

NKU CHASE COLLEGE OF LAW

Real Harm to Real People

A Restorative Justice Theory for
Social Media Company
Accountability

By: Matthew F. Carlin



Lemmon
v.
Snap, Inc.
(9th Cir. 2021)



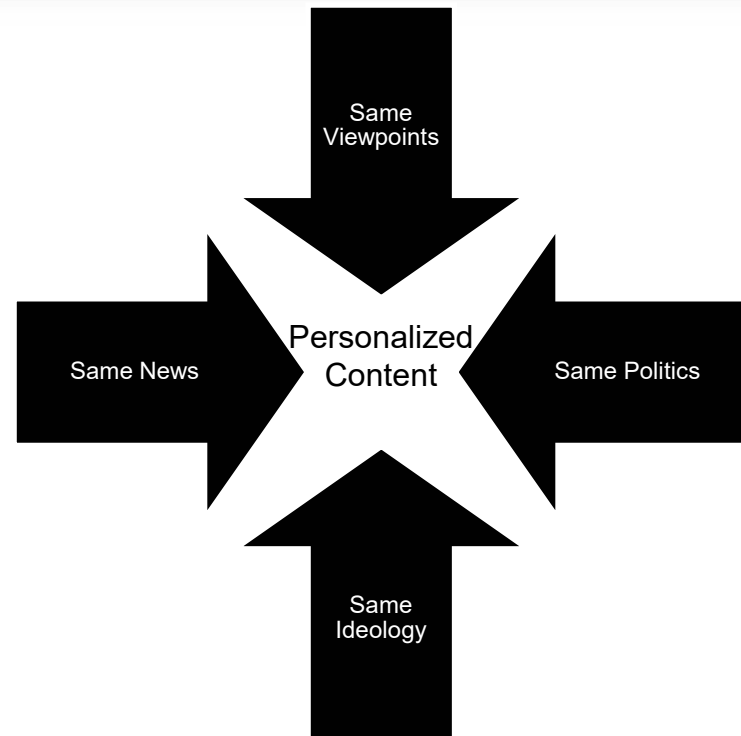
Snapchat Speed Filter



"It's time to protect our innocent young people instead of allowing [social media] platforms to prioritize their profits by monetizing the misery of children."

-Ian Russell, father of victim Molly Russell.

Algorithm-created Filter Bubbles



The Facebook Files – Wall Street Journal (2021)

- *Facebook Says Its Rules Apply to All. Company Documents Reveal a Secret Elite That's Exempt*
- *Facebook Knows Instagram Is Toxic for Many Teen Girls, Company Documents Show*
- *Facebook Tried to Make Its Platform a Healthier Place. It Got Angrier Instead.*
- *Facebook Employees Flag Drug Cartels and Human Traffickers. The Company's Response Is Weak, Documents Show.*
- *How Facebook Hobbled Mark Zuckerberg's Bid to Get America Vaccinated*
- *Facebook's Effort to Attract Preteens Goes Beyond Instagram Kids, Documents Show*
- *Facebook's Documents About Instagram and Teens, Published*
- *Is Sheryl Sandberg's Power Shrinking? Ten Years of Facebook Data Offers Clues*
- *The Facebook Whistleblower, Frances Haugen, Says She Wants to Fix the Company, Not Harm It*
- *Facebook Says AI Will Clean Up the Platform. Its Own Engineers Have Doubts.*
- *How Many Users Does Facebook Have? The Company Struggles to Figure It Out*
- *Facebook Increasingly Suppresses Political Movements It Deems Dangerous*
- *Facebook Services Are Used to Spread Religious Hatred in India, Internal Documents Show*
- *Facebook's Internal Chat Boards Show Politics Often at Center of Decision Making*
- *Is Facebook Bad for You? It Is for About 360 Million Users, Company Surveys Suggest*
- *Facebook Allows Stolen Content to Flourish, Its Researchers Warned*
- *Facebook's Pushback: Stem the Leaks, Spin the Politics, Don't Say Sorry*



Frances Haugen

Profits

over

User well-being





Communications Decency Act (1996) Section 230

(c)(1): “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.”

Restorative Justice



“[P]arties who have caused harm or who have been harmed and community stakeholders collectively gather to identify and repair harm to the extent possible, address trauma, reduce the likelihood of further harm, and strengthen community ties by focusing on the needs and obligations of all parties involved through a participatory process.”

- Hon. Stuart Katz (Ret.) & Patrick Keenan-Devlin, *Restorative Justice Privilege*, 110 ILL. B.J. 36, 37 (2022)



Incentives

- Section 230 Immunity
- Evidentiary Privilege



Deterrents

- Equitable powers of the court
- Mitigation/SEP's
- Antitrust Actions



735 ILCS 5/[8-804.5] Parties to a restorative justice practice.

(a) This Section is intended to encourage the use of restorative justice practices by providing a privilege for participation in such practices and ensuring that anything said or done during the practice, or in anticipation of or as a follow-up to the practice, is privileged and may not be used in any future proceeding unless the privilege is waived by the informed consent of the party or



“Building Global Community”

Mark Zuckerberg, 2021

“As we build a global community, this is a moment of truth. Our success isn’t just based on whether we can capture videos and share them with friends. **It’s about whether we’re building a community that helps keep us safe—that prevents harm**, helps during crises, and rebuilds afterward.

. . . .

The purpose of any community is to bring people together to do things we couldn’t do on our own. To do this, **we need ways to share new ideas and share enough common understanding to actually work together.**”

The logo for NKU Chase College of Law features the text "NKU CHASE" on the top line and "COLLEGE OF LAW" on the bottom line, both in a black serif font. A stylized yellow flame icon is positioned between the "U" and "C".

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Thank you!