal documents
13 without a specifically identified compelling reason. Therefore, regarding all materials referenced
14 in this Order sought to be sealed on the basis of confidential or proprietary information, the Court
15 **DENIES** the motions to seal. The Court will address the remaining sealing disputes at a later date.²

16 **B. PROCEDURAL BACKGROUND**

17 As discussed in the Court’s prior order on defendant’s motion to dismiss, the AG plaintiffs
18 assert that Meta violated their consumer protection laws by (i) designing and deploying platform
19 features it knew were harmful to young users, and (ii) misleading and concealing from the public
20 its knowledge of this harm. (Dkt. No. 1214 [“MTD Order”]). The AGs also contend that Meta
21 collects and uses personal information from children under 13 years old (“U13s”) without
22 complying with COPPA’s notice and consent requirements. There, the Court held that Meta’s
23 design, development, and deployment of certain product features plausibly constituted unfair or
24 unconscionable practices, but that Section 230 posed a limitation on the AGs’ claims. Given the
25 scope of the briefing, the Court limited claims such that they could only be based on the following

26
27 ² Where the parties have agreed to seal employee names, emails, and other personal
28 information, including as to exhibits cited in this Order, the motions are **GRANTED**.

1 features: appearance-altering features, features related to restricting time spent on the platform, and
2 Instagram’s “multiple accounts” function. (MTD Order at 29.)

3 **C. FACTUAL OVERVIEW**

4 The Court discussed the background of this case in detail in its October 15, 2024 Motion to
5 Dismiss Order. Plaintiffs are the AGs of twenty-nine states (Arizona, California, Colorado,
6 Connecticut, Delaware, Hawai‘i, Idaho, Illinois, Indiana, Kansas, Kentucky, Louisiana, Maine,
7 Maryland, Minnesota, Nebraska, New Jersey, New York, North Carolina, Ohio, Oregon,
8 Pennsylvania, Rhode Island, South Carolina, South Dakota, Virginia, Washington, West Virginia,
9 and Wisconsin.) Through a consolidated complaint, they have sued Meta based on conduct
10 relating to its Facebook and Instagram social media platforms.

11 As discussed below, the evidence presented reveals that the record contains numerous
12 disputes of fact. The Court provides here an overview to the extent it is relevant for the purposes
13 of this motion.

14 ***1. Alleged Design and Deployment of Harmful Platform Targeting Young Users***

15 This Court held at the motion to dismiss stage that the “alleged exchange of users’ use of
16 Meta’s platforms for their personal data is Meta’s ‘primary trade or commerce,’ at least insofar as
17 its Facebook and Instagram platforms are concerned.” Meta’s business model focuses on
18 monetizing user information and attention on its platforms. Meta then converts this user
19 engagement into revenue obtained from advertisers, who can deploy targeted advertising based on
20 the personal data Meta collects from each user. In 2024, “substantially all” of Meta’s revenue was
21 generated from marketers advertising to users on Facebook and Instagram. (Dkt. No. 2785, Exs.
22 63 & 64, Deposition of Susan Li ([“Li Dep.”]), 57:4–58:6; 96:10–97:2; 88-96, 100.) Meta
23 generates revenue “by showing ads on [certain] parts of the family of apps [Facebook, Instagram,
24 WhatsApp, Messenger, and Threads].” (*Id.* at 41:23–45:12.) To maintain revenue generation,
25 Meta must maintain or increase users and engagement on Facebook and Instagram. (*Id.* at 42:23–
26 45:12, 138:7–142:12; Dkt. No. 2785-17 (email in which CFO asks for updates on goals related to
27 teens, including goal of millions of teen users).)
28

1 fundamentals leads review but it’s undeniable!”); *id.*, Dkt. No. 2785-13 (email from Davis
2 describing “issues we are seeing crop up, such as around addiction,” in context of “youth issues”
3 and an “integrated youth plan”).)

4 The AGs assert that, while developing its platform to be addictive, Meta affirmatively
5 misrepresented to the public the contrary. That is, it messaged the safety of its platforms despite
6 possessing knowledge of harms to young users.

7 As noted above, the AGs failed to solidify the statements on which it was proceeding prior
8 to briefing on this motion. The statements referenced in the parties’ briefing and discussed herein
9 are:

10 Meta’s statement to the BBC in 2018 that “at no stage does wanting something to be
11 addictive factor into” Meta’s platform design process. (Dkt. No. 2705-73 at 4.)

12 In 2021, Adam Mosseri, Head of Instagram, stated to Congress: “I don’t believe the
13 research suggests that our products are addictive.” (Dkt. No. 2705-6 at 13.)

14 Also in 2021, Facebook Global Head of Safety Antigone Davis’ told Congress: “I disagree
15 with calling our products addictive.” (Dkt. No. 2705-4 at 38.)

16 In the same committee hearing, a senator subsequently asked Davis “to drill down on this
17 addictive element . . . isn’t part of your business model to have more eyeballs for a longer
18 amount of time engaged using your services?” to which Davis responded: “Respectfully,
19 Senator that is not actually how we build our products.” (*Id.* at 39.)

20 **3. Alleged COPPA-Related Practices**

21 The parties have stipulated that Instagram and Facebook are “websites” and “online
22 services” as those terms are used in COPPA. Meta collects a wide array of data from its users,
23 including email addresses, phone numbers, images of a user’s face, user’s voice, cookie IDs, IP
24 addresses, profile information, and information reflecting a user’s interactions on the platform.
25 (*See* Dkt. No. 2696-4, Deposition of Allison L. Hartnett ([“Hartnett Dep.”]).) Meta has collected at
26 least some of this type of data from Instagram and Facebook users since 2012. (*Id.* at 30:1-4.)
27 Meta collects various types of information belonging to logged-off users, including IP addresses,
28 device IDs, cookie data, and user clicks. (*Id.* at 59:13-60:18.)

Meta has engaged in numerous practices to detect and remove U13 users, including:
identifying children who self-report a date of birth under the age of 13 by changing the date of birth

1 on their account after signup (*id.* at 103:5-7); automatically suspending (or “checkpointing”) the
2 accounts of Facebook users who attempted to change their date of birth to reflect an age under 13
3 (*See* Dkt. No. 2696-7); reviewing reports from users and human review to detect U13 users. (*See*
4 Hartnett Dep. at 101:10-14); and through “hard-linking” or “soft-matching” other accounts already
5 identified as belonging to the same child (*id.* at 110:8-17).

6 **II. LEGAL STANDARD**

7 Summary judgment is appropriate when “there is no genuine dispute as to any material fact
8 and the movant is entitled to judgment as a matter of law.” Fed. R. Civ. P. 56(a). In reviewing
9 summary judgment motions, courts must view all evidence in the light most favorable to the non-
10 moving party and draw all justified inferences on its behalf. *Anderson v. Liberty Lobby, Inc.*, 477
11 U.S. 242, 255 (1986); *see also Walls v. Cent. Contra Costa Transit Auth.*, 653 F.3d 963, 966 (9th
12 Cir. 2011) (courts must “draw all inferences supported by the evidence in favor of the non-moving
13 party.”). A court may grant summary judgment on a “part of each claim or defense” to eliminate
14 questions for trial where there is no genuine dispute of fact. Fed. R. Civ. P. 56(a). Additionally, in
15 an MDL, the transferee court applies the law of its circuit to issues of federal law, but on issues of
16 state law it applies the state law that would have been applied to the underlying case as if it had
17 never been transferred into the MDL. *In re Anthem, Inc. Data Breach Litig.*, 2015 WL 5286992, at
18 *2 (N.D. Cal. Sept. 9, 2015) (collecting Ninth Circuit cases).

19 **III. ANALYSIS**

20 Meta moves for summary judgment on all of the AGs’ claims, namely those based on (A)
21 deception, (B) unfairness, (C) disgorgement as a remedy, and (D) COPPA. The Court takes each
22 in turn.

23 **A. DECEPTION CLAIMS**

24 The AGs have proffered evidence of more than one hundred purportedly deceptive
25 statements. As a preliminary matter, the Court notes that as long as one actionable
26 misrepresentation presents a triable issue—that is, a genuine dispute of material fact—summary
27 judgment on the AGs’ deception claims as a whole is denied. Also, as noted in the MTD Order,
28

1 “each statement must be considered in the context of the alleged deceptive scheme as a whole, and
2 so the Court is unwilling to parse and isolate every alleged misrepresentation as Meta requests.”
3 (MTD Order at 37.)³

4 Meta asserts seven independent grounds⁴ for summary judgment on the deception claims,
5 namely:

6 *One*, that statements regarding the addictiveness of its platforms are not false, because
7 social media addiction does not exist and plaintiffs cannot show that Meta’s platforms cause it.

8 *Two*, that Meta’s statements are not *knowingly* false, because the science of social media
9 addiction is at best uncertain and plaintiffs lack evidence that the speakers knew otherwise.

10 *Three*, that plaintiffs lack evidence to show that the statements were misleading.

11 *Four*, that certain statements are immunized by the *Noerr-Pennington* doctrine because they
12 were made to government actors in the context of petitioning activity.

13 *Five*, certain statements were not made in the course of commerce or pursuant to a
14 commercial transaction, as required by state laws.

15 *Six*, certain “opinion” statements are protected by the First Amendment.

16 *Seven*, certain statements were inactionable “puffery” or statements of aspiration.

