Opinion | Lawsuits aren’t the best way to keep the tech industry honest

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Two years ago, a Facebook whistleblower showed the world that the company now known as Meta was aware that Instagram is harmful to the mental health of many teen users, yet it proceeded to engineer the platform to be as addictive as possible. Two weeks ago, 41 states sued Meta.

This might seem like an enormous step toward justice and a safer online environment for our children. But if we’re not careful, it could backfire — and drive the tech industry to abandon any effort at all at understanding or mitigating the deleterious effects of its products.

At issue in the lawsuits is not just that Meta caused harm, but that it knowingly caused harm. Allegations that the company uncovered significant health risks and kept the research under wraps are serious. But let’s not overlook the obvious, and unfortunate, economics here. If uncovering risks causes financial, legal and reputational damage to a company, the safest bet from a corporate perspective is to avoid looking for them.

With tech companies racing to put chatbots and other generative artificial intelligence products in the hands of millions of children, reshaping their social lives and cognitive development in unknown ways, this is a risk we can’t afford.

Consider that earlier this year, Snap, which runs the popular messaging platform Snapchat, released a chatbot called My AI, allowing users to exchange messages with an omnipresent digital companion. Just two months later, Snap boasted that “over 150 million people have sent over 10 billion messages to My AI.” Snapchat’s audience veers youthful, with one-fifth of its users (more than 125 million people) younger than 18. This is a staggering number of young minds to gleefully experiment on.

Will children become addicted to this chatbot that is available 24 hours a day? Will they become less inclined to form human friendships as a result? It would take extensive research to answer such questions, but it’s naive to hope that Snap would voluntarily go to that expense, particularly when there’s a risk it won’t like what it finds.

Not to be outdone by Snap, Meta is now releasing AI-powered celebrity personas for users to chat with. Will AI clones of Tom Brady and Kendall Jenner worsen Instagram’s alleged tendency to addict kids? Don’t count on Meta looking into that now.

And yet we urgently need a better understanding of the effects of chatbots and AI — not only to prevent damaging a whole generation, but also to avoid unsubstantiated fearmongering and ill-conceived regulation that aims to solve problems that might not exist.

Children’s online safety has attracted lots of attention from politicians, and the public and is likely to see more action on it than any other area of internet regulation. The path forward should include many approaches under discussion, such as better children’s data privacy protections (a key part of the Meta lawsuits) to prevent tech companies from using kids’ info to target them with addictive features and manipulative ads; better age limits and parenting controls; and better data access for researchers. (The White House’s executive order on AI
issued last month includes many important provisions related to safety and transparency, but children’s mental health seems to be mostly overlooked.)

But we also need more tech companies to ask uncomfortable questions of themselves and assemble research teams to probe them — and act on the results. This means warning users of potential harms and making design choices that mitigate them even when doing so reduces short-term revenue.

How do we make this happen? For one, let’s regulate the tech industry the way we do the medical or pharmaceutical industries. Just as drug companies must test their medicines, tech companies should be required to thoroughly vet and establish the safety of their products before releasing them to the public. This need not apply to all products, but certainly to ones that reach millions of children in their formative years. The tech industry might argue that this would significantly slow product development, but recent polls around AI suggest that’s precisely what the public wants. If we can wait for vaccines during a deadly pandemic, surely we can wait for chatbots aimed at children.

The point is not to get tech companies to shelve products — it’s to push them to design products with more care, removing especially problematic features and adding caution labels when safety is uncertain. Tech products are tweaked constantly, and their use and impact change over time (think of TikTok evolving from a dance platform to a source of news and wellness advice, etc.), so continuous monitoring and research should likewise be mandated.

We could take some lessons from the European Union’s recently passed Digital Services Act requiring companies such as Meta to perform risk assessments and disclose the results, particularly those concerning children. The act also requires external audits and ensures that outside researchers have access to platform data, so that companies aren’t just grading their own homework — an idea we urge U.S. regulators to adopt.

The sentiment behind the lawsuits against Meta is justified. But while we must punish companies for their malfeasance, we must also be mindful of exacerbating the very problems we aim to address by discouraging the tech industry from the difficult introspection and transparency society desperately needs from it.