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Algorithmic Design, Product Liability, and the Protection of Children Online: K.G.M. v. Meta Platforms, Inc., et al. and Lessons for Brazil's Digital ECA

"Design Algorítmico, Responsabilidade pelo Produto e a Proteção de Crianças On-line: o caso K.G.M. v. Meta Platforms, Inc., et al. e Lições para o ECA Digital do Brasil"

"Diseño Algorítmico, Responsabilidad por Producto y la Protección de Niños en Línea: K.G.M. v. Meta Platforms, Inc., et al. y Lecciones para el ECA Digital de Brasil"

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Abstract

This article examines the emerging legal paradigm of algorithmic accountability through a comparative analysis of the U.S. litigation *K.G.M. v. Meta Platforms, Inc., et al.* and Brazil's Digital Statute for Children and Adolescents (Brasil, 2025). It argues that both developments signal a structural shift in the legal treatment of digital platforms, from neutral intermediaries protected by broad immunity regimes to designers of behavioral environments subject to duties of care, safety, and risk mitigation. The analysis focuses on how plaintiffs in K.G.M. advance a conduct-based theory of liability that targets platform architecture such as algorithmic recommendation systems, infinite scroll, and engagement-maximizing features rather than third-party content, thereby challenging the traditional scope of Section 230 immunity. The article adopts a doctrinal and interdisciplinary approach, combining legal analysis of intermediary liability, product liability, and constitutional constraints with a review of contested empirical literature on social media and adolescent mental health. It examines the role of corporate knowledge, internal documents, and foreseeability in establishing liability, while also addressing the limits of analogies to prior public health litigation, particularly the tobacco cases. The findings suggest that, although scientific evidence on social media harms remains heterogeneous, the legal standard of foreseeability does not require consensus, and internal corporate awareness plays a decisive role in bridging evidentiary gaps. In the comparative section, the article analyzes the Digital ECA as a proactive regulatory framework that operationalizes similar concerns through ex ante obligations, including safety-by-design requirements, risk assessment, and restrictions on exploitative practices. It argues that the Brazilian model represents a legislative consolidation of theories that are still being tested through litigation in the United States. The article concludes that these parallel developments reflect a broader transnational convergence toward recognizing platform design as a source of legally cognizable harm.

Keywords: Section 230, product liability, platform design, K.G.M. v. Meta, Digital ECA, children's online safety, USA, Brazil

Resumo

Este artigo examina o paradigma jurídico emergente da responsabilização algorítmica por meio de uma análise comparada do litígio estadunidense K.G.M. v. Meta Platforms, Inc., et al. e do Estatuto Digital da Criança e do Adolescente brasileiro (Brasil, 2025). Argumenta-se que ambos os desenvolvimentos sinalizam uma mudança estrutural no tratamento jurídico das plataformas digitais, as quais deixam de ser tratadas como intermediários neutros, protegidos por regimes de imunidade, e passam a ser consideradas projetistas de ambientes comportamentais, sujeitas a deveres de cuidado, segurança e mitigação de riscos. A análise concentra-se em como os autores em K.G.M. avançam na teoria de responsabilidade baseada na conduta, que tem como alvo a arquitetura da plataforma — a qual abrange sistemas de recomendação algorítmica, rolagem infinita e funcionalidades de maximização de engajamento —, e não o conteúdo de terceiros, desafiando, assim, o alcance tradicional da imunidade conferida pela Seção 230. O artigo adota uma abordagem doutrinária e interdisciplinar, combinando análise jurídica sobre responsabilidade de intermediários, responsabilidade pelo fato do

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produto e restrições constitucionais com uma revisão da literatura empírica contestada sobre mídias sociais e saúde mental de adolescentes. Investiga-se o papel do conhecimento corporativo, dos documentos internos e da previsibilidade na configuração da responsabilidade, ao mesmo tempo em que se abordam os limites das analogias com litígios anteriores de saúde pública, particularmente os casos do tabaco. Os resultados sugerem que, embora as evidências científicas sobre os danos das mídias sociais permaneçam heterogêneas, o padrão jurídico de previsibilidade não exige consenso e o conhecimento corporativo interno torna-se decisivo na superação de lacunas probatórias. Na seção comparada, o artigo analisa o ECA Digital como um marco regulatório proativo, que operacionaliza preocupações semelhantes por meio de obrigações ex ante, incluindo requisitos de segurança, desde a concepção (safety-by-design) até a avaliação de riscos e de restrições a práticas exploratórias. Ademais, sustenta-se que o modelo brasileiro representa uma consolidação legislativa de teorias que ainda estão sendo testadas por meio de litígios nos Estados Unidos. O artigo conclui que esses desenvolvimentos paralelos refletem uma convergência transnacional mais ampla, no sentido de reconhecer o design de plataformas como uma fonte de dano juridicamente cognoscível.

