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STATE OF MINNESOTA
COUNTY OF HENNEPIN

DISTRICT COURT
FOURTH JUDICIAL DISTRICT

Court File No. 27-CV-25-15301
Case Type: Civil Other/Misc
Hon. Rachna Sullivan

State of Minnesota, by its Attorney General, Keith Ellison,
Plaintiff,

vs

TikTok Inc.,
Defendant,

ORDER DENYING MOTION TO DISMISS

This matter came before the Honorable Rachna Sullivan, Judge of District Court, for a motion hearing on December 23, 2025, via Zoom remote videoconferencing.

John Feeney-Coyle, Esq., and Roger Perlstadt, Esq., appeared on behalf of Plaintiff State of Minnesota ("Plaintiff").

Jonathan Hacker, Esq., Andrew Murphy, Esq., and Diego Garcia, Esq., appeared on behalf of Defendant TikTok Inc ("Defendant").

Based upon all of the files, records, and proceedings herein,

MEMORANDUM

I. Relevant procedural history

1. On August 19, 2025, Plaintiff filed its complaint (Index 6).[1]

2. On October 9, 2025, Defendant filed a notice of motion and motion to dismiss (Index 92), a declaration of Diego E. Garcia (Index 93), proposed order (Index 94), and supporting memorandum (Index 95).

3. On November 17, 2025, Plaintiff filed a responsive memorandum (Index 123).[2]

4. On December 8, 2025, Defendant filed a reply memorandum (Index 126).

[1] Because the record in this matter contains multiple versions of certain documents, citations herein are made to Index numbers for clarity. The complaint was initially filed under seal, and requests to restrict information in the complaint and other filings were the subject of competing motions that were addressed in an order filed January 5, 2026. Pursuant to the order, Index 6 is currently marked as "confidential" in the record, however an updated redacted complaint was filed by Plaintiff on January 16, 2026 (Index 138).

[2] Index 123 is currently marked as "confidential," however a redacted version was simultaneously filed (Index 119).

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II. Post-hearing supplemental authority

5. On January 27, 2026, Plaintiff filed a notice of supplemental authority (Index 139), noting recent decisions in Indiana and Iowa.

6. On January 29, 2026, Defendant filed a response to Plaintiff's January 27, 2026, notice of supplemental authority (Index 140).

7. On February 27, 2026, Plaintiff filed an additional notice of supplemental authority (Index 146), noting a recent decision in Kentucky.

8. On March 3, 2026, Defendant filed a response to Plaintiff's February 27, 2026, notice of supplemental authority (Index 147).

9. The Court notes these notices of supplemental authority are untimely but will be considered as Defendant has provided a response. Therefore, Defendant has not been prejudiced. The Court further notes the decisions cited in Indiana, Iowa, and Kentucky are not binding on this Court, but are considered as persuasive authority.

III. Requests for relief

10. Plaintiff's complaint includes seven claims for relief:

> COUNT I: UNIFORM DECEPTIVE TRADE PRACTICES ACT
> (Unfair or Unconscionable Acts or Practices – Addictive Features)
>
> COUNT II: PREVENTION OF CONSUMER FRAUD ACT
> (Unfair or Unconscionable Practices – Addictive Features)
>
> COUNT III: UNIFORM DECEPTIVE TRADE PRACTICES ACT
> (Unfair or Unconscionable Acts or Practices – TikTok LIVE Monetization)
>
> COUNT IV: PREVENTION OF CONSUMER FRAUD ACT
> (Unfair or Unconscionable Practices – TikTok LIVE Monetization)
>
> COUNT V: UNIFORM DECEPTIVE TRADE PRACTICES ACT
> (Misrepresentations and Omissions – Safety and Design)
>
> COUNT VI: PREVENTION OF CONSUMER FRAUD ACT
> (Misrepresentations and Omissions – Safety and Design)
>
> COUNT VII: MONEY TRANSMISSION ACT
> (Engaging in the Business of Money Transmission Without a License)

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(Index 6, ¶¶ 220–307.)

11. Defendant's motion requests dismissal of this action pursuant to Minn. R. Civ. P. 12.02(b) (lack of jurisdiction over the person) and 12.02(e) (failure to state a claim upon which relief can be granted). (Index 92.)

12. Defendant asserts this Court lacks personal jurisdiction over Defendant because the application of traditional, personal-jurisdiction principles to nationally accessible websites and online platforms is an evolving area of law, and better-reasoned cases hold that user interactions on these platforms are limited, generalized contacts with the forum state, not targeted contacts, and therefore there can be no personal jurisdiction.

13. Plaintiff responds by noting that numerous other states have allowed nearly identical suits against social media companies to proceed. Plaintiff argues that Defendant purposefully directed its commercial activities at Minnesota by collecting Minnesota users' personal data and selling advertising access to third-party businesses targeting Minnesota consumers.