17 The Court addresses each argument.

18
19 _____
20 ³ If the goal of this motion had been to narrow the scope of the trial, this was not the
21 appropriate motion to achieve that goal. This Court has had repeated conferences with counsel. The
22 topic could have been easily raised so as to avoid wasting limited judicial resources.

23 ⁴ Meta also asserts that some of the deceptive statements, including statements made in 2018,
24 2020, and 2021, are barred by the statutes of limitations of certain states.

25 Meta identifies the following states’ relevant limitations periods: California (FAL), Colorado,
26 New York, South Carolina, and Wisconsin (three years); California (UCL) and Nebraska (four
27 years); and Delaware and Indiana (five years). The parties also entered into two agreements, one in
28 2021 and one in 2023, tolling “the running of any applicable statute of limitations or by application
of any defense of laches.” (Dkt. No. 2705-89 at 2.) As discussed *supra*, defendants have not
identified the full list of statements they are moving on. Nor do they explain how the statements fall
outside of the limitations periods. Indeed, they concede that statutes of limitations bar only a few of
the purportedly deceptive statements for only some states. Given the lack of briefing of this issue,
the Court declines to grant summary judgment on this basis.

1. *Falsity*

1 Meta first contends that statements regarding Meta’s platforms’ addictive nature were not
2 actually false.⁵ The parties contest whether falsity is in fact required under the pertinent state laws.
3 Meta contends that plaintiffs’ evidence must show that the statements were, in “full context,” false
4 or untrue when made. *See Catholdi-Jankowski v. CVS Health Corp.*, 656 F.Supp.3d 412, 428
5 (W.D.N.Y. 2023). The AGs contend that at least certain states do not require falsity and that
6 deceptive statements can be merely “misleading” or have “a capacity, likelihood or tendency to
7 deceive or confuse the public”. *Moore v. Mars Petcare US, Inc.*, 966 F.3d 1007, 1017 (9th Cir.
8 2020) (citations omitted). Regardless, for the reasons discussed below, the Court finds a genuine
9 dispute of material fact as to the falsity of Meta’s statements reflecting the proposition that its
10 platforms are not designed to be addictive.

11 Meta urges the Court to conclude that “social media addiction” is not an accepted
12 diagnosis, and thus statements that its platforms are not addictive cannot be false. Specifically,
13 Meta hinges the argument on the ground that the Diagnostic and Statistical Manual of Mental
14 Disorders (“DSM-5,” a manual published by the American Psychiatric Association) and the
15 International Classification of Diseases 11th Edition (“ICD-11”) do not list “social media
16 addiction” as a disorder. This Court has already held that the absence of the term “social media
17 addiction” from those publications is not dispositive in this context, in part because more than a
18 decade of research on social media has passed since the DSM was published in 2013, and more
19 recent statements from the American Psychiatric Association have in fact defined “social media
20 addiction,” suggesting that forthcoming publications may include it. (*See* Dkt. No. 2857 [“GC
21

22 ⁵ The Court notes the following statements regarding addiction that plaintiffs contend are
23 deceptive. Meta’s statement to the BBC in 2018 that “at no stage does wanting something to be
24 addictive factor into” Meta’s platform design process. Dkt. No. 2705-73 at 4. In 2021, Adam
25 Mosseri, Head of Instagram, stated to Congress: “I don’t believe the research suggests that our
26 products are addictive.” Dkt. No. 2705-6 at 13. Also in 2021, Facebook Global Head of Safety
27 Antigone Davis told Congress: “I disagree with calling our products addictive.” Dkt. No. 2705-4 at
28 38. In the same committee hearing, a senator subsequently asked Davis “to drill down on this
addictive element . . . isn’t part of your business model to have more eyeballs for a longer amount of
time engaged using your services?” to which Davis responded: “Respectfully, Senator that is not
actually how we build our products.” *Id.* at 39.

1 Experts Order”].)

2 Additionally, the Court is not persuaded that Meta’s statements could be false only if
3 “social media addiction” is recognized as a diagnosable mental health disorder. Statements
4 discussed in the briefing⁶ deny in general terms that the platforms are addictive⁷ without reference
5 to a particular diagnosis. The AGs present a reasonable interpretation of those statements that
6 Facebook and Instagram are not designed in ways that cause teens to compulsively use the
7 platforms to their detriment. To the extent plaintiffs’ evidence shows that the platforms *are* in fact
8 designed to do just that, a jury could reasonably find the statements were untrue to a reasonable
9 person.

10 Further, the AG plaintiffs cite Meta’s own internal documents to support their theory that
11 Meta’s platforms cause addictive use by teens. (*See, e.g.*, Dkt. No. 2783-13 at 37 (2019
12 presentation titled “Instagram Teen Well-Being Study: US Topline Findings” discussing that
13 “addiction is common on IG” and that “[o]lder teen girls are most likely to experience this issue”);
14 Dkt. No. 2783-17 (“It seems clear from what’s presented here that some of our users are addicted
15 to our products. And I worry that driving sessions [of platform use] incentivizes us to make our
16 product more addictive”); Dkt. No. 2783-24 (2023 Instagram presentation finding that “Research
17 has shown that problematic social media use is both prevalent among teens and is a driver of churn:
18 56% of IG teens surveyed say it’s difficult to manage time on social media, and teens reporting life
19 interference were 2.1x more likely to delete Instagram.”); Dkt. No. 2783-20 (report noting that a
20 “majority of clinicians believe that social media can be addictive”); Dkt. No. 2783-21 (presentation
21

22 _____
23 ⁶ Because neither party identified the full list of statements, the Court cannot make wholesale
24 conclusions about the statements plaintiff is proceeding on.

25 ⁷As the Court has already noted, plaintiffs’ experts, the scientific literature, and defendants’
26 own documents use a variety of terms interchangeably, referring to “addictive,” “excessive,”
27 “problematic,” or “compulsive” use. *See* GC Experts Order at 11-12. The Court declines to draw
28 lines between these terms. For example, an internal Meta document describes that “[t]he concept of
problematic use of social media has been defined by researchers as a reported lack of control over
social media use that is perceived to lead to negative life impacts.” Dkt. No. 2783-2, O’Neill Decl.,
Ex. 22.

1 titled “Teen Mental Health Deep Dive” concluding that “Teens talk about the amount of time they
2 spend on Instagram as one of the ‘worst’ aspects of their relationship to the app,” and noting that
3 those teens “have an addicts’ narrative about their use – it can make them feel good, feel bad. They
4 wish they could spend less time caring about it, but they can’t help themselves.”.)

5 Plaintiffs’ experts opine that Meta’s platforms are designed in ways that cause addiction.
6 For example, Dr. Mitch Prinstein, a clinical psychologist, concluded that “Meta platform features
7 encourage problematic social media use, consistent with clinical dependency,” and interfered with
8 teens’ important daily activities. (Dkt. No. 2405-15 at ¶¶ 2, 67.) Likewise, Dr. Bradley Zicherman
9 opines that “[s]ocial media addiction is a serious concern acknowledged by mental health
10 professionals that resembles other addiction disorders and can be measured and diagnosed by
11 adapting addiction criteria published by the American Psychiatric Association,” and that “[s]ocial
12 media use is particularly problematic for teens and youth due to their underdeveloped brains.”
13 (Dkt. No. 2405-11 at ¶¶ 1, 2.)⁸

14 The Court concludes there is a material dispute of fact as to the existence, qualities, and/or
15 scope of social media addiction as well as whether Meta’s statements denying that their platforms
16 are designed to be addictive were false.

17 Thus, the motion on this ground is **DENIED**.

18 **2. *Knowingly False***

19 Meta contends that because social media addiction is not an established condition, the
20 speakers could not *knowingly* make a false statement that the platforms are not addictive.⁹
21 Additionally, Meta argues that to the extent some individuals within Meta believed their products
22 were addictive, that knowledge cannot be imputed to the individual speakers. *JTS Choice Enters.,*
23 *Inc. v. E.I. DuPont De Nemours & Co.*, 2014 WL 793525, at *7 (D. Colo. 2014) (in fraud context,

24 _____
25 ⁸ The Court previously declined to exclude Prinstein’s and Zicherman’s opinions. *See* GC
Experts Order.

26 ⁹ Meta contends that the laws of thirteen states (CA, CO, DE, IL, IN, KS, KY, NJ, NC, LA,
27 PA, SC, and VA) contain some variation of a knowledge requirement.

1 “it is not enough to show that the statement was false based upon all of the knowledge imputed to a
2 corporation.”).

3 The Court addressed Meta’s first argument above. The AGs have offered sufficient
4 evidence to create a material dispute of fact regarding whether the products were designed to be
5 addictive. *Supra* Section III(A)(1). Regarding the second argument, the Court finds that plaintiffs
6 adduced sufficient evidence that Meta’s speakers, including CEO Mark Zuckerberg , Adam
7 Mosseri (Head of Instagram), and Antigone Davis (Meta global head of safety), may have had
8 individualized knowledge regarding Instagram and Facebook’s addictiveness. (*See, e.g.*, Dkt. No.
9 2783-2 (2019 email to Zuckerberg, with Mosseri and others copied, regarding statistics about
10 problematic use and “increasing scientific evidence” of negative effect of Facebook on well-being);
11 Dkt. No. 2785-6, (2019 email sent to Zuckerberg with research regarding problematic use of
12 Meta’s platforms); Zuckerberg Dep. at 124:21–24 (Q: “Meta knew that problematic use is a real
13 issue for a meaningful portion of its users, correct?” A: “Yes.”); Dkt. No. 2784-12 (“IG is a drug. .
14 . . Adam [Mosseri] doesn’t want to hear it – he freaked out when I talked about dopamine in my
15 teen fundamentals leads review but it’s undeniable!”); Dkt. No. 2785-13 (email from Davis
16 describing “issues we are seeing crop up, such as around addiction,” in context of “youth issues”
17 and an “integrated youth plan”).)