Palavras-chave: *Seção 230, responsabilidade civil pelo produto, design de plataforma, K.G.M. v. Meta, Digital ECA (Lei de Segurança On-line para Crianças), segurança infantil on-line, EUA, Brasil.*

Resumen:

Este artículo examina el paradigma jurídico emergente de la responsabilidad algorítmica a través de un análisis comparativo del litigio estadounidense K.G.M. v. Meta Platforms, Inc., et al. y el Estatuto de la Niñez y Adolescencia Digital de Brasil (Brasil, 2025). Se argumenta que ambos desarrollos señalan un cambio estructural en el tratamiento legal de las plataformas digitales, pasando de ser intermediarios neutrales protegidos por regímenes amplios de inmunidad a ser diseñadores de entornos conductuales sujetos a deberes de cuidado, seguridad y mitigación de riesgos. El análisis se centra en cómo los demandantes en K.G.M. presentan una teoría de responsabilidad basada en la conducta que apunta a la arquitectura de la plataforma —como los sistemas de recomendación algorítmica, el desplazamiento infinito (infinite scroll) y las funciones de maximización del compromiso— en lugar del contenido de terceros, desafiando así el alcance tradicional de la inmunidad de la Sección 230. El artículo adopta un enfoque doctrinal e interdisciplinario, combinando el análisis jurídico de la responsabilidad de intermediarios, la responsabilidad por el producto y las restricciones constitucionales con una revisión de la literatura empírica sobre redes sociales y salud mental adolescente. Se examina el papel del conocimiento corporativo, los documentos internos y la previsibilidad en el establecimiento de la responsabilidad, abordando también los límites de las analogías con litigios previos de salud pública, particularmente *los casos del tabaco. Los hallazgos sugieren que, aunque la evidencia científica sobre los daños de las redes sociales sigue siendo heterogénea, el estándar legal de previsibilidad no requiere consenso, y la conciencia corporativa interna desempeña un papel decisivo para cerrar las brechas probatorias. En la sección comparativa, el artículo analiza el ECA Digital como un marco regulatorio proactivo que operativiza preocupaciones similares mediante obligaciones ex ante, incluyendo requisitos de seguridad desde el diseño (safety-by-design), evaluación de riesgos y restricciones a prácticas explotadoras. Se argumenta que el modelo brasileño representa una consolidación legislativa de teorías que aún se están probando mediante litigios en los Estados Unidos. El artículo concluye que estos desarrollos paralelos reflejan una convergencia transnacional más amplia hacia el reconocimiento del diseño de la plataforma como una fuente de daño legalmente reconocible.*

Palabras clave: *Sección 230; responsabilidad por el producto; diseño de plataforma; K.G.M. v. Meta; ECA Digital; seguridad infantil online; EE. UU.; Brasil.*

1 Introduction

A Los Angeles courtroom served as the stage for what may prove to be the most consequential legal confrontation the global technology industry has faced since the passage of Section 230 of the Communications Decency Act of 1996. In the trial of *K.G.M. v. Meta Platforms, Inc.*, consolidated within California Judicial Council Coordination Proceeding (JCCP) No. 5255, a jury was asked, for the first time, to determine whether the design of social media platforms, specifically, the algorithmic and architectural choices that maximize user engagement, can give rise to liability under tort law (Koya, 2025; Rossini, 2026). The case centers on K.G.M., a California woman born in 2006 who alleges that she began using YouTube at age 6 and opened accounts on Instagram, Snapchat, and TikTok by age 14, and that her prolonged exposure to those platforms caused depression, anxiety, body dysmorphia, and suicidal ideation (Grabenstein, 2026; Verus LLC, 2026).

The legal theory the plaintiffs advanced is structural: the harm, they argued, was not caused by any particular piece of content that another user uploaded, but by the deliberately engineered features of the platforms themselves, such as infinite scrolling, autoplay, algorithmically personalized recommendation feeds, notification systems calibrated to generate anxiety, and variable reward mechanisms that are structurally analogous[1] to those found in slot machines (Rossini; Zanatta, 2026). This framing attempted to relocate the case outside discussions of free speech and the immunity conferred by Section 230 in the USA, which protects platforms from liability as “publishers” of third-party