14. Additionally, Defendant asserts Plaintiff's theories of liability are barred by federal statute and the United States Constitution because Defendant is a publisher of third-party content; Defendant's alleged-misleading statements were vague, general and subjective; and Plaintiff has not followed the required procedure for bringing a claim related to violation of the Minnesota Money Transmitters Act. Accordingly, Defendant is seeking to dismiss the claims for failure to state a claim.

15. Plaintiff argues that the federal statutes do not shield Defendant's conduct; the First Amendment does not shield Defendant's conduct; Plaintiff's detailed allegations more than satisfy Minnesota's notice pleading standards for the deceptive trade practice and consumer fraud claims; and that the Minnesota Attorney General is authorized to bring claims under the Minnesota Money Transmitters Act.

IV. Legal standard

A. Personal Jurisdiction

16. When reviewing a motion to dismiss for lack of personal jurisdiction, we determine whether, taking all the factual allegations in the complaint and supporting affidavits as true, the plaintiff has made a prima facie showing of personal jurisdiction. *Rilley v. MoneyMutual, LLC*, 884 N.W.2d 321, 326–27 (Minn. 2016) (citing *Marquette Nat'l Bank v. Norris,* 270 N.W.2d 290, 292 (Minn. 1978).

17. Minnesota's long-arm statute provides that a Court in Minnesota with jurisdiction of the subject matter may exercise personal jurisdiction over any foreign corporation in the same manner as if it were a domestic corporation, if the cause of action arises from transacting any business within the state. Minn. Stat. § 543.19 subd. 1(2).

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18. The legislature designed the long-arm statute to extend the personal jurisdiction of Minnesota courts as far as the Due Process Clause of the United States Constitution allows. *Valspar Corp. v. Lukken Color Corp.*, 495 N.W.2d 408, 410 (Minn. 1992). If the personal jurisdiction requirements of the federal constitution are met, the requirements of the long-arm statute will necessarily be met also. *Id.* at 411.

19. The Due Process Clause of the Fourteenth Amendment to the United States Constitution prohibits a state court from exercising personal jurisdiction over a nonresident defendant unless that defendant has "minimum contacts" with the state and maintaining the lawsuit "does not offend traditional notions of fair play and substantial justice." *Rilley*, 884 N.W.2d at 327 (citing *Int'l Shoe Co. v. Washington*, 326 U.S. 310, 316 (1945)). "Minimum contacts" exist when the defendant "purposefully avails itself" of the privileges, benefits, and protections of the forum state, such that the defendant "should reasonably anticipate being haled into court there." *Rilley*, 884 N.W.2d at 327 (citing *Burger King Corp. v. Rudzewicz*, 471 U.S. 462, 474–75 (1985)).

20. The minimum contacts inquiry to support specific personal jurisdiction over the defendant focuses on the relationship among the defendant, the forum, and the litigation. *Bandemer v. Ford Motor Co.*, 931 N.W.2d 744, 750 (Minn. 2019) (citing *Walden v. Fiore*, 571 U.S. 277, 284 (2014)). Physical presence by the defendant in the forum state is not required for specific personal jurisdiction, rather, sufficient minimum contacts may exist when an out of state defendant purposefully directs activities at the forum state, and the litigation arises out of or relates to those activities. *Bandemer*, 931 N.W.2d at 750 (citing *Burger King*, 471 U.S. at 472.

21. The Court must analyze five factors to determine whether the exercise of personal jurisdiction is consistent with federal due process: (1) the quantity of contacts with the forum state; (2) the nature and quality of those contacts; (3) the connection of the cause of action with these contacts; (4) the interest of the state providing a forum; and (5) the convenience of the parties. *Bandemer*, 931 N.W.2d at 749 (citing *Rilley*, 884 N.W.2d at 328).

22. The first three factors determine whether minimum contacts exist and the last two factors determine whether jurisdiction is reasonable according to traditional notions of fair play and substantial justice. *Rilley*, 884 N.W.2d at 328 (citing *Juelich v. Yamazaki Mazak Optonics Corp.*, 682 N.W.2d 565, 570–71 (Minn. 2004)). Although the key inquiry is whether minimum contacts have been established, a strong showing on the reasonableness factors may "serve to fortify a borderline showing" of minimum-contacts factors. *Id.*

B. Failure to state a claim

23. A motion to dismiss under Minn. R. Civ. P. 12.02(e) requires the Court to determine whether the complaint sets forth a legally sufficient claim for relief. *Bahr v. Cappella Univ.*, 788 N.W.2d 76, 80 (Minn. 2010). The Court must consider only the facts alleged in the complaint, accepting those facts as true and must construe all reasonable inferences in favor of the nonmoving party. *Bodah v. Lakeville Motor Express, Inc.*, 663 N.W.2d 550,

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553 (Minn. 2003). A claim is sufficient against a motion to dismiss for failure to state a claim if it is possible on any evidence which might be produced, consistent with the pleader's theory, to grant the relief demanded. *Walsh v. U.S. Bank, N.A.*, 851 N.W.2d 598, 603 (Minn. 2014).