18 The motion on this ground is **DENIED**.

19 **3. Misleading**

20 Meta next contends that the AGs lack evidence to prove that the statements had a tendency,
21 or were likely, to mislead consumers, as required by many of the AGs’ state laws.¹⁰ A
22 representation that is “obviously misleading” requires no additional evidence, but extrinsic
23 “evidence is necessary where the advertising is not clearly misleading on its face and materiality is
24 in doubt.” *Beardsall v. CVS Pharmacy, Inc.*, 953 F.3d 969, 976 (7th Cir. 2020).

25
26 ¹⁰ As discussed above, the Court cannot make wholesale conclusions about the statements
27 plaintiffs are proceeding on for these claims, because neither party identified the full list of statements
28 in briefing these motions.

1 Relying on *Weaver v. Champion Petfoods USA Inc.*, 3 F.4th 927, 936 (7th Cir. 2021), Meta
2 contends that the AGs were required, but have failed, to identify “consumer surveys or market
3 research showing that a reasonable consumer would interpret” the statements in such a way that
4 they would be misleading. *Weaver*, however, concerned whether a consumer would misunderstand
5 the phrase “biologically appropriate” to mean BPA-free, an inference not clearly misleading on its
6 face.” *Id.* at 935. Here, however, Meta has made statements including (i) “I don’t believe the
7 research suggests that our products are addictive,” (ii) “I disagree with calling our products
8 addictive,” and (iii) having “more eyeballs for a longer amount of time engaged” with the
9 platforms is “not actually how we build our products.” *See supra* at 8, n. 5. These statements
10 unambiguously suggest that the products are not addictive. To the extent Meta’s platforms *are* in
11 fact designed to be addictive, the statements are misleading on their face. As such, the Court is not
12 persuaded that evidence such as market research is required to create a triable issue. Nor is the
13 issue beyond the reasoning of a reasonable juror.

14 The motion on this ground is **DENIED**.

15 **4. *Noerr-Pennington***

16 Meta argues that *Noerr-Pennington* immunizes any statements made to government bodies,
17 including to Congress and the Barnet Coroner’s Court, a foreign court. “The *Noerr-Pennington*
18 doctrine protects ‘those who petition any department of the government for redress . . . from
19 statutory liability for their petitioning conduct.’” *In re Apple Inc. Securities Litigation*, 2020 WL
20 2857397, at *18 (N.D. Cal., 2020) (quoting *SOSA v. DIRECTV, Inc.*, 437 F.3d 923, 929 (9th Cir.
21 2006)).

22 To determine whether a defendant’s conduct is immunized under *Noerr-Pennington*, courts
23 consider “(1) whether the lawsuit imposes a burden on petitioning rights, (2) whether the alleged
24 activities constitute protected petitioning activity, and (3) whether the statute at issue may be
25 construed to avoid that burden.” *B&G Foods N. Am., Inc. v. Embry*, 29 F.4th 527, 535 (9th Cir.)
26 (cleaned up), *cert. denied*, 143 S. Ct. 212 (2022). As noted in the MTD Order, *Noerr-Pennington*
27 immunizes only “protected petitioning activity,” *B&G Foods*, 29 F.4th at 535, and Meta must have
28

1 evidence that it “was seeking any redress from Congress that implicates its First Amendment right
2 to petition.” *In re Apple Inc. Sec. Litig.*, 2020 WL 2857397, at *18.

3 Meta contends that certain statements were protected petitioning activity because, for
4 example, the Congressional hearings were aimed at shaping future legislation or legislative
5 proposals. The AGs argue that Meta offers no evidence that “any particular legislation or
6 government effort was pending” that these challenged statements were intended to influence.
7 Instead, they argue that the hearings had generalized purposes. *See id.* They also argue that the
8 statements constitute commercial speech and may thus be subjected to “more restrictions.” *Ariix,*
9 *LLC v. NutriSearch Corp.*, 985 F.3d 1107, 1115 (9th Cir. 2021).

10 A commercial speech analysis is not needed. The AGs provide evidence that Meta’s
11 practice was to amplify the statements made to governmental bodies after the fact. (*See, e.g.* Dkt.
12 No. 2786-5, (discussing methods to shape public narrative through both consumers and “policy
13 elites”); Dkt. No. 2786-6 at 2 (describing strategies for changing “parent sentiment,” including via
14 “policy elites”); Dkt. No. 2783-16 (stating that Meta expected the story regarding statements to the
15 Barnet Coroner’s Court to travel broadly); Dkt. No. 2785-20 (discussing media coverage of Meta
16 executive “giving evidence” in the inquest).) The Court finds that plaintiffs have provided
17 sufficient evidence that these statements were communicated separately to the public at large as
18 part of a series of messaging campaigns. Such statements cannot be immunized by simultaneously
19 repeating them to Congress or other governmental bodies.

20 The motion on this ground is **DENIED**.

21 **5. Commerce**

22 Next, Meta seeks summary judgment of the AG plaintiffs’ deception claims on the basis
23 that ninety-five¹¹ of the statements were not made in connection with business, commerce, trade, or
24 consumer transactions, as required by sixteen of eighteen states. Meta asserts that five states’

25
26
27 ¹¹ Defendant was unable to identify these statements for the Court when asked at the April
28 15, 2026 hearing. Therefore, the Court is unable to make any conclusions regarding statements that
were not specifically identified in the motion briefing.

1 statutes (DE, IN, KS, NJ, and VA) require misrepresentations to be made in connection with a
2 “consumer transaction”; that six states (CO, DE, IL, MN, NE, and NY) require the statements be
3 made “in the course of business”; and that nine states (CT, IL, KY, LA, NC, NE, NY, PA, and SC)
4 require statements to be made in the conduct of “trade or commerce.” Meta contends that certain
5 types of statements, including (i) internal talking points; (ii) statements on earnings calls; (iii)
6 statements made to a foreign court; (iv) statements made to Congress; (v) statements made at
7 technology conferences; and (vi) statements on Meta’s website, were not directed at consumers to
8 convince them to use its platforms. *Silver v. Pep Boys-Manny, Moe & Jack of Del., Inc.*, 2018 WL
9 1535285, at *6 (D.N.J. 2018) (misrepresentation must be “material to the transaction” and “made
10 to induce the buyer”).

11 This Court has previously analyzed the states’ law on this question, holding that while the
12 states each “present various formulations of how to determine whether an activity takes place in
13 ‘trade or commerce’” (MTD Order at 69), the various “trade or commerce” definitions are also
14 broadly defined and liberally construed in each state (*id.* at 68). The Court also held that these
15 variations “do not impact the final analysis” and the Court declines to parse each state’s standards
16 again here. (*Id.* at 70.)

17 As this Court held at the motion to dismiss stage, the “alleged exchange of users’ use of
18 Meta’s platforms for their personal data is Meta’s ‘primary trade or commerce,’ at least insofar as
19 its Facebook and Instagram platforms are concerned,” and thus that “the alleged unfair and
20 deceptive acts or practices occur “in the conduct of” Meta’s “trade or commerce,” regardless of
21 whether Meta’s users pay for use of Facebook or Instagram.” (*Id.* at 71). Nothing has changed to
22 find otherwise.

23 Meta also contends that plaintiffs have failed to show that Meta’s statements about safety
24 and addictiveness were “material to” their consumers’ decision to use the platforms, as required by
25 certain states. *See, e.g., Silver v. Pep Boys-Manny, Moe & Jack of Del., Inc.*, 2018 WL 1535285, at
26 *6 (D.N.J. 2018). The AGs counter that they have provided sufficient evidence to show that safety
27 is a significant concern to consumers. Moreover, plaintiffs’ expert Alter opines that because of the
28

1 platforms’ highly technical nature, and resulting information asymmetries, consumers are
2 particularly likely to rely on company messaging concerning health and safety.¹² (Dkt. No. 2781-3
3 [“Alter Rep.”] at 1-2.) As a result, the Court concludes there is a material dispute of fact as to
4 whether the statements were material.

5 Meta also argues that many of the statements, such as those only made in internal
6 documents, were never received by consumers. Statements made on public earnings calls—such as
7 executive Sheryl Sandberg’s claim that Meta has “to keep people safe and give them control over
8 their experience on our apps. And we are[,]” were facially directed not at consumers but only at
9 investors. (Dkt. No. 2705-19 at 5). Meta will have the opportunity at trial to make their case that
10 statements were not sufficiently directed at consumers or otherwise not made in the course of
11 commerce. Sufficient for purposes of this motion, Meta knows that information provided on public
12 earnings are widely reported to consumers. With respect to “internal documents,” without
13 specificity, the motion cannot be granted.

14 Plaintiffs’ cross-motion for summary judgment asks the Court to rule in their favor on the
15 commerce element. Again, as discussed *supra* at n. 1, the Court will not make legal or factual
16 conclusions regarding the alleged statements because the AGs failed to properly identify the
17 statements in the first instance.

18 Both motions on this ground are **DENIED**.

19 **6. First Amendment Opinion Statements**

20 Meta next contends that four 2021 statements of opinion are protected by the First
21 Amendment. Three of those statements are by Meta CEO Mark Zuckerberg:

22 (1) describing Meta’s reporting on the prevalence of harmful content on Facebook
23 as a “model.” (Dkt. No. 2705-5 at 49.)

24 (2) “Overall, the research that we have seen is that using social apps to connect
25 with other people can have positive mental health benefits and well-being

26
27 ¹² The Court denied defendant’s 702 objection to this opinion in its May 20, 2026 Order.
28 (Dkt. No. 3068 at 5.)

1 specific to constitute puffery, others “may be considered deceptive in context.” (*Id.* at 39.)
2 Ultimately, the Court concluded that “these isolated representations are part of a cohesive whole
3 which, as alleged, form a deceptive scheme by Meta to obfuscate the risks of serious harm
4 stemming from platform use.” (*Id.* at 40.) Upon summary judgment, defendant proffers nothing
5 new to warrant a change in the prior analysis. Nor, as already discussed, will the Court determine
6 which of the sixty-two statements are puffery in deciding Meta’s motion for summary judgment.

7 The motion on this ground is **DENIED**.

8 **B. UNFAIRNESS CLAIMS**

9 Meta seeks summary judgment on the AGs’ unfair practices claims premised on the design
10 features of Meta’s platforms.

11 **1. Section 230 & First Amendment**

12 Meta first argues that the AGs’ claims are barred by Section 230 and the First Amendment
13 because they have failed to adduce evidence disentangling harm from social media generally from
14 those of the actionable features.

15 For the reasons already discussed in the Court’s prior orders in this MDL, the motion on
16 this ground is **DENIED**. (*See, e.g.*, Dkt. No. 2728, [“Breathitt MSJ Order”]; GC Experts Order.)

17 **2. Harm**

18 Meta next contends that the AGs adduce insufficient evidence of harm. Meta makes these
19 arguments as to (i) the “Daily Limit” and “Take a Break” time restriction features; (ii) the multiple
20 accounts function on Instagram; and (iii) appearance-altering filters.

21 As already discussed *supra* in section III(A)(1), and as noted in the Court’s prior orders in
22 this MDL, the AGs adduce sufficient document and expert opinion evidence¹⁴ to create a triable

23
24 ¹⁴ For example, Meta’s own documents support plaintiff’s theory that time restriction tools
25 were merely a “public relations stunt” employed because defendant knew that more time spent on
26 social media was linked with negative outcomes for teens. *See* Dkt. No. 3029-7 at 9–10, 36–41
27 (“Internal document reporting that millions of teens use Meta’s platforms between midnight and four
28 a.m. on a weekly basis.”); Dkt. No. 3029-8 at 700 (suggesting that [Meta’s] products [like Quiet
Mode or Take a Break] served as proof points but weren’t effective at reducing behaviors.”); Dkt.
No. 3029-9 at 940 (internal document noting that time restriction tools like Teen Accounts were part

1 issue that the design of Meta’s platforms harm teens by causing compulsive use. (*See, e.g.*, GC
2 Experts Order.)

3 The motion on this ground is **DENIED**.

4 **3. *Unique Evidentiary Burdens under State Law***

5 Meta argues that certain states have not met the evidentiary burdens required by each state’s
6 law for their unfairness claim. However, the only reference to specific deficiencies were made in
7 footnotes. (*See, e.g.* Mtn. at 38 n. 90; *id.* at 39 n. 93.) The Court need not consider
8 substantive arguments merely referenced in footnotes. *United States v. Strong*, 489 F.3d 1055,
9 1060 n.4 (9th Cir. 2007).

10 **4. *Evidence of Intent***

11 State law varies on the standard for “intent” when required for civil penalties. The parties
12 agree that plaintiffs must show that Meta acted “knowingly or recklessly” under Colorado law but
13 differ on whether the same standard applies in Kentucky.

14 Regardless, as discussed *supra* Section III(A)(2), the AGs have presented evidence of
15 intent. For example, the AGs cite to an internal Meta document discussing how to “look inward to
16 biological factors that are pretty consistent across adolescent development and gain valuable
17 relatively stable insights to inform product strategy” and includes that “Teens are sensitive to the
18 feel good effects of dopamine and that they always want to feel good . . . This presents
19 opportunities for us.” (Dkt. No. 3012-3.) Upon review of the record, the Court finds plaintiffs
20 have adduced sufficient evidence of scienter by Meta to meet the highest standard set by state law.

21 The motion on this ground is **DENIED**.

22 **C. DISGORGEMENT**

23 Meta next asserts that certain states are barred from recovering disgorgement for five
24 reasons, namely that: (1) certain states’ laws do not explicitly authorize disgorgement, so they are
25 barred from pursuing it; (2) the AGs have an adequate remedy at law; (3) the AGs cannot show that

26
27 _____
28 of a “public affairs strategy to improve parental alignment when it comes to the safety of teens,” and
“contributes to growing perception among parents that Instagram is on the same side as parents.”)

1 the challenged features were the source of profit nor put forth, via the expert report of Dr. Carl
2 Saba, a reasonable approximation of the profits flowing from the challenged conduct; and (4)
3 disgorgement must be related to harms within state boundaries and states cannot assert *parens*
4 *patriae* standing over harms to out of state individuals.

5 **1. State Law Analysis**

6 Meta argues that the law of five states (CA, IN, KY, NC, and NY) do not authorize
7 disgorgement or catch-all equitable relief. The AGs counter that in all five states, the relevant
8 statutes do not expressly prohibit disgorgement. Thus, they argue the Court should recognize
9 equitable jurisdiction without such a restriction. Meta has not identified caselaw in any of the five
10 states that supports its proposition that disgorgement is not an available remedy. As the Court
11 explained more fully on the record at the June 26, 2026 hearing, the Court is not required to
12 entertain arguments not briefed in full. The Court denies the argument on this record.¹⁵

13 **2. Equitable Jurisdiction**

14 Next, defendant argues that even for states that allow disgorgement, this Court does not
15 have equitable jurisdiction because plaintiffs (1) did not plead that they lack an adequate remedy at
16 law and (2) in any event, plaintiffs do have an adequate remedy at law.¹⁶

17 Under federal common law, a plaintiff may not bring an equitable action for a claim that
18 has an adequate remedy at law because, “a suit in equity [that would] accomplish a result which
19 could be attained by an action at law . . . would deprive the litigant of his constitutional right to a
20 trial by jury in the law action.”¹⁴ WRIGHT AND MILLER’S FEDERAL PRACTICE AND PROCEDURE
21 § 4513 (3d ed. 2016) (quoting *The Effect of State Statutes on Equity Jurisdiction in the Federal*
22 *Courts*, 33 Yale L.J. 193, 195 (1923)). In *Sonner v. Premier Nutrition Corp.*, the Ninth Circuit

23
24 ¹⁵ In the AGs’ briefing, they assert that California seeks disgorgement only for the period
25 beginning January 1, 2024, which is the effective date of California Government Code § 12527.6.
26 This law provides a disgorgement remedy under the UCL and FAL. Meta argues such relief is not
27 available for conduct that occurred after the complaint was filed. The Court has ordered the AGs
28 to submit additional disclosures regarding their request for disgorgement and will address any
related issues in the context of further trial proceedings.

¹⁶ The parties agree that the disgorgement requested is an equitable remedy.

1 found that federal common law applies to state law claims for equitable restitution, and therefore
2 plaintiffs must establish that they lack “an adequate remedy at law before securing equitable
3 restitution for past harm under the UCL.” 971 F.3d 834, 844 (9th Cir. 2020).

4 The procedural implications of the Ninth Circuit’s ruling in *Sonner* are subject to some
5 debate. For example, district courts are split on how to apply *Sonner* at the pleading stage.¹⁷
6 However, there is consensus that plaintiffs must plead they have no adequate legal remedy
7 available.

8 In March 2025, the Ninth Circuit explained “equitable jurisdiction is waivable.” *Ruiz v.*
9 *Bradford Exch., Ltd.*, 153 F.4th 907, 915 (9th Cir. 2025). Citing to Supreme Court precedent, the
10 court added that such an objection is waived “where the defendant has expressly consented to
11 action by the court, *or has failed to object seasonably.*” *Id.* (citing *Am. Mills Co. v. Am. Sur. Co. of*
12 *N.Y.*, 260 U.S. 360, 363 (1922)) (emphasis supplied). Here, defendant did not object until its
13 summary judgment motion, despite plaintiffs’ multiple references to disgorgement in both the
14 original and amended complaints. (See Dkt. Nos. 1 & 207.) Therefore, the Court finds that this
15 issue was likely waived. Further, and out of an abundance of caution, the Court briefly addresses
16 the parties’ arguments on this issue.¹⁸

17 It is not clear to the Court that any legal remedy is available in all eighteen states.¹⁹ In any
18 event, there is certainly no *adequate* legal remedy.

19 Disgorgement allows a plaintiff to recover ill-gotten gains from defendant. Restatement

20 ¹⁷ Some courts allow equitable claims to survive dismissal when pled in the alternative. *See,*
21 *e.g., Carroll v. Myriad Genetics, Inc.*, 2022 WL 16860013, at *6 (N.D. Cal.); *Yeomans v. World Fin.*
22 *Grp. Ins. Agency, Inc.*, 2022 WL 844152, at *7-8 (N.D. Cal.). Other courts do not permit plaintiffs
23 to “choose between two available inconsistent remedies” because, in their view, the question is
24 “whether equitable remedies are available to [the plaintiff] at all.” *Nacarino v. KSF Acquisition*
25 *Corp.*, 2022 WL 17178688, at *5 (N.D. Cal.).

26 ¹⁸ Regarding the alleged pleading deficiency, pursuant to the Court’s authority to grant
27 leave for amendments pursuant to Federal Rule of Civil Procedure 15(a)(2), the Court **ORDERS** the
28 States to file a one-page supplement to the complaint explicitly identifying that there is no adequate
legal remedy no later than July 10, 2026. Meta is reminded that Rule 15 permits the Court, where
appropriate, to give leave to amend the complaint, even during trial.

¹⁹ In fact, at the May 27, 2026 conference, Meta’s counsel confirmed on the record that they
agree everything is equitable.

1 (Third) of Restitution and Unjust Enrichment § 51. Unlike in *Sonner*, where the plaintiff sought
2 the same relief from equitable restitution and from available legal remedies, here the AGs seek the
3 disgorgement of any proceeds or profit that defendant received because of its allegedly wrongful
4 conduct. *Sonner v. Premier Nutrition Corp.*, 971 F.3d 834, 844 (9th Cir. 2020). Should the AGs
5 prove liability, relief through compensatory damages alone would not be adequate or complete, as
6 *Sonner* requires, because defendant would be permitted to retain the proceeds of their alleged
7 misconduct.²⁰ *Id.*

8 Therefore, the Court finds that the AGs lack an adequate remedy at law and thus may
9 pursue equitable relief under *Sonner*. As a result, the Court also finds that it has equitable
10 jurisdiction. *See also Guzman v. Polaris Indus. Inc.*, 49 F.4th 1308, 1313 (9th Cir. 2022) (“[T]o
11 entertain a request for equitable relief, a district court must have equitable jurisdiction, which can
12 only exist under federal common law if the plaintiff has no adequate legal remedy.”).

13 The motion is **DENIED**.

14 3. Evidentiary Basis

15 Meta argues the AGs have failed to proffer any evidence that the challenged conduct caused
16 Meta’s alleged unjust enrichment and that the AGs cannot meet their burden to identify a
17 reasonable approximation of profits causally connected²¹ to Meta’s alleged conduct, citing *SEC v.*
18 *First Jersey*, 101 F.3d 1450, 1475 (2d Cir. 1996) and *SEC v. Liu*, 2022 WL 3645063, at *2 (9th
19 Cir. Aug. 24, 2022). Specifically, Meta critiques the expert report of Carl Saba for failing to (1)
20 show that the youth users would not have used the platform even if the alleged conduct had not
21 occurred or (2) show that the time spent on the platform equates to increased profits.

22
23 ²⁰ The same is true for the States’ request for injunctive relief. *Id.*; *see also Linton v. Access*
24 *Fin. Servs., Inc.*, 2023 WL 4297568, at *3 (N.D. Cal. June 30, 2023) (holding that *Sonner* does not
25 apply to claims for injunctive relief where defendants cannot avoid future harm, like continued
elevated interest rates).

26 ²¹ Plaintiffs point out that Meta incorrectly asserts *State v. Minn. Sch. of Bus.*, 935 N.W.2d
27 124 (Minn. 2019) requires the Minnesota AG to prove a “causal nexus” between harm suffered by
28 consumers and Meta’s unlawful conduct. (MSJ at n. 98.) That is a requirement for restitution, not
disgorgement.

1 The AGs contend that Saba’s report suffices to show that Meta acted to maximize young
2 users’ time spent on its platforms, and that additional evidence demonstrates that time spent on the
3 platform equates to profits. Saba purports to have calculated the advertising profits “associated
4 with users who, while teenagers, averaged more than .5, 1, 2, 3, 4, or 5 hours per day in a given
5 month on Meta’s platforms.” (Dkt. No. 2787-20 [“Saba Rep.”] at ¶¶ 175-213.)

6 Additionally, plaintiffs point to evidence of Meta’s interest in increasing teen usage for the
7 purpose of maximizing long-term revenue growth by retaining these users into adulthood, when ad
8 revenue typically increases. (See Dkt. No. 2786-4 (company goals included increasing time spent
9 by 12% and described U.S teens as “key”); Dkt. No. 2787-21, at 641-42 (noting that younger
10 joiners to Facebook, particularly tweens, exhibited higher retention rates); Dkt. No. 2787-22 at 605
11 (discussing strategy of reducing ad load for teens on Instagram Reels to increase their engagement
12 and “maximize long-term revenue growth”); Dkt. No. 2787-23 at 425 (same for Facebook); Li
13 Dep. at 283:8–288:3.)

14 Therefore, the Court finds there is a dispute of material fact as to the evidentiary basis for
15 disgorgement. Meta’s arguments are factual and go to weight; they are not dispositive.

16 **4. Extraterritoriality and Statutes of Limitations**

17 Next, Meta argues the claims for disgorgement and civil penalties are limited by
18 extraterritoriality and statutes of limitations. The AGs respond that their civil penalties and
19 disgorgement calculations will be presented on a state-by-state basis. The AGs report, and Meta
20 does not dispute, that Saba’s report splits out the calculations by state, albeit the lack of clarity is
21 noticeable. Therefore, the Court does not find any extraterritoriality issue. The motion on this
22 ground is **DENIED**.

23 Meta also notes that disgorgement must be limited by any applicable statutes of limitations.
24 The limitations arguments are addressed *supra* at n. 4 and *infra* in Section III(D)(1).

25 **D. CHILDREN’S ONLINE PRIVACY PROTECTION ACT (COPPA)**

26 Meta moves for summary judgment based on (1) overarching defenses and (2) on the
27 grounds that COPPA does not apply to Meta’s platforms. For COPPA to apply, a website must
28

1 either be “directed to children” or the operator must have actual knowledge of under-13 users.
2 Meta contends that its platforms are not directed to children and that it does not have actual
3 knowledge of child users.

4 The AGs cross-move for partial summary judgment on several elements of its COPPA
5 claims, including that (i) Meta Platforms, Inc. and Instagram, LLC are “operators” of Instagram;
6 (ii) Meta has “actual knowledge” of U13 users on its platforms; (iii) Meta has not complied with
7 COPPA’s notice and parental consent requirements; and (iv) Meta violates COPPA by using
8 personal information of U13 users to train its machine learning and generative AI models.

9 ***1. Overarching Defenses***

10 *a) Standing*

11 As a threshold issue, Meta asserts that the AGs lack standing to bring the COPPA action.
12 COPPA authorizes an attorney general to bring a civil action to enforce the statute “[i]n any case in
13 which the attorney general of a State has reason to believe that an interest of the residents of that
14 State has been or is threatened or adversely affected.” 15 U.S.C. § 6504(1)(a). In response, the
15 AGs point to the expert report of Ryan Sheatsley, who analyzes data produced by Meta to conclude
16 that there were accounts disabled for being underage in each of the AGs’ states. (Dkt. No. 2899-2.)

17 The Court concludes that the AGs have sufficient reason to believe that the interest of their
18 residents “is threatened or adversely affected” by Meta’s alleged violations of COPPA.

19 The motion on this ground is **DENIED**.

20 *b) Laches*

21 Meta additionally contends that the doctrine of laches bars the AGs’ COPPA claims. A
22 defendant asserting laches as a defense must show both “an unreasonable delay by plaintiff in
23 bringing suit” and prejudice thereby to the defendant, with conduct outside the limitations period
24 creating a presumption that laches applies. *Miller v. Glenn Miller Prods. Inc.*, 454 F.3d 975, 997
25 (9th Cir. 2006).

26 Here, the AGs explain that they were not aware of Meta’s internal practices until after the
27 company’s alleged COPPA violations began, and certainly not as early as 2011. Additionally, the
28

1 AGs claim that once they were reasonably aware of the violations, they began to investigate and
 2 coordinate multistate efforts that resulted in this lawsuit. Therefore, the Court finds no
 3 unreasonable delay to support a laches defense.

4 The motion on this ground is **DENIED**.

5 *c) Limitations Period*

6 The parties disagree on whether there is a statute of limitations applicable to the AGs’
 7 COPPA claims. Meta argues that 28 U.S.C. Section 1658, which provides for a catchall four-year
 8 limitations period for any civil action arising under an act of Congress, applies to COPPA.²² Meta
 9 thus concludes that the statute of limitations bars the AGs from relying on facts that pre-date the
 10 limitations period, including conduct alleged that dates back to 2012.

11 The AGs seek to apply the *nullum tempus occurrit regi*²³ doctrine, which provides that
 12 “actions by government officials are not subject to state, or indeed any other, limitations periods”
 13 when suit is brought to vindicate public rights or interests, unless there is clear congressional intent
 14 for those periods to apply. *S.E.C. v. Rind*, 991 F.2d 1486, 1491 (9th Cir. 1993). Meta cites no
 15 authority or legislative history to suggest that Congress intended for Section 1658 to apply to
 16 government actions enforcing public rights or protecting public interests. Therefore, the Court
 17 declines to so find.²⁴

18 The motion on this ground is **DENIED**.

21 ²² The parties disagree on whether the parties’ tolling agreements—which date back to 2021
 22 for Instagram and 2022 for Facebook—should apply to the COPPA claims. Meta argues that they
 23 do not, and thus any claims relating to conduct before October 2019 fall outside of the four-year
 24 limitations period. Because the Court determines, *infra*, that the statute of limitations argument fails
 on other grounds, the Court does not reach this issue.

24 ²³ Latin for “no time runs against the king.”

25 ²⁴ Neither party cites Ninth Circuit authority that addresses whether the federal statute of
 26 limitations under Section 1658 applies to *parens patriae* (Latin for “parent of the country”) actions
 27 brought by state attorneys general pursuant to federal statutes. Still, the Ninth Circuit has
 28 recognized that *parens patriae* suits brought by state attorneys general are fundamentally different
 from ordinary civil actions. *See, e.g., Washington v. Chimei Innolux Corp.*, 659 F.3d 842 (2011)
 (determining that such actions are not civil actions subject to the Class Action Fairness Act).

1 U.S. 410, 423 (2011). “The test for whether congressional legislation excludes the declaration of
2 federal common law is simply whether the statute speaks directly to the question at issue.” *Id.* at
3 424.

4 COPPA expressly provides for a range of remedies in actions brought by states. 15 U.S.C.
5 § 6504. This provision gives district courts authority to order legal (“damage, restitution, or other
6 compensation on behalf of residents of the State”) and equitable (“enjoin that practice . . . enforce
7 compliance with the regulation . . . obtain such other relief as the court may consider to be
8 appropriate”) remedies. *Id.* Therefore, the Court finds that COPPA speaks directly to the issue of
9 whether equitable relief is available to the AGs.²⁵

10 iii. Reasonable Approximation

11 Meta also argues that plaintiffs have failed to provide a reasonable approximation of profits
12 causally connected to the alleged violation. The AGs counter that there are disputed facts
13 regarding the value Meta derived from the U13 data allegedly collected. Despite Meta’s denial that
14 such U13 users exist, plaintiffs cite internal documents that suggest Meta may have used U13 data
15 to train machine learning and generative AI models. (*See* Dkt. No. 2789-20 at 119 (“increasing
16 model training data drives value”); Dkt. No. 2789-21 at 738-740 (algorithms and machine learning
17 models “help [Meta] personalize what people see,” including “the ads they are shown,” and
18 personalization is “a central component of the value [Meta’s] services provide”); Li Dep. at 88:18-
21.)

19 The Court agrees there are material disputes of fact as to the reasonable approximation of
20 profits. Therefore, the motion on this ground is **DENIED**.

21 2. *Elements of COPPA*

22 Title 15 Section 6502, otherwise known as COPPA, provides: “It is unlawful for [1a] an
23 operator of a website or online service [1b] directed to children, *or* [2] any operator that has actual
24

25 ²⁵ *See Porter v. Warning Holding Co.*, 328 U.S. 395, n. 5 (finding that an amendment adding
26 a legal remedy to a statute did not provide any “indication that [it] was intended to whittle down the
27 equitable jurisdiction recognized by [the statute] so as to preclude a suit for restitution”).
28

1 knowledge that it is collecting personal information from a child, [3] to collect personal
2 information from a child in a manner that violates the regulations prescribed under subsection (b).”
3 (annotations provided for clarity).

4 *a) Operator*

5 Meta acknowledges that Meta Platforms, Inc. currently “operates” Facebook and Instagram,
6 and operated Facebook at all relevant times. This issue is undisputed. The remaining dispute
7 briefed was whether (i) Instagram, LLC is an operator of Instagram, and (ii) Meta Platforms, Inc.
8 operated Instagram in the past, as opposed to the present.

9 After briefing concluded, the parties filed a stipulation dismissing Instagram. (Dkt. No.
10 3108.) Pursuant to the stipulation, Meta agrees not to assert as a defense to liability in this matter
11 that it is not responsible for any actions or inactions alleged by the State AGs as wrongful on the
12 ground that such actions or inactions were taken in whole or in part by Instagram, LLC. The Court
13 granted this joint stipulation in Pretrial Order No. 3. Therefore, the Court deems this dispute
14 resolved.

15 *b) Directed to Children*

16 COPPA applies to operators of websites or portions thereof that are “directed to” children.
17 15 U.S.C. § 6502(a)(1).

18 Meta asserts that its platforms are directed at a general audience, not to U13s, including via
19 explicit age restrictions and statistics showing that most users are adults. The AGs contend that at
20 least portions of the platforms are directed to children, including certain child-friendly design
21 choices and arrangements with influencers popular with children.

22 Whether a website is entirely, or in part, targeted to children depends upon the totality of
23 the circumstances. 16 C.F.R. § 312.2; 90 Fed. Reg. 16918, 16937 (Apr. 22, 2025). This kind of
24 inquiry is a classic question of fact. Here, plaintiffs have identified sufficient evidence to support
25 their theory the platform was at least in part directed at children. For example, plaintiffs point to
26 Meta’s practice of tracking 12 to 15-year olds in a group (Dkt. No. 2788-25 ¶¶ 424-425); an
27 internal document noting that “Facebook already has ~5M[illion] monthly web visitors under 13 in
28

1 the US” and that “Google+ is way behind in this segment” (Dkt. No. 2789-1 at 389); and an
2 internal document noting that “11 and 12 year olds aren’t so different from 13 or 14 year olds.”
3 (Dkt. No. 2789-2).

4 The Court finds the evidence plaintiffs cite is sufficient to show there are material disputes
5 of fact as to whether the platforms are directed, albeit partially, at children. Therefore, the motion
6 on this ground is **DENIED**.

7 *c) Collection of Personal Information*

8 The AGs ask the Court to enter partial summary judgment finding that Meta collects
9 personal information of U13 users. Meta argues (1) that this is an improper use of Rule 56 because
10 whether they collect the personal information is not an element of COPPA; and (2) that it does not
11 collect “personal information” as defined by the statute.

12 If a court finds that there is no genuine dispute of material fact as to only a single claim or
13 defense or as to part of a claim or defense, it may enter partial summary judgment. Fed. R. Civ.
14 Pro. 56(a). The Court disagrees with Meta that this finding would not streamline the trial and thus
15 rejects the Rule 56 argument.

16 COPPA defines “personal information” as “individually identifiable information about an
17 individual collected online, including--(A) a first and last name; (B) a home or other physical
18 address including street name and name of a city or town; (C) an e-mail address; (D) a telephone
19 number; (E) a Social Security number; (F) any other identifier that the Commission determines
20 permits the physical or online contacting of a specific individual; or (G) information concerning the
21 child or the parents of that child that the website collects online from the child and combines with
22 an identifier described in this paragraph.” 15 U.S.C. § 6501(8). The AGs have proffered evidence
23 that Meta collects many types of data from its users, including: email addresses; phone numbers;
24 images of a person’s face; the sound of a person’s voice; cookie IDs; IP addresses; information that
25 the user provides on their profile, such as content created by the user; and information that reflects
26 the user’s interactions on the platform, such as likes, the videos they watch, and who they interact
27 with. (*See, e.g.* Hartnett Dep. at 28:17-29:19.) Some of this data is explicitly recognized by the
28 statute as personal information, such as email addresses and telephone numbers. (*Id.* at 29:17-19

1 (30(b)(6) testimony confirming Meta collects either an email address or phone number from users
2 with a Facebook or Instagram account)).

3 Therefore, the Court finds that Meta does collect personal information from all its users,
4 including any users found to be U13. That Meta may disagree with respect to whether other kinds
5 of information fall within the scope of COPPA, the Court need not resolve that dispute here.

6 *d) Actual Knowledge*

7 Meta and the AGs each move for summary judgement on the issue of whether Meta has
8 “actual knowledge that it is collecting information” from U13s. 15 U.S.C.
9 § 6502(a)(1).

10 “Actual knowledge” is not defined in the statute, but the Supreme Court has concluded it
11 requires more than “constructive” or “hypothetical” knowledge, and that it may be proved through
12 “inference from circumstantial evidence.” *Intel Corporation Investment Policy Committee v.*
13 *Sulyma*, 589 U.S. 178, 185, 189 (U.S. 2020). Additionally, “willful blindness,” which requires
14 taking deliberate action to avoid learning a fact, is also considered tantamount to actual knowledge.
15 *Global-Tech Appliances, Inc. v. SEB S.A.*, 563 U.S. 754, 769 (2011).

16 The parties vigorously dispute the facts surrounding this element. The AGs seek summary
17 judgment based on evidence in four situations: (i) users who, after sign-up, change their listed age
18 on the platform to under 13; (ii) users who Meta checkpoints based on human review of profiles;
19 (iii) users who are “hard-linked” or “soft-matched” to checkpointed accounts; and (iv) users whose
20 accounts Meta ultimately disables after checkpointing. Meta responds that its efforts at
21 checkpointing and deleting accounts in those circumstances are based on “suspicions” of users
22 being under 13, not actual knowledge, and thus there is no violation. The Court takes each claim in
23 turn.

24 i. Users who change their age to under-13

25 The parties do not dispute that when a user changes their date of birth to a date that would
26 make their age under 13, Meta “checkpoints” the user’s account. “Checkpointing” an account is
27 when Meta disables an account based on evidence that the user may be U13. (*See Hartnett Dep. at*
28

1 105:11-21.) The account owner may regain access to their checkpointed account by providing
2 identification verifying they are 13 or over within 30 days. (*Id.* at 105:23-106:17.) If they fail to do
3 so within 30 days, Meta schedules the account for deletion. (*Id.* at 106:3-7.) Meta retains the data
4 for an additional 45 days, which it contends is standard industry practice and is done to ensure legal
5 compliance. (*Id.* at 299:14-301:13.) Meta acknowledges that this data retention period has, in the
6 past, at times been as long as six months or one year. (*Id.* at 299:22-24, 300:21-25.) After the data
7 retention period, Meta permanently deletes the data in a process which takes another 90 days. (*Id.*
8 at 301:15-19.)

9 The AGs focus on evidence which it interprets as admissions: for instance, Meta told the
10 Federal Trade Commission (“FTC”) that “[b]ecause these users have themselves indicated they are
11 under 13, Meta will presumptively determine that these users are too young to use the service,
12 absent additional proof of age.” (*Id.*) Also, a Meta employee described a platform functionality
13 involving users changing their date of birth to an age under 13 as constituting “explicit knowledge
14 of U13.” (Dkt. No. 2696-41.)

15 Meta provides a different interpretation. It responds that accounts of users who change
16 their date of birth to reflect an age under 13 often are in fact not under 13. Meta proffers evidence
17 that bad actors use date of birth changes to purposefully get their accounts checkpointed and
18 deleted to conceal a history of illicit online activities. (Dkt. 2781-8 (Meta employee reporting that
19 “[w]e have recently found that 70% of accounts who edit DOB [*date of birth*] to U13 seem to be
20 involved in fraud. . . . They are purposefully reporting their accounts as U13 so that their account
21 gets deleted”)) As a result, Meta maintains, the fact that a user’s account shows a date of birth
22 reflecting an age under 13 does not provide actual knowledge that the user is a child. Even if true,
23 Meta does not claim that 100% of the accounts fall into this category.

24 Nonetheless, based on the foregoing disputes, the Court concludes there is a material
25 dispute of fact as to the claim that a date of birth changed to reflect an age under 13 provides Meta
26 with actual knowledge of accounts belonging to U13s. The AGs’ and Meta’s cross motions for
27 summary judgment on this ground are both **DENIED**.

28

1 ii. Meta checkpoints after human review

2 Meta checkpoints the accounts of users following human review if the user has listed their
3 age as under 13 or posted photographs suggesting the account holder is under 13. (Dkt. No. 2696-4
4 at 184:18–186:8.) The AGs describe that Meta has implemented this policy including by, at times,
5 requiring human reviewers to checkpoint an account when and a quarter to one half of photos on
6 the account feature a particular child, and fewer than three of the photos are of a given teen or
7 adult. *Id.* The AGs contend that, as a matter of common sense, when human reviewers review the
8 aforementioned information and put the account into an age checkpoint, Meta has obtained actual
9 knowledge that the user is a child.

10 Meta responds that checkpointing based on human review merely shows that the human
11 reviewer concluded the account *might* belong to a user under 13. Meta adduces evidence that
12 human reviewers are instructed to “err on the side of” checkpointing a user if they could be under
13 13. (Hartnett Dep. at 105:16-21). Additionally, Meta proffers evidence suggesting that human
14 review determinations are “subjective,” particularly with regard to assessing age based on photos,
15 and so reviewers are instructed to “checkpoint if they are unsure.” (Dkt. No. 2781-14.) Meta
16 contends because human reviewers checkpoint many accounts belonging to non-children,
17 checkpointing based on human review does not give Meta actual knowledge that a user is a child.

18 Given the evidence proffered by each side, the Court concludes there is a material dispute
19 of fact as to whether accounts that are checkpointed based on human review provide Meta with
20 actual knowledge under COPPA. The AGs’ and Meta’s motions for summary judgment on this
21 ground are both **DENIED**.

22 iii. Users with “hard-linked” or “soft-matched” accounts

23 The parties agree that user accounts can be “hard-linked” through Meta’s Account Center,
24 meaning that they are connected to one another. Meta also acknowledges that it has data that
25 permits it to “soft-match” accounts, meaning that it predicts that multiple accounts likely are the
26 same person.

27

28

1 In this context, the AGs contend that Meta failed to use hard-link and soft-match data to
2 enforce underage policies, and in fact, chose not to checkpoint and disable user accounts linked to
3 accounts which had previously been checkpointed or disabled for being under 13. The AGs argue
4 that Meta’s inaction against accounts hard-linked or soft-matched accounts constitute willful
5 blindness, in that they reflect a deliberate choice to avoid knowledge that the owner of those
6 matched accounts is under 13.

7 In support, the AGs proffer documents suggesting employees were concerned about the
8 failure to enforce Meta’s policies against underage accounts through hard-linking and soft-
9 matching. (Dkt. No. 2696-45 (internal 2020 memo stating “We have deprioritized u13
10 enforcement because COPPA compliance is at risk when we sit on knowledge of u13, [it]
11 incentivizes not knowing”; recommending “cross-enforcement of u13s on IG who have hard-linked
12 FB accounts”; and suggesting that “basic COPPA compliance is at risk” when failing to enforce via
13 hard-linking); *id.* (“It is difficult to defend the use of [soft-matching] for advertising purposes
14 without also using these links for age management.”); *id.* Dkt. No. 2696-46 (describing that, in
15 certain contexts, accounts soft-matched with “>0.99 confidence” leads to account disabling).)

16 Meta offers a different interpretation of the evidence. As already discussed, Meta contends
17 that checkpointed accounts do not provide it with actual knowledge. Meta next argues that hard-
18 linked accounts only confirm that the users “know each other or have the logins,” and that it is
19 “fairly common for the accounts to be linked together” but operated by different people. (Dkt. No.
20 2781-6 at 212:17-213:10.) For example, Meta suggests that parents may hard-link accounts with
21 their teenager to monitor the latter’s activity on the platforms, meaning that a hard-linked user is
22 not a child. Third, Meta proffers expert opinion that soft-matching does not identify with certainty
23 if an account belongs to a common user, but merely produces a probabilistic linkage. (*See* Dkt.
24 No. 2781-17.) Finally, Meta disputes the AGs’ suggestion that soft-matching reflects a 99%
25 probability that the accounts belong to the same users. Meta asserts that that level of accuracy is
26 only achieved in limited situations and, more generally, soft-matching is not accurate at the level of
27 a single user. (Dkt. No. 2781-8 at 11, 13.)

28

1 Based on the record before it, the Court concludes there is a material dispute of fact as to
2 the claim that hard-linking and soft-matching provides Meta with actual knowledge, including
3 willful blindness, of accounts belonging to U13s. This inquiry will be better informed with a
4 complete record. The dueling motions for summary judgment on this ground are both **DENIED**.

5 iv. Users whose accounts are deleted after checkpointing

6 Finally, the AGs argue the Court should find that Meta violated this element with respect to
7 the users whose accounts it deleted after checkpointing. Meta disagrees, asserting that it only
8 disables an account after the time period expires for a user to appeal Meta's decision. Thus, Meta
9 reasons that it does not have actual knowledge that an account is under 13—rather, plaintiffs can
10 only prove knowledge that a user failed to appeal successfully. Meta adduces evidence that large
11 portions of checkpointed accounts demonstrably do not belong to children, including in connection
12 with cyber attacks against users designed to trigger Meta's account disabling.

13 This category, too, raises numerous factual issues.

14 In summary, Meta's operational processes regarding how accounts are reviewed,
15 checkpointed, disabled, and whether data is retained are fact intensive and technical. Ultimately,
16 each side adduces evidence regarding those processes that must be weighed by the finder of fact at
17 trial. Because a material dispute of fact exists as to whether Meta has actual knowledge, including
18 willful blindness, of u-13 users on its platform, the motions on this ground are **DENIED**.

19 e) *Retention of Under-13 Data for AI Model*

20 The AGs argue that the Court should grant summary judgment on its claim that Meta
21 retains U13 data for its large language models (“LLMs,” or “AI models”), despite checkpointing
22 those accounts as belonging to U13s. Meta counters that this claim is untimely; that COPPA does
23 not prohibit maintenance of personal data belonging to individuals that were identified as children
24 after that data was collected; and that Meta does not actually use or maintain that data for its AI
25 models. The Court addresses each.

26 ***Timeliness:*** Meta first asserts that the AGs are barred from raising this issue as it was not
27 specifically alleged in their complaint as a basis for COPPA liability.

28

1 “A plaintiff must provide the defendant with adequate notice of his or her claims.” *In re*
2 *TFT-LCD (Flat Panel) Antitrust Litigation*, 2012 WL 6708866, at *3 (N.D.Cal. 2012), *aff’d*, 637 F.
3 App’x 981 (9th Cir. 2016). The “federal rules contemplate that the process of defining and
4 narrowing the issues raised in the pleadings will be accomplished through discovery and other
5 pretrial procedures” and that “a party may even be permitted to alter the legal theory of its case”
6 during discovery. *William Inglis & Sons Baking Co. v. ITT Continental Baking Co., Inc.*, 668 F.2d
7 1014, 1053 (9th Cir. 1981) (answers to interrogatories sufficient to put party on notice of claims).

8 The AGs disagree with Meta and reference a portion of the complaint that alleges (i) Meta
9 collects “personal data to train its Recommendation Algorithms” (Compl. ¶ 175) and (ii) separately
10 alleges that Meta “has repeatedly collected, used, or shared personal information about children
11 under the age of 13 and continues to systematically do so” without complying with COPPA. (*Id.*
12 ¶ 852). Complaints do not need to assert theories.

13 While the foregoing might have been enough to put Meta on notice, the AGs also point to
14 evidence that Meta was put on notice through the discovery process. In January 2025, the AGs
15 sought deposition testimony from Meta on “data collected from Child or Teen Users in training or
16 developing algorithms or models,” and submitted a request for admission (“RFA”) in February
17 2025 regarding whether Meta, once it identifies a user as potentially being under 13, “determine[s]
18 whether the user’s data was used to develop, train, or validate any of your algorithms or models.”
19 (Dkt. No 2696-5; Dkt. No. 2696-6.) After obtaining additional data during discovery that the AGs
20 contend validated this theory, the AGs provided interrogatory responses in October 2025 that laid
21 out their claim that “Meta continues to use the personal information of children under 13 after
22 determining that they are likely under 13 to train its machine learning and generative AI models,
23 without obtaining parental consent.” (*See* Dkt. No 2899-16 at 6–10.)

24 Thus, this argument is rejected. Meta has received adequate notice.

25 ***Maintenance of Data Subsequent to Discovery of Under-13 Users:*** Meta also contends
26 that even if it does eventually obtain knowledge that users are U13, it cannot be liable for using
27 their data for model training. COPPA’s statutory text provides that parental notice and consent
28

1 requirements attach when an operator “has actual knowledge that it *is collecting* personal
2 information from a child.” 15 U.S.C. § 6502(a)(1) (emphasis supplied). Meta contends the statute
3 is silent on data previously collected without such knowledge. Thus, Meta argues that if it collects
4 data from individuals whom it does not know to be under 13 but later discovers that they were,
5 COPPA cannot give rise to liability for the subsequent use of their data.

6 Meta’s interpretation is contrary to federal guidance. The FTC has explained that “if such
7 companies collect personal information from visitors who click on their ads at general audience
8 sites, and that information reveals that the visitor is a child, then they will be subject to the Act.”
9 *Children’s Online Privacy Protection Rule*, 64 Fed. Reg. 59888, 59892 (Nov. 3, 1999) (emphasis
10 added). Thus, it indicates that knowledge obtained after the data is collected is sufficient to form a
11 basis for liability.

12 The FTC further explained that “operators may acquire actual knowledge that they are
13 dealing with children under 13” where they ask “age identifying” questions that “do not directly
14 ask age or grade.” *Id.* Meta repeatedly ignores that “actual knowledge” includes willful blindness.
15 The FTC promulgated a rule that attaches COPPA liability when a website operator has “actual
16 knowledge that it *is collecting or maintaining* personal information from a child.” 16 C.F.R. §
17 312.3 (emphasis supplied). Under the FTC rule, once Meta discovers a user is a child, it cannot
18 keep or use their personal information. The FTC has further clarified that if, after collecting a
19 user’s personal information, “the operator later determines that a particular user is a child under age
20 13, COPPA’s notice and parental consent requirements will be triggered.” (Dkt. No. 2899-20,
21 Gooler Decl., Ex. J.) This reading is entirely consistent with the statute.

22 Meta responds that the FTC’s inclusion of the phrase “or maintaining” impermissibly
23 expands COPPA’s reach without basis in the statutory text. They thus argue the FTC violated the
24 APA (1) procedurally because the FTC failed to provide notice or a reasoned explanation; and (2)
25 by exceeding the rulemaking authority delegated by Congress.

26 The Court not only declines to engage with Meta’s procedural argument²⁶, but finds the

27 _____
28 ²⁶ Procedural challenges to agency rules under the Administrative Procedure Act are subject

1 argument ironic given its own expert’s opinions regarding the primacy of the FTC’s guidance
2 where it suits Meta’s purposes. The Court also finds it unnecessary to address Meta’s substantive
3 challenge that the FTC exceeded its authority. Based on the language of the statute alone, the
4 Court finds Meta’s position untenable. The statute requires an operator “to obtain verifiable
5 parental consent for the *collection*, use, or disclosure of personal information from children.”
6 15 U.S.C. § 6502(b)(1)(A)(ii). Nowhere does the statute suggest that collection of U13 data can
7 only serve as a basis for liability if the operator verifies that the user is U13 *before* the data is
8 collected. Common sense instructs that user data must necessarily be collected for an operator to
9 determine whether that user is U13 or not. Therefore, Meta’s interpretation would render the
10 provision meaningless. “It is our duty to give effect, if possible, to every clause and word of a
11 statute.” *City of Los Angeles v. Barr*, 941 F.3d 931, 939 (9th Cir. 2019) (citing *United States v.*
12 *Menasche*, 348 U.S. 528, 538–39).

13 Next, 15 U.S.C. § 6501 defines “disclosure” in part as “making personal information
14 *collected* from a child by a website or online service directed to children *or* with actual knowledge
15 that such information was collected from a child, publicly available in identifiable form, by any
16 means.” (emphasis supplied). As noted above, parental consent is required for the disclosure of
17 U13 personal information. Thus, the statute expressly contemplates that disclosure before actual
18 knowledge can form the basis of liability if the service is directed to children. The Court sees no
19 reason to read into the statute a requirement that is not there.

20 ***Whether Data from Checkpointed Accounts is used in LLMs:*** The AGs argue it is
21 undisputed that “Meta continues to use [U13] personal information for machine learning and
22 generative AI model training after it develops actual knowledge that they are [U13].” They point
23

24 _____
25 to the general six-year limitations period in the U.S. Code. Under *Wind River*, challenges to a
26 “mere procedural violation in the adoption of a regulation or other agency action” must be brought
27 within six years of the agency rulemaking, whereas challenges to “the substance of an agency’s
28 decision as exceeding constitutional or statutory authority” may be brought any time “within six
years of the agency’s application of the disputed decision to the challenger. *See Wind River Mining
Corp. v. United States*, 946 F.2d 710 (9th Cir. 1991) (citing 28 U.S.C. § 2401(a)).

1 to evidence that Meta generally uses all user data to train models (*see, e.g.* Dkt. No. 2696-19 at
2 25:4-21) (30(b)(6) deponent confirming Meta uses all user data to train machine learning models,
3 and in fact specifically uses teen data to do so)); that Meta has increased its use of teen data to
4 improve its models (Dkt. No. 2696-24 (an internal document discussing using teen data to enable
5 better model training to “deliver model improvements for Teens and Gen pop.”)); and that Meta
6 continues training its machine learning and generative AI models on user data from accounts that
7 are checkpointed, disabled, and/or scheduled to be deleted (*see, e.g.* Dkt. No. 2696-22 (30(b)(6)
8 testimony suggesting that where data is retained prior to deletion, it is likely used during that
9 period)). While Meta deletes data from certain accounts flagged as potentially U13, Meta
10 acknowledges that the data retention period has, in the past, at times been as long as six months or
11 one year. (Hartnett Dep. at 299:22-24, 300:21-25.) However, Meta also claims that any such data
12 is marked “not intended for business purposes” and thus not used for model training.

13 The Court finds that the AGs have proffered sufficient evidence to establish a material
14 dispute of fact, but not enough to warrant partial summary judgment on this point. Both motions
15 are **DENIED** on this ground.

16 *f) Compliance with COPPA Notice Requirements*

17 The AGs seek a legal ruling that Meta has met none of COPPA's requirements: (i) providing
18 notice to parents; (ii) seeking and obtaining parental consent; and (iii) providing parents with a
19 means of reviewing personal data collected, requesting deletion, and refusing further data
20 collection. The AGs base their motion on Meta's own responses to RFAs.

21 Meta's denial strains credulity. Meta has repeatedly urged that it need not comply. Based
22 on this position, it has not. The issue is whether liability attaches in the first instance. The lack of
23 compliance is obvious.²⁷

24 While Meta's RFA responses are each styled as denials, each response makes clear that
25

26 ²⁷ The Court declines Meta's invitation to not reach this question given its arguments on the
27 issue of “actual knowledge.” Contrary to Meta's suggestion, evidence of knowledge exists. Whether
28 liability exists remains disputed.

1 Meta has *not* provided parental notice, obtained parental consent, or provided a way for parents to
2 review data. The denials are based solely on its contention that Meta lacks “actual knowledge,”
3 discussed above. (*See* Dkt. No. 2696-26 at 3) (“Because during the Relevant Time Period, Meta
4 has not knowingly collected personal information from individuals under 13 on Facebook or
5 Instagram . . . Meta has not provided notice as described in 16 CFR § 312.4”); *id.* at 9 (“Meta has
6 not provided parents means to review personal information of their children under 13 whom Meta
7 does not know exist”); *id.* at 10 (“Meta has not provided parents a means to refuse to permit the
8 further use of personal information from their children whom Meta does not know exist”); *id.* at 5
9 (“Meta has not sought verifiable consent from parents of individuals under 13 whom Meta does not
10 know exist”) (emphasis supplied); Dkt. No. 2696-27 (similar for Instagram).)

11 Meta’s responses “denying” admission speak only to *why* it has not provided the relevant
12 functions, not *whether* it has done so. As such, no genuine dispute of fact exists as to this element.
13 Therefore, plaintiff’s motion as to this element is **GRANTED**.


14 **IV. CONCLUSION**

15 Defendant’s motion for summary judgment is **DENIED**. Plaintiffs’ motion for summary
16 judgment is **DENIED IN PART** and **GRANTED IN PART**.

17 **IT IS SO ORDERED.**

18 This Order terminates Dkt. Nos. 2695, 2704, 2739 in Case No. 22-md-03047.

19
20 Dated: June 29, 2026

21 
22 YVONNE GONZALEZ ROGERS
23 UNITED STATES DISTRICT JUDGE
24
25
26
27
28