[1] The slot machine analogy, while descriptively apt — both slot machines and social media engagement features operate on variable ratio reinforcement schedules that produce compulsive repetitive behavior (Alter, 2018; Drummond; Sauer, 2018) — has significant doctrinal limits as litigation precedent. Tort claims against slot machine manufacturers and casino operators have overwhelmingly failed to produce compensatory damages for gamblers, because courts have treated gambling losses as the voluntary consequence of a known risk rather than as an injury attributable to a product defect. *See, e.g.*, *Mason v. Machine Zone, Inc.*, No. 1:15-cv-01045 (United States, 2016). Where regulatory action has occurred, as in Belgium’s classification of loot boxes as gambling (Xiao, 2023), the remedy has been prospective prohibition, not retrospective indemnification. The K.G.M. plaintiffs navigate this gap by characterizing the harm not as financial loss but as psychological and developmental injury — depression, anxiety, suicidal ideation — inflicted on a neurologically vulnerable population incapable of informed consent. The jury’s $3 million compensatory award suggests the recharacterization was persuasive. Brazil’s Digital ECA reflects the same doctrinal lesson: rather than seeking ex post compensation for slot-machine-like harms, it prohibits the features themselves ex ante (Articles 8 and 20, Lei No. 15.211/2025; also, Federal Decree 12.880/2026, Articles 9 and 10).

content, and into the domain of product liability law, which imposes obligations of safety and due diligence on companies whose products are unreasonably dangerous (Brannon; Holmes, 2023; Rozenshtein, 2024).

The stakes extend well beyond one plaintiff. K.G.M.'s case is a "bellwether trial"[2] selected from a consolidated pool of approximately 1,600 plaintiffs, including more than 350 families and 250 school districts (Verus LLC, 2026). The legal teams and evidence base of JCCP 5255 overlap with those of the parallel federal multidistrict litigation (MDL 3047), which involves hundreds of additional claims. The K.G.M. proceedings parallel the tobacco litigation of the 1990s not only in its structural concerns about corporate knowledge of harm, but also in its anticipated socio-legal function: catalyzing a recalibration between an industry's profit model and its duties to the public.[3]

This article proceeds in four parts. Section 2 examines the legal architecture of Section 230 and the conduct-versus-content distinction that plaintiffs in the K.G.M. proceedings have advanced. Section 3 analyzes the product liability theory, the role of corporate knowledge, and the evidentiary significance of internal documents — including the contested scientific literature on adolescent vulnerability and the limits of the 'tobacco analogy' — and reports the key findings from the jury verdict. Section 4 examines Brazil's Digital ECA as a comparative framework that independently converges on similar structural commitments, situating it within the Brazilian legal tradition of consumer protection and intermediary liability. Section 5 concludes with reflections on the transnational convergence toward recognizing platform design as a source of legally cognizable harm and the implications for algorithmic accountability

2 Section 230, Intermediary Liability, and the Conduct-Content Distinction

2.1 The Architecture of Section 230 Immunity

Section 230(c)(1) of the Communications Decency Act provides that "[n]o 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)). This single sentence, now nearly thirty years old, has been characterized as the provision that created the modern commercial internet (Kosseff, 2019). The provision was was enacted as a direct legislative response to *Stratton Oakmont, Inc. v. Prodigy Services Co.* (N.Y. Sup. Ct. 1995), in which a New York court held that an internet bulletin board that exercised editorial control over user content could be treated as a publisher and held liable for defamation, just as a traditional newspaper might be. Congress feared that this reasoning would create a perverse disincentive: because moderating content could expose platforms to publisher liability while doing nothing would not, rational platforms might opt for inaction (Dickinson, 2025; EFF, n.d.-b). Section 230 was the legislative correction, designed to permit platforms to moderate in good faith what Section 230(c)(2) calls "Good Samaritan" screening without thereby becoming publishers of all the content they chose not to remove (Citron; Wittes, 2017).

There is duality in the free speech logic embedded in Section 230. At one level, the statute protects platforms' own expressive autonomy. By allowing them to moderate without liability, it preserves the First Amendment space within which they can make editorial choices about the communities they host. At another level, it serves users' expressive interests. By ensuring that platforms are not crushed by liability for others' speech, it maintains the open architecture of user-generated content on which democratic deliberation, minority expression, and civil society organizing increasingly depend. The Fourth Circuit articulated this rationale in the foundational case *Zeran v. America Online, Inc.* (129 F.3d 327, 4th Cir. 1997), the first federal appellate decision to interpret Section 230. There, the court held that imposing notice-based liability on AOL for defamatory postings by anonymous users, even after AOL had been notified of their existence, would impose "an impossible burden" that "would have an obvious chilling effect

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[2] A bellwether trial is a legal procedure used mainly in complex litigation involving many similar claims (such as mass torts or class-like actions) where a small number of representative cases are selected and tried first. These cases are meant to reflect broader patterns in the larger group, allowing the court and the parties to test key legal arguments, evaluate evidence, and gauge how juries may respond. While the outcomes are not formally binding on the remaining cases, they often influence settlement negotiations and litigation strategy by providing a practical benchmark of likely results (Lahav, 2007; Fallon, 2020)