24. Minnesota is a notice-pleading state and does not require absolute specificity in pleading but requires only information sufficient to fairly notify the opposing party of the claim against it. *Walsh*, 851 N.W.2d at 604–05 (quoting *Hansen v. Robert Half Int'l, Inc.,* 813 N.W.2d 906, 917–18 (Minn. 2012)).

25. A pleading which sets forth a claim for relief shall contain a short and plain statement of the claim showing that the pleader is entitled to relief and a demand for judgment for the relief sought; if a recovery of money is demanded, the amount shall be stated. Minn. R. Civ. P. 8.01.

26. If, on a motion asserting the defense that the pleading fails to state a claim upon which relief can be granted, matters outside the pleading are presented to and not excluded by the Court, the motion shall be treated as one for summary judgment and disposed of as provided in Minn. R. Civ. P. 56, and all parties shall be given reasonable opportunity to present all material made pertinent to such a motion. Minn. R. Civ. P. 12.02.

V. The Court has Personal Jurisdiction

27. The Court will begin with the question of personal jurisdiction, considering each of the *Bandemer* factors in turn.[3]

A. The quantity, nature, and quality of contacts (factors 1 and 2)

28. Defendant asserts Plaintiff cannot establish minimum contacts within Minnesota for its claims as they are all based on nationwide business practices and activities which were not purposefully directed at Minnesota. (Index 95 at 6–7.) Defendant asserts its application is available nationwide, and accordingly, Defendant's actions are directed at users generally, not Minnesota users in particular. (Index 95 at 6–7.) Defendant asserts the same is true of the "terms of service" contracts entered into between Defendant and users, as well as exchanges involving content-creation and in-app purchases—while all of these may be contacts with residents of Minnesota, they are not a contact with Minnesota as a forum state. (Index 95 at 6–7.)

29. Defendant further asserts that data collection and selling targeted third-party advertising do not establish minimum contacts with Minnesota, citing to decisions stating collecting data for advertising purposes, as part of nationwide business practices, does not show targeting a

[3] Defendant provides no Minnesota caselaw to support its argument that jurisdiction must be established on a claim-by-claim basis. (Index 126 at 2.) Further, the Court disagrees with Defendant's argument that Plaintiff's "business model" alleged theories are a loose and spurious form of general jurisdiction. The complaint alleges multiple instances of targeted contacts directed towards Minnesotans.

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specific state, and selling targeted advertising opportunities to third parties does not mean Defendant itself is targeting Minnesota. (Index 95 at 7.) Defendant also asserts Plaintiff's claims do not arise out of the targeted advertisements. (Index 95 at 8.) Finally, Defendant makes the same relatedness argument for its self-advertising in Minnesota. (Index 95 at 8.)

30. Plaintiff asserts Defendant has purposefully directed its business at Minnesota in at least four ways: (1) Defendant contracts with millions of Minnesota residents, many of whom are children, to provide them with access to the application and Defendant's social media services in exchange for the users' data and users' viewing of advertisements. (Index 6, ¶ 29.); (2) Defendant actively promotes its application on Facebook in Minnesota. (Index 6, ¶ 32.); (3) Defendant sells advertising space to businesses on the application which targets Minnesota consumers. (Index 6, ¶ 32.); and (4) Defendant profits from commissions it takes on in-app transactions from Minnesota users. (Index 6, ¶ 34.)

31. These allegations extend beyond Defendant simply existing as an online platform that is accessible nationwide or contracting with Minnesota users via a terms-of-use. Defendant is providing access to its application in exchange for users providing their personal data, which Defendant then collects, monetizes and uses to refine its recommendation algorithms and sell targeted advertising to third parties. (Index 6, ¶¶ 30, 32, 78–79.) Defendant's advertising offerings are not national offerings but specifically allow third parties to tailor messages and offers to specific locations and users in Minnesota. (Index 6, ¶ 32.) Defendant also has advertised its own application in Minnesota through other advertising services. (Index 6, ¶ 32.) Plaintiff has alleged Defendant's application does not involve incidental or passive connections with Minnesota, but specifically tailors content, advertising, and design features to Minnesota users based on behavioral and location data. (Index 6, ¶ 80.) The complaint alleges the specific targeting of Minnesota children has allowed Defendant to increase ad views, e-commerce activity, and service fees. (Index 6, ¶ 35.) The complaint alleges 517,303 Minnesota children, some as young as five years old, were using the app in 2022. (Index 6, ¶ 3.) The complaint alleges Defendant has entered into millions of contracts with Minnesota residents, many of whom are children, to provide them with access to the app and social media services in exchange for their valuable data and user's viewing of advertisements. (Index 6, ¶ 29.) The complaint alleges Defendant uses personal data collected from users, including location, interests, beliefs, viewing habits, and purchasing habits to sell highly targeted advertising space to third-party businesses. (Index 6, ¶¶ 5, 32.) The complaint alleges Defendant ran targeted ads promoting its app on Facebook in Minnesota, with a 2019 ad campaign viewed 1,515,995 times by Minnesota consumers, resulting in 26,710 clicks and 1,678 downloads of the app. (Index 6, ¶ 32.) The complaint alleges Defendant further profits by selling virtual currency and other in-app purchases.[4] (Index 6, ¶¶ 34, 36.)

32. Defendant's reliance on *Hasson v. FullStory, Inc.*, 114 F.4th 181 (3d Cir. 2024), *Rosenthal v. Bloomingdales.com, LLC.*, 101 F.4th 90 (1st Cir. 2024), and *XMission, L.C. v. Fluent LLC*, 955 F.3d 833 (10th Cir. 2020) is misplaced. In these cases, the contacts were incidental or passive online connections to a forum and not specifically directed at a forum.

[4] While specific dollar-values have been alleged, they have been marked confidential and the Court finds listing them here unnecessary.

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In contrast, as noted above, the allegations in this action do not suggest that Minnesotans have downloaded the TikTok app as a result of random, attenuated contacts. *Burger King*, 471 U.S. at 475.

33. Defendant's interpretation of *Rilley*—that its holding and analysis is applicable in the online context and precludes jurisdiction—is also misplaced. (Index 95 at 5–6, citing 884 N.W.2d at 334.) The Minnesota Supreme Court has found that where, like here, a company engages in data collection, marketing and advertising in Minnesota, it has delivered its product into the stream of commerce with the intention that Minnesotans purchase the product. *Bandemer*, 931 N.W.2d at 751. *See also, Rilley* 884 N.W.2d at 329–33 (a business involving electronically collecting personal information from users and providing that information to third parties in a "three-sided transaction" demonstrated a purposeful availment of the Minnesota forum). Upon review, the Court finds Defendant has sufficiently alleged a purposeful availment of the Minnesota forum.

B. The connection of the cause of action with these contacts (factor 3)

34. The third factor considers the relatedness of the claims to the contacts with the forum state. As noted above, Defendant asserts Plaintiff's claims do not arise out of the advertising that Defendant is engaging in, or the advertising Defendant is selling to third parties. In *Rilley*, the Minnesota Supreme Court looked at similar targeted advertising, and noted that although there was no evidence that the advertising itself actually *caused* any of the claims, the advertising was sufficiently *related* to the claims because the advertisements were a means by which defendant offered and sought to sell its unregistered securities to potential American investors. *Rilley* 884 N.W.2d at 337.

35. Here, the complaint alleges Defendant formed an ongoing commercial relationship with millions of Minnesotans, deployed addictive features intentionally designed to trap Minnesotans into endless and compulsive use; and misrepresented the app's safety to Minnesota users and parents. These claims are all related to the contacts with Minnesota addressed above, including the exchange of access for data and the viewing of advertisements, the promotion of the app through advertising, the utilization of user data to sell advertising to third parties, and commissions on in-app transactions.

C. The interest of the state in providing a forum and the convenience of the parties (factors 4 and 5)

36. Defendant did not provide any arguments as to why Minnesota would not have an interest in providing a forum for these claims, or for how this litigation would be inconvenient for the parties. Nevertheless, the Court must consider this factor to determine whether exercising personal jurisdiction over defendant comports with traditional notions of fair play and substantial justice.

37. Minnesota has a strong interest in providing a forum for allegations of fraudulent, deceptive, and unlawful business practices. *Rilley*, 884 N.W.2d at 338 (citing *SoftBrands Mfg., Inc. v. Missing Link Consulting, Inc.*, 2004 WL 2944112, at *7 (D. Minn. Dec. 20,

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2004) (Minnesota has an interest in providing a forum for its citizens to enforce consumer protection suits.) and *Kopperud v. Agers*, 312 N.W.2d 443, 445 (Minn. 1981) (Minnesota has an obvious interest in providing a forum since Minnesotans were defrauded.)).

38. Although it may not be as convenient for Defendant to litigate in Minnesota, the convenience issue is rarely dispositive and Defendant has provided no arguments that would override Plaintiff's choice of forum. *SoftBrands,* 2004 WL 2944112 at *7.

39. A business that operates on a national scale that has signed up millions of Minnesota users, advertises in Minnesota, sells third-party advertising in Minnesota, and earns commissions from monetary transactions involving Minnesota users should reasonably expect it can be sued in Minnesota. *uBID, Inc. v. GoDaddy Group, Inc.*, 623 F.3d 421, 429 (7th Cir. 2010).

40. Defendant has presented no argument that litigating here would be inconvenient. Minnesota is a convenient forum.

D. Conclusion

41. The Court notes that although they are not binding authority, the Court has reviewed, and finds persuasive, decisions addressing similar jurisdictional arguments in New Hampshire, Montana, Mississippi, Arkansas, Iowa, Nevada, Utah, Tennessee, South Carolina, and Oklahoma. (Index 123, n.1.) In all these cases involving online social media platforms, the courts have found personal jurisdiction exists. The reasoning in these cases is persuasive.

42. For all of the above reasons, this Court concludes it has personal jurisdiction; Defendant's motion to dismiss on this basis will be denied.

VI. Plaintiff's claims are not barred by the Communications Decency Act

43. Defendant asserts that Counts I-VI[5] all relate to Defendant's publishing activity and accordingly are barred by 47 U.S.C. § 230—the Communications Decency Act (CDA). Defendant further argues that the Plaintiff's claims target conduct by the platform in its capacity as a publisher. (Index 95 at 9, 13.)

44. Under the CDA, no provider or user of an interactive computer service shall be treated as the publisher or speaker of any information provided by another information content provider. 47 U.S.C. § 230(c)(1). Further, no cause of action may be brought and no liability may be imposed under any State or local law that is inconsistent with the CDA. 47 U.S.C. § 230(e)(3).

45. As applied to state law claims, the CDA only protects from liability: (1) a provider or user of an interactive computer service (2) whom a plaintiff seeks to treat, under a state law cause of action, as a publisher or speaker (3) of information provided by another information content provider. *Barnes v. Yahoo!, Inc.*, 570 F.3d 1096, 1100–01 (9th Cir. 2009).

[5] Defendant has not argued the CDA applies to Count VII, which seeks to hold Defendant liable for engaging in the business of money transmission without a license. (Index 6, ¶¶ 294–307.)

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46. Here, there is no dispute that Defendant is an interactive computer service provider. Accordingly, the Court must consider whether Plaintiff is seeking to hold Defendant liable, as a publisher or speaker of information provided by a third-party.

47. Plaintiff argues the complaint does not seek to treat Defendant as publisher or speaker of any third-party conduct, but instead focuses on Defendant's conduct in three separate areas:

    a. design and deployment of engagement features that induce compulsive use by children (Counts I and II);
    b. misrepresentations and omissions about safety and efficacy of moderation/parental tools (Counts III–VI); and
    c. the operation of an unlicensed virtual-currency monetization system (Count VII).

    (Index 123 at 16.)

48. Counts I and II allege that Defendant incorporated addictive features, including its recommendation engine, infinite scroll, push notifications, filters, and LIVE, to drive compulsive, excessive use by children at the expense of their well-being. (Index 6, ¶¶ 220–246.)

49. Defendant argues that its algorithm-based recommendation system is classic publishing activity protected under the CDA. In support of this position, Defendant cites to *In re Soc. Media Adolescent Addiction/Pers. Injury Prod. Liab. Litig.*, which states a recommendation function is indistinguishable from publishing, as it is the means through which third-party content is published to users. 702 F. Supp. 3d 809, 832 (N.D. Cal. 2023). Defendant also argues other functions, including the infinite scroll, notifications, TikTok LIVE, likes/comments, and effects/filters are all forms of publishing activity protected under the CDA.

50. Defendant's reliance on this case is misplaced. *In re Soc. Media*, the court provides a broad overview of other cases addressing the application of the CDA to social media lawsuits, and concludes the CDA is nuanced, with some features, including not providing effective parental controls, not providing options to users to self-restrict time, not using robust age verification, making it challenging for users to report predator accounts, the offering of appearance-altering filters, and not labeling filtered content is not barred by the CDA as these activities are not equivalent to publishing. 702 F. Supp. 3d at 829. In *In re Soc. Media*, the court determined other features, including failing to install blocks during certain times of day, not providing a beginning and end to a user's feed, recommending minor accounts to adult strangers, timing and clustering of notifications in a way that promotes addiction, and use of algorithms to promote addictive engagement were directly tied to the defendants' roles as publishers and liability for such was barred by the CDA. *Id.* at 831. In doing so, *In re Soc. Media* noted the plaintiffs therein did not allege the recommendation functions are themselves dangerous, but alleged they were dangerous because of the specific third-party content that was recommended (adult profiles). *Id.* at 832.

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51. Defendant also points to *Angelilli v. Activision Blizzard, Inc.*, to support the assertion the CDA bars claims premised on the addictiveness of user-generated games on an online platform. 781 F. Supp. 3d 691 (N.D. Ill. 2025).

52. The present case before the Court is distinguishable from both of the above cases as Plaintiff is not seeking to hold Defendant liable for the nature of any third-party content, but is seeking to hold Defendant liable for the harm caused by the addictive features incorporated by design into Defendant's app. Further, while the *Angelilli* court held the CDA shielded the defendant therein from liability for claims premised on the addictiveness of user-generated games, it also held CDA does not provide immunity for the defendant's own content (features which allowed players to spend money to modify their in-game avatars). *Id.* at 699–700.

53. No subsection of the CDA declares a general immunity from liability deriving from third-party content. *Barnes*, 570 F.3d at 1100. Even if a provider is acting as a publisher in releasing an app and its various features to the public, if claims rest on nothing more than the provider's own acts, and not on "information provided by another information content provider," then the CDA does not apply. *Lemmon v. Snap, Inc.*, 995 F.3d 1085, 1094 (9th Cir. 2021). A defendant loses CDA immunity to the extent that the cause of action seeks to treat the defendant as the publisher or speaker of its *own* content—or content that it created or developed in whole or in part—rather than as the publisher or speaker of entirely third-party content. *Doe v. Grindr Inc.*, 128 F.4th 1148, 1151 (9th Cir. 2025) (citing *Calise v. Meta Platforms, Inc.*, 103 F.4th 732, 744 (9th Cir. 2024)).

54. Upon review, the Court agrees with Plaintiff that the allegations supporting Counts I and II are distinguishable from claims based on the publishing of letters to the editor, op-eds, or other newspaper and magazine articles. The harm alleged is not from the third-party content, but from the design of the application itself, and is accordingly not protected by the CDA.

55. Counts III and IV seek to hold Defendant liable for brokering unlawful transactions, including sex trafficking, money laundering, drug sales, and gambling, through its live-streaming feature, TikTok LIVE. (Index 6, ¶¶ 247–72.)

56. Plaintiff is alleging that Defendant knows that LIVE's streaming feature and currency system are sexually exploiting children, and the coins encourage addiction. Plaintiff points to Defendant's design features as the basis for liability. In doing so, Plaintiff is not seeking to impose liability for the specific content available on Defendant's app, but for how the app's features are designed to facilitate known harm. *See*, *e.g.*, *HomeAway.com, Inc. v. City of Santa Monica*, 918 F.3d 676 (9th Cir. 2019); *Airbnb, Inc. v. City & Cnty. of San Francisco*, 217 F. Supp. 3d 1066 (N.D. Cal. 2016) (courts have refused CDA immunity to online platforms who process short-term rental transactions for unregistered properties in violation of local ordinances).

57. Counts V and VI seek to hold Defendant liable for Defendant's own misrepresentations and omissions about specific harms and safety risks associated with its platform. (Index 6, ¶¶ 273–93.)

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58. As in *Barnes*, Plaintiff's allegations on these counts arise from Defendant's own misrepresentations and omissions about the safety of its policies and tools. Plaintiff cites to *Demetriades v. Yelp, Inc.*, where the court found the CDA did not apply to allegations seeking to impose liability for defendant's own statements regarding the accuracy of its content filter. 175 Cal. Rptr. 3d 131, 145 (Cal. Ct. App., 2014). The same analysis applies here. Plaintiff's allegations are based on Defendant's own alleged misstatements about the safety of its platform and its moderation policies.

59. Defendant's reliance on *Grindr* is misplaced. Therein, the court held there was no duty to warn because the defendant had no independent knowledge of the harm. 128 F.4th at 1154. Here, like in *Lemmon*, Plaintiff alleges an interplay between defendant's reward system and the harm and Defendant's knowledge about the harm and failure to warn. 995 F.3d at 1092.

60. The strongest support for Defendant's arguments comes from *Oregon ex. Rel. Rosenblum v. TikTok Inc., et al.*, No. 24CV-48473 (Or. Cir. Jun. 13, 2025). (Index 93, Ex. A.) However, the Court has considered the reasoning in *Rosenblum* and is not persuaded. The *Rosenblum* court appears to have read the theory of liability therein as based on amplification of others' content and as an attempt to hold TikTok liable for the consumption of third-party content by minors, not as a lawsuit attacking coercive design tactics. Here, Plaintiff's allegations are strictly based on Defendant's own conduct related to the deployment of features designed to induce compulsive behavior, conduct regarding safety of the features, and conduct related to the operation of an online monetization system. The allegations are not simply based on the content-amplification of others' content.

61. Further, the Court has considered the reasoning in a plethora of decisions from across the country that have rejected Defendant's CDA arguments in similar cases. (*See*, *e.g.*, Index 123, n.3.) While not binding, the Court finds the reasoning in these cases to be persuasive.

62. Upon review, the Court concludes all of Plaintiff's claims are based on allegations of Defendant's own acts, and none of them seek to hold Defendant liable for the specific "information provided by another information content provider." Accordingly, Plaintiff's claims are not barred by the Communications Decency Act, and Defendant's motion to dismiss on this basis will be denied.

VII. Plaintiff's claims are not barred by the First Amendment

63. Defendant asserts that Plaintiff's claims are barred by the First Amendment, which protects Defendant's right as a publisher to choose what material to publish, and editorial judgments about how to publish it, arguing that all of its app's design features are such publishing choices. (Index 95 at 11–12.) Defendant cites to *Miami Herald Pub. Co. v. Tornillo*, 418 U.S. 241 (1974) and *Moody v. NetChoice, LLC*, 603 U.S. 707 (2024) to support this argument.

64. Defendant also asserts Plaintiff's omission-based claims are barred by the First Amendment because the First Amendment's compelled-speech doctrine bars the government from requiring companies to issue warnings about the safety of their goods or services except when

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the warnings consist of purely factual and uncontroversial information. (Index 95 at 15, citing *NetChoice, LLC v. Bonta*, 113 F.4th 1101, 1120–21 (9th Cir. 2024).)

65. Plaintiff argues its claims do not seek to compel or restrict any speech—the challenged addictive design features and unlicensed money transmission practices do not convey any message with which Plaintiff's claims could interfere. Instead, Plaintiff claims Defendant's use of algorithms and other challenged features is conduct, not protected speech. (Index 123 at 24.) Plaintiff further argues that its allegations focus on Defendant's explicit false statements and misleading omissions about how it designed its app and the steps it takes to ensure children's safety on the platform. (Index 123 at 25.)

66. The allegations in this case do not seek to prevent or convey any message or viewpoint, and the complaint does not target or criticize the specifics or nature of the third-party content available on the platform. Instead, the complaint brings claims based on actions taken by Defendant regarding addictive features and Defendant's own alleged misleading statements about the safety and efficacy of the platform. The Court agrees with Plaintiff that Defendant's actions are conduct, not speech, and accordingly not protected by the First Amendment.

67. Defendant's reliance on *Miami Herald* and *Moody* is misplaced. Both of these cases involved choices made by publishers to exclude information submitted by third parties—the publisher in *Miami Herald* refusing to print replies to an editorial, and the publishers in *Moody* engaging in online content moderation. Further, in reviewing these decisions, the Supreme Court specifically did not address the type of allegations regarding algorithms in this case that react to users acting online.

68. The Court has already noted above that the claims are not based on Defendant's role as a publisher of third-party content. The fact that a publisher handles news does not afford the publisher a peculiar constitutional sanctuary in which he can with impunity violate laws regulating his business practices. *Associated Press v. United States*, 326 U.S. 1, 7 (1945). The complaint does not seek to compel or restrict any speech, but challenges addictive design features and unlicensed money transmission practices, and specifically challenges Defendant's misrepresentations and omissions. These claims do not seek to force Defendant to publish statements regarding safety but challenge the statements Defendant has voluntarily made as constituting a deceptive trade practice. Such alleged actions are not protected by the First Amendment.

69. The Court has also reviewed orders from numerous other courts provided by Plaintiff where arguments nearly identical to those made by Defendant have been rejected. (*See*, *e.g.*, Index 123, n.1.) The Court agrees with those analyses.

70. Finally, the parties dispute whether the Court should apply strict scrutiny or intermediate scrutiny. However, as there is no burden on speech, neither is applicable.

VIII. Plaintiff's claims do not require heightened pleading under Minn. R. Civ. P. 9.02

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71. Counts I–VI are brought under the Uniform Deceptive Trade Practices Act (DTPA) and Prevention of Consumer Fraud Act (CFA). Defendant asserts the particularity requirement of Minn. R. Civ. P. 9.02[6] applies to DTPA and CFA claims when they sound in intentional misrepresentations and omissions.

72. Plaintiff responds that claims involving fraud under the DTPA and CFA are *statutory*, and thereby carry a different pleading standard than common-law fraud.

73. In *Group Health Plan, Inc. v. Philip Morris Inc.*, the Minnesota Supreme Court noted:

> In passing consumer fraud statutes, the legislature clearly intended to make it easier to sue for consumer fraud than it had been to sue for fraud at common law. The legislature's intent is evidenced by the *elimination* of elements of common law fraud, such as proof of damages or reliance on misrepresentations.

621 N.W.2d 2, 12 (Minn. 2001) (citing *State by Humphrey v. Alpine Air Prods., Inc.*, 500 N.W.2d 788, 790 (Minn. 1993)) (emphasis in original).

74. In *Graphic Communications Local 1B Health & Welfare Fund A v. CVS Caremark Corp.*, the Minnesota Supreme Court applied Minn. R. Civ. P. 8.01 when considering a motion to dismiss an alleged CFA violation, determining that the plaintiff had sufficiently plead a claim under the CFA, as the plaintiff "need only plead that the defendant engaged in conduct prohibited by the [CFA] and that the plaintiff was damaged thereby." 850 N.W.2d 682, 693 (Minn. 2014) (citing *Group Health*, 621 N.W.2d at 12).

75. The Court therefore concludes that because Counts I–VI are statutory claims brought under the DTPA and CFA, Plaintiff is only required to meet the pleading standard of Minn. R. Civ. P. 8.01, and to plead Defendant was engaged in conduct prohibited by the statutes and Plaintiff was damaged thereby. Plaintiff has done so. None of the claims will be dismissed for lack of pleading with particularity.

IX. Plaintiff's money-transmission claims do not require a referral

76. Count VII alleges Defendant has engaged in the business of money transmission without a license in violation of the Minesota Money Transmission Act (MTA)—Minn. Stat. § 53B.36(a). (Index 6, ¶ 294–307.) The complaint alleges the Attorney General is authorized to prosecute any violations of Minnesota law respecting unfair, discriminatory, or other unlawful practices in business, commerce, or trade pursuant to Minn. Stat. § 8.31, subd. 2. (Index 6, ¶ 295.)

[6] In all averments of fraud or mistake, the circumstances constituting fraud or mistake shall be stated with particularity. Malice, intent, knowledge, and other condition of mind of a person may be averred generally.

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77. Defendant moves to dismiss Count VII, asserting that although the MTA allows the Attorney General to sue for MTA violations, Minn. Stat. § 45.027, subd. 5 states that the Attorney General can only do so if the commissioner of commerce first (1) finds that someone has engaged in or is about to engage in a violation of the MTA, and then (2) refers the matter to the Attorney General. (Index 95 at 19–20.) Defendant asserts there is no allegation that the commissioner made the required referral. Defendant further asserts that the general law-enforcement powers outlined in Minn. Stat. § 8.31, subd. 2 only apply to specifically listed laws which do not include the MTA. Defendant asserts allowing the Attorney General to use its general powers to bypass the MTA would render the MTA's two-tier enforcement scheme functionally meaningless.

78. Plaintiff cites to the Minnesota Supreme Court's determination that the list of laws set out in Minn. Stat. § 8.31, subd. 1 is not intended to be exclusive. (Index 123 at 32, citing *Morris v. Am. Fam. Mut. Ins. Co.*, 386 N.W.2d 233, 236 (Minn. 1986).) Plaintiff also notes that the Minnesota Court of Appeals has determined Minn. Stat. § 45.027 does not require the Attorney General to consult with the commissioner before commencing an action—that the commissioner of commerce has the authority to investigate and prosecute claims does not mean the attorney general is precluded from doing so. *State ex rel. Hatch v. Am. Family Mut. Ins. Co.*, 609 N.W.2d 1, 4 (Minn. Ct. App. 2000).

79. Minn. Stat. § 45.027, subd. 5 does not require an action by the commissioner, but states that the commissioner *may* bring an action *or* refer the matter to the attorney general or the county attorney. There is no language in Minn. Stat. § 45.027, subd. 5 stating the commissioner is required to refer the matter before the attorney general or a county attorney can take action, nor is there anything stating the commissioner's power to bring or refer an action is exclusive. Although the commissioner has the authority to bring a court action, it does not necessarily follow that the commissioner's power to bring suit is exclusive. *Hatch*, 609 N.W.2d at 4.

80. Defendant counters that *Hatch* states the Attorney General is authorized to bring suit when the alleged violation is specifically listed in Minn. Stat. § 8.31, subd. 1, or when the violation involves an unfair business practice. (Index 126 at 15, citing *Hatch*, 609 N.W.2d at 3.) Defendant asserts neither is true here. Defendant also notes that Minn. Stat. § 8.31, subd. 1 lists Chapter 53A, but excludes 53B, and the legislature's decision to omit the MTA must indicate it did not intend to confer plenary power on the Attorney General over money-transmission activity.

81. The Court notes Minn. Stat. § 8.31, subd. 1 states the Attorney General *shall* investigate violations of the law of this state respecting unfair, discriminatory, and other unlawful practices in business, commerce, or trade, and specifically, *but not exclusively*, the [designated sections].

82. Minn. Stat. § 8.31, subd. 2 states when the attorney general has information providing a reasonable ground to believe that any person has violated, or is about to violate, any of the laws of this state referred to in subdivision 1, the attorney general shall have power to investigate those violations, or suspected violations, and to take such steps as are necessary to cause the arrest and prosecution of all persons violating any of the statutes specifically

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mentioned in subdivision 1 *or any other laws respecting unfair, discriminatory, or other unlawful practices in business, commerce, or trade*.

83. Minn. Stat. § 53B.36(a) states "A person is prohibited from engaging in the business of money transmission, or advertising, soliciting, or representing that the person provides money transmission, unless the person is licensed under this chapter." (emphasis added.)

84. It is clear from the plain reading of Minn. Stat. § 53B.36(a) that that statute addresses an unlawful practice in business. Accordingly, Minn. Stat. § 8.31, subd. 2 grants the Attorney General the power "to investigate those violations, or suspected violations, and to take such steps as are necessary to cause the arrest and prosecution of all persons violating any of the statutes."

85. Minn. Stat. § 8.31 is broad and requires no referral from the commissioner or any other body. In contrast, Minn. Stat. § 45.027, subd. 5 states the commissioner *may* bring an action *or* refer the matter to the attorney general or the county attorney. Again, no action is *required* by the commissioner, and it makes sense that if the commissioner chooses not to pursue an action, the option is available to refer an investigation to either the attorney general or a county attorney.

86. The statute does not state that a referral by the commissioner is required, and asking the Court to read such an interpretation into the statute ignores the broad authority granted to the Attorney General by Minn. Stat. § 8.31 and the Minnesota Constitution. *State ex rel. Peterson v. City of Fraser*, 254 N.W. 776, 778–79 (Minn. 1934) (The discretion of the Attorney General is plenary. He is a constitutional officer and, as such, the head of the state's legal department. His discretion as to what litigation shall or shall not be instituted by him is beyond the control of any other officer or department of the state).

87. The Court concludes Count VII does not fail for lack of a referral from the commissioner of commerce, and Defendant's motion to dismiss on that basis is denied.

IT IS ORDERED

1. Defendant's motion to dismiss is hereby DENIED.

2. The above memorandum is incorporated herein.

BY THE COURT

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Rachna Sullivan
Judge of District Court