[3] Cedarbaum (2026) points out a pathway of claims of product liability in the past seven years in the United States: "The turn to product liability in social media litigation can be traced to the filing of *Lemmon v. Snap* in federal court in 2019. The Lemmon plaintiffs were the families of three teenage boys killed in a car crash when one of them was driving more than 100 miles per hour, apparently incentivized by Snapchat's "speed filter," an online challenge that provided rewards to users who shared photos of themselves going at very high speeds. The district court judge dismissed the claims as barred by Section 230. The U.S. Court of Appeals for the Ninth Circuit partially reversed, concluding that the plaintiffs' negligent design claim—"a common products liability tort"—sought to hold Snap liable for decisions in designing its platform product, ones concerning the speed filter and its incentive system, not for choices made as a publisher or an editor of third-party content. Since Lemmon, more than 200 lawsuits, in both federal and state courts, have been filed against social media companies relying on product liability claims".

on the free flow of information". Zeran underpins the broad immunity that federal courts have subsequently applied across a wide range of platform types and causes of action (EFF, n.d.-b; ILT, n.d.).

That breadth is striking. Courts extended 230 protection beyond defamation claims to negligence, unfair competition, state civil rights statutes, and breach-of-contract actions arising from third-party content. In *Doe v. America Online, Inc.* (783 So.2d 1010, Fla. 2001), a Florida court held that AOL was immune from negligence liability even though it hosted chat rooms through which a user had marketed child pornography videos and sexually abused the plaintiffs' minor son, a result that drew criticism precisely because it shielded a platform from the foreseeable consequences of a known pattern of exploitation on its network.

In *Doe v. MySpace, Inc.* (528 F.3d 413, 5th Cir. 2008), the Fifth Circuit upheld Section 230 immunity for MySpace against negligence claims brought by families of minors who were sexually assaulted after being contacted through the platform, even though the plaintiffs alleged that MySpace failed to implement adequate age-verification and safety measures (EFF, n.d.-a; ILT, n.d.). Both decisions rested on the principle, derived from *Zeran*, that liability for failures to prevent the harmful use of third-party content is publisher liability, regardless of how plaintiffs frame their claims. The structural parallel to K.G.M. (families of minors harmed by platform conduct, seeking to hold the platform accountable under a design rather than content framing) is evident, and these earlier cases represent the doctrinal baseline against which the K.G.M. plaintiffs are litigating.

However, the scope of Section 230 immunity has never been entirely settled and courts have articulated meaningful limits. The statute distinguishes between an "interactive computer service", which enjoys immunity, and an "information content provider" which does not, where the latter is defined as "any person or entity that is responsible, in whole or in part, for the creation or development of information" (47 U.S.C. § 230(f)(3)). The operative limit on immunity, therefore, is not passivity per se but developmental responsibility. The Ninth Circuit's landmark en banc decision in *Fair Housing Council of San Fernando Valley v. Roommates.com, LLC* (521 F.3d 1157, 9th Cir. 2008) is the leading exposition of this limit. There, Roommates.com required users to complete questionnaires that elicited information about preferences for co-tenants based on sex, sexual orientation, and family status, all categories protected under federal and state fair housing law.

The court held that Roommates.com, by designing and requiring those questionnaires, had "materially contributed" to the development of the discriminatory content and was therefore an information content provider, not merely a passive host, as to those features. Judge Kozinski's opinion drew the key distinction: "a website operator who edits user-created content, such as by correcting spelling, removing obscenity or trimming for length, retains his immunity for any illegality in the user-created content, provided that the edits are unrelated to the illegality". Where the platform's own structural design elicits, organizes, or amplifies the very feature that renders the content harmful, however, immunity fails (EFF, n.d.-a; ILT, n.d.). The Roommates.com framework, which focuses on whether the platform's design specifically encourages the development of harmful content, is a direct doctrinal ancestor of the K.G.M. plaintiffs' theory that engagement-maximizing algorithmic architecture constitutes material development of the conditions of harm (Ofchus, 2023).

Section 230 also intersects, in a complex and evolving way, with the First Amendment. Platforms have argued in the K.G.M. proceedings and elsewhere that their curation and recommendation decisions are themselves protected expression and editorial choices entitled to First Amendment immunity, independent of Section 230. This argument draws on a lineage of Supreme Court decisions recognizing that editorial discretion over third-party speech is constitutionally protected: *Miami Herald Publishing Co. v. Tornillo* (418 U.S. 241, 1974) held that newspapers cannot be compelled to publish replies; *Hurley v. Irish-American Gay, Lesbian and Bisexual Group of Boston* (515 U.S. 557, 1995) held that parade organizers cannot be compelled to include groups whose message they reject. Lower courts have extended this reasoning to suggest that platforms' content moderation decisions involve constitutionally protected editorial discretion (Brannon & Holmes, 2023). The Supreme Court most recently addressed the intersection of these principles in *Moody v. NetChoice, LLC* (603 U.S. 707, 2024), which considered the constitutionality of Texas and Florida laws restricting platforms' ability to moderate content. While the Court vacated and remanded on First Amendment grounds without definitively resolving the question, the majority's analysis confirmed that platforms' content-moderation decisions can qualify as protected speech, a holding with potential significance for the design-liability theory advanced in K.G.M. (Rozenshtein, 2024; Brannon; Holmes, 2023).

The precise relationship between the First Amendment editorial-discretion doctrine and product liability claims targeting algorithmic design remains one of the deepest questions in the K.G.M. litigation. The defendants argued

that because their recommendation algorithms are expressive, they reflect editorial judgments about which content to surface for which users, and that liability for algorithmic design is constitutionally suspect regardless of whether Section 230 applies. The plaintiffs responded that the features at issue are not editorial but engineering choices: the decision to implement infinite scroll, to disable autoplay limits for minors, or to calibrate notification timing for maximum re-engagement is no more constitutionally expressive than a pharmaceutical company's decision about a drug's release mechanism. That question surfaced with particular force in *Gonzalez v. Google LLC* (598 U.S. 617, 2023), in which the Supreme Court was asked whether Section 230 immunizes platforms for their algorithmic recommendations of third-party content. The Court declined to resolve the question on the merits, but oral argument revealed profound uncertainty among the justices about the statute's application to recommendation systems: Justices Thomas, Jackson, and Alito each expressed confusion about how to apply the 1996 text to modern algorithmic curation (Rozenshtein, 2024). The Court's reluctance to engage the merits has left the constitutional question open to lower courts and, in the immediate term, to the jury in JCCP 5255.

2.2 The Conduct-Content Distinction in the K.G.M. Litigation

The plaintiffs in JCCP 5255 have advanced a sophisticated doctrinal strategy to navigate Section 230's immunity provisions: rather than framing their claims as arising from the content that users posted on the platforms, they frame them as arising from the platforms' own engineering decisions. Under this theory, features such as infinite scrolling, autoplay, algorithmically personalized feeds, and notification timing are the defendants' own conduct, conduct that interacts with user-generated content but is analytically separable from it (Rossini; Zanatta, 2026; Koya, 2025).

Judge Carolyn B. Kuhl of the California Superior Court accepted the viability of this distinction at multiple stages of the litigation. In her October 2023 ruling on defendants' demurrer to the master complaint, she held that plaintiffs' claims were not barred by Section 230 and could proceed. In her November 5, 2025 ruling denying Meta's motion for summary judgment, she adopted a more granular approach, distinguishing on a feature-by-feature basis between aspects of platform architecture she characterized as "publishing" conduct (potentially protected) and those- such as notification timing, engagement loops, and the absence of meaningful parental controls- that she treated as the company's own product design decisions (unprotected) (Koya, 2025). Her ruling expressly held that the fact that a design feature like infinite scroll "impelled a user to continue to consume content that proved harmful does not mean that there can be no liability for harm arising from the design feature itself" (K.G.M. v. Meta Platforms, Inc., No. 23SMCV03371, Los Angeles Superior Court, Nov. 5, 2025, Order Denying Summary Judgment, p. 8).

This doctrinal maneuver, treating algorithmic architecture as a form of corporate conduct rather than protected publication, has been developing across multiple jurisdictions. The Third Circuit's landmark 2023 ruling in *Anderson v. TikTok, Inc.* (USCA3 2023) held that TikTok could potentially be liable for its algorithmic recommendations of dangerous content to a 10-year-old girl who died attempting the viral "Blackout Challenge", reasoning that TikTok was not merely hosting third-party content but actively recommending specific content to users (Dynamis LLP, 2025). The emerging judicial consensus that algorithmic curation is not categorically immunized by Section 230 represents what legal scholars have described as a significant narrowing of the statute's historically expansive reach (Rozenshtein, 2024; Dickinson, 2025).

From a doctrinal standpoint, the conduct-content distinction maps imperfectly onto a clean binary. As the Center for Law, Technology, and Social Good has noted, platforms' curation decisions have always involved both expression and engineering: the same recommendation algorithm that constitutes a product design choice also constitutes editorial discretion over which content to amplify (USF Law Center, 2025). Judge Kuhl's "fine-grained approach", evaluating each design feature individually, attempts to operationalize the distinction in a workable way, but the underlying tension between product liability and First Amendment editorial discretion is not resolved by the trial and will likely generate appellate litigation regardless of the jury's verdict.

2.3 Key Findings From the Jury

In K.G.M. v. Meta Platforms, Inc., et al., the jury found that Meta was negligent in the design or operation of Instagram, that its negligence was a substantial factor in causing harm to K.G.M., and that Meta knew or should have known Instagram was dangerous for minors in reasonably foreseeable use; the jury also found that Meta failed

to adequately warn users and that this failure to warn was itself a substantial factor in causing harm.[4] On harm, the jury appears to have accepted that K.G.M. had suffered real mental-health injury, not just ordinary disappointment or heavy screen use. Public reporting on the verdict states that the plaintiff presented evidence that her compulsive use of Instagram and YouTube was associated with diagnoses or symptoms including anxiety, depression, body dysmorphia, and suicidal ideation, and the jury awarded $3 million in compensatory damages.

On causation, the key legal finding was not that social media had been the only cause of K.G.M.'s condition, but that each platform's negligence had been a "substantial factor" in causing her harm. That matters because defendants argued other explanations, including difficult personal circumstances, but the jury still concluded that the product design and operation of Instagram and YouTube materially contributed to the injury. Reporting on the case indicates that the plaintiff's theory focused on features such as infinite scroll, autoplay, algorithmic recommendations, notifications, and beauty filters, and the jury evidently found that theory persuasive enough to satisfy the substantial-factor standard.

On liability, the verdict went beyond simple causation. The jury found both companies liable on two related paths: negligent design/operation and failure to warn. The warning findings are especially important. The verdict forms show that the jury found each company knew or should reasonably have known that its platform was dangerous or likely dangerous for minors, knew or should have known users would not realize that danger, failed to warn adequately, and that a reasonable platform designer would have warned or instructed on safe use.

In Section 4, we will discuss why those findings matter for the Brazilian legal system and their substantial connections to federal legislation 15.211, known as the Digital Statute of Children and Adolescents ("ECA Digital"). Despite the differences between the legal regimes, the discussion about "foreseeable harms" has a relevant connection with the duties of prevention and security duties foreseen in the Digital Statute for Children and Adolescents, which signals an important change in relation to the old immunity model foreseen in the Marco Civil da Internet (Brazilian Internet Bill of Rights).

3 Product Liability Theory, Corporate Knowledge, and the Tobacco Analogy

3.1 Reasonably foreseeable harms

Product liability doctrine, in both its negligence and strict liability variants, imposes obligations on manufacturers and designers whose products cause foreseeable harm. In the context of the K.G.M. litigation, the plaintiffs' defective-design theory proceeds in two steps. First, they argue that the architectural features of the platforms, the very design choices that maximize engagement and, therefore, advertising revenue, are "unreasonably dangerous" in a technical product liability sense: a reasonable consumer would not expect them to be as hazardous as they are, and a reasonable manufacturer could have adopted less harmful alternatives (Koya, 2025; Rossini, 2026). Second, they argue that even under a negligence standard, the defendants owed a duty to care for young users and breached that duty by deploying features that they knew, or should have known, created a foreseeable risk of serious psychological harm.

The foreseeability element is where the internal documents, particularly the so-called *Facebook Papers*, leaked in 2021, and the trove of internal communications disclosed in JCCP 5255, become legally decisive. Courts applying the negligence doctrine do not require proof that a defendant knew with certainty that its product would cause harm; rather, they require only that harm was reasonably foreseeable.[5] If the company's own researchers identified specific categories of harm, depression, body dysmorphia, compulsive use patterns among adolescent girls, and leadership continued on the same design trajectory, that evidence directly speaks to the foreseeability element and to the question of failure to warn (Rossini, 2026). Meta CEO Mark Zuckerberg, who testified before the jury on February 18, 2026, was confronted with internal communications comparing the platform's engagement systems to pushing drugs and gambling; whether that internal awareness constitutes the kind of corporate knowledge that supports liability is a central factual question the jury is being asked to resolve (Rossini, 2026; Verus LLC, 2026).

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[4] See the file case at https://www.crowell.com/a/web/b3HgCKaRwDn5JSu1FVt4Vg/verdict-form-meta.pdf

[5] As noted by Zipursky (2009), the adjective "foreseeable" occurs twice in section 3 of the Restatement (Third) on "Negligence": "A person acts negligently if the person does not exercise reasonable care under all [of] the circumstances. Primary factors to consider in ascertaining whether the person's conduct lacks reasonable care are the foreseeable likelihood that the person's conduct will result in harm, the foreseeable severity of any harm that may ensue, and the burden of precautions to eliminate or reduce the risk of harm".

3.2 The Tobacco Analogy: Structural Parallels and Evidentiary Limits

The Project Liberty Institute (2025) has characterized the present moment as the "tobacco moment" for Big Tech, and the analogy is structurally compelling. In the tobacco litigation of the 1990s, plaintiffs ultimately prevailed not simply because cigarettes were harmful, which was scientifically known for decades, but because of what internal corporate documents revealed. It was revealed that tobacco companies had studied and concealed evidence of the addictive properties of nicotine while publicly denying it. The K.G.M. proceedings replicate this evidentiary structure: the Facebook Papers and JCCP 5255 disclosures suggest that Meta possessed internal research identifying the harmful effects of Instagram on adolescent girls, and that the company prioritized engagement metrics over user welfare (Rossini; Zanatta, 2026).

The analogy, however, has important limits that courts and commentators have carefully noted. As Rossini and Zanatta (2026) observe, the underlying scientific evidence base for social media harm is considerably more contested than the tobacco case was at comparable stages of litigation. The tobacco-harm relationship was supported by decades of epidemiological research with strong effect sizes and clear biological mechanisms; the social media-harm relationship is supported by a more heterogeneous literature with smaller and more context-dependent effect sizes and more disputed causal pathways.

The literature on addiction and social media is recent, but it is growing. In 2018, Adam Alter wrote the book *Irresistible: The Rise of Addictive Technology and the Business of Keeping Us Hooked* (Alter, 2018). In it, Alter analyzes how digital products — especially social media, games, and apps — are deliberately designed to create behavioral addiction, using psychological mechanisms similar to those found in gambling and other compulsive behaviors. The book's central argument is that this "addictiveness" is not accidental: companies iteratively design features (notifications, likes, autoplay, streaks) to keep users engaged for as long as possible. A few years later, Jonathan Haidt published the famous book *The Anxious Generation: How the Great Rewiring of Childhood Is Causing an Epidemic of Mental Illness* (Haidt, 2024). In the book, Haidt argues that childhood has shifted from a "play-based" model to a "phone-based" model, especially since the early 2010s, and that this transition is closely associated with rising rates of anxiety, depression, and other mental health issues among adolescents.

Such works have fueled what economists like Ricardo Abramovay call the economy of addiction, that is, a type of economy that takes advantage of human frailties and that institutes designs and techniques from behavioral theory to maximize the user's attention span, extract value from their data and metadata, and induce constant interaction behavior, through design and reward techniques that administer small doses of dopamine to the brain (Zanatta; Abramovay, 2019).[6]

This evidentiary complexity does not defeat liability; the foreseeability doctrine does not require certainty, but it does mean that the plaintiffs" reliance on internal documents is especially strategically important: what the companies knew, not just what science has since established, is the core of this claim.

3.3 The Science of Adolescent Vulnerability: Evidence, Complexity, and Legal Relevance

The scientific literature on social media and adolescent mental health is among the most publicly contested bodies of empirical research in contemporary social science. The Diagnostic and Statistical Manual of Mental Disorders, Fifth Edition (DSM-5) does not classify social media use as an addictive disorder, and researchers who study the question generally prefer to characterize the problematic use in terms of "patterns with addictive characteristics" rather than clinical addiction per se (Rossini; Zanatta, 2026). The sheer volume of conflicting studies, methodological critiques, and public commentary has produced a discourse in which almost any conclusion can be supported by selective citation.

Jonathan Haidt's *The Anxious Generation* (2024) has been among the most publicly influential contributions to the debate. Haidt argues that the mass adoption of smartphones and social media platforms circa 2012 correlates with a marked deterioration in adolescent mental health, particularly among girls. His analysis has been widely

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[6] A similar claim is made by Coutinho, Kira and Oliveira (2024) in the article "The economy of addiction": "Cigarettes, vapes, alcoholic beverages, soft drinks and sugary beverages, video games, social media, ultra-processed foods, among others, are all, like gambling, products designed to cause physical or psychological dependence. Sugar, nicotine, dyes, flavorings, emulsifiers and other additives, as well as design tricks on electronic device screens, exacerbate the unbridled and anxious compulsion for dopamine. The consumption of these products, which are harmful to health, generates immense costs for the health system, society and families, not to mention the psychological and emotional damage to children and adolescents" (Coutinho; Kira; Oliveira, 2024).

discussed in both policy and legal contexts, including in expert testimony in the JCCP proceedings. However, Haidt himself acknowledges the mixed character of the evidence: the most plausible harm appears concentrated among young women aged 12-15, and much of the supporting evidence comes from studies in which participants temporarily abandon social media and report subjective improvements. In the longer term, population-level studies that control for multiple confounders generally find small associations between social media use and well-being outcomes (Rossini; Zanatta, 2026; Haidt, 2024).

Amy Orben, among the most-cited empirical researchers in this field, has authored multiple large-scale studies that find small average effects of social media use on adolescent well-being. Yet Orben has publicly expressed concern that her research is being used by platforms to avoid accountability for a subset of users, particularly young women, who appear to be having genuinely harmful experiences (Rossini; Zanatta, 2026). Her concern crystallizes a critical distinction: population-level averages may obscure serious individual-level harms, particularly when the mechanism of harm involves an interaction between algorithmic design, individual vulnerability, and developmental stage.

This point has direct legal relevance. The product liability doctrine does not require widespread harm. Rather, liability may arise where a product's design creates foreseeable risks of serious harm to some users, where reasonable alternative designs could have reduced those risks, and where the manufacturer knew or should have known of them. The neuroscientific evidence on adolescent brain development strengthens this framework: the prefrontal cortex, which governs impulse control and decision-making, does not reach full development until approximately age 25, making adolescents neurologically more susceptible to variable reward systems than adults (Rossini; Zanatta, 2026). Designing engagement systems that exploit this developmental vulnerability and failing to implement meaningful age-based protections are at the core of the duty-of-care argument the plaintiffs advance.

4 Brazil's Digital ECA: A Comparative Framework for Algorithmic Accountability

4.1 The Legislative Architecture of Law 15.211/2025

While the K.G.M. trial was proceeding in California, Brazil enacted and signed into law the Digital Statute for Children and Adolescents, known as "ECA Digital." The law, which took effect in March 2026, represents the first dedicated statutory framework in Latin America for the protection of children's rights in digital environments and is among the most comprehensive globally (Badillo, 2025; Human Rights Watch, 2025). Its passage was unanimous in the Senate and received cross-partisan support in the Chamber of Deputies, notwithstanding fierce industry lobbying, including successful pressure to remove a ban on "loot boxes" in video games[7], a provision that was ultimately reinstated in the final text after strong opposition from the bill's sponsors (Human Rights Watch, 2025).

The Digital ECA's scope is defined by the novel criterion of "likelihood of access" by minors, which is determined by three cumulative elements: (i) attractiveness of the product or service to minors; (ii) ease of use and accessibility; and (iii) whether it poses a significant degree of risk to the privacy, security, or biopsychosocial development of minors (Brasil, 2025; Badillo, 2025). This tripartite standard is deliberately expansive, applying the law to services not specifically designed for children if they are likely to be accessed by them, a structural choice that mirrors the approach of the United Kingdom's Age Appropriate Design Code and the European Union's Digital Services Act (Badillo, 2025; Rodrigues; Mendonça; Zanatta, 2026).

The foundational normative principle is the "best interest of the child", drawn from Brazil's Federal Constitution (Art. 227), the Statute of the Child and Adolescent (Brasil, 1990b), and Brazil's ratification of the *United Nations Convention on the Rights of the Child* in 1990 (Badillo, 2025; Vieira, 2026).[8] Providers of in-scope information technology products and services are required to prioritize children's "full and special protection", their "absolute interests", and their "biopsychosocial development" at all stages of design and operation. The law also explicitly prohibits the profiling of children for targeted behavioral advertising and emotional analysis, extending significantly beyond the protections of the General Data Protection Law, which does not expressly prohibit these practices (Badillo, 2025; Novoa; Mendonça, 2026).

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[7] Loot boxes are purchasable randomized reward mechanisms in video games where players spend real or in-game currency to receive unknown virtual items of varying rarity. They function as a monetization strategy combining variable-ratio reinforcement schedules with artificial scarcity, and have drawn regulatory scrutiny in multiple jurisdictions, notably Belgium and the Netherlands, over whether they constitute a form of gambling, particularly when accessible to minors. See https://doi.org/10.1038/s41562-018-0360-1

[8] For a brilliant historical overview of the legislative process of "ECA Digital", see Instituto Alana (2026).

4.2 Safety by Design and the Preventive Approach

A central structural feature of the Digital ECA is its preventive orientation: providers are required to adopt "reasonable measures from the design stage" to prevent and mitigate risks of exposure to a comprehensive list of harmful content, including material depicting sexual exploitation, physical violence, virtual intimidation, harassment, self-harm guidance, gambling, and predatory advertising (Brasil, 2025; Badillo, 2025). This "safety by design" mandate is distinct from content moderation obligations: it requires protective measures to be embedded in the product's architecture at the design stage, rather than applied after harmful content has entered circulation.

This structural commitment maps directly onto the legal theory in *K.G.M. v. Meta*. Both frameworks treat platform architecture as a zone of corporate obligation rather than a neutral technical substratum. The Digital ECA explicitly requires providers to establish default settings that prevent "compulsive use" by minors (Article 8), prohibits reward (loot) boxes in video games (Article 20), and requires parental supervision tools to be configured with the capacity to disable automatic media playback and usage-time-based rewards (Article 17, § 4) (Badillo, 2025). The features that the Digital ECA explicitly mandates providers to neutralize or disclose, autoplay, notification systems, variable rewards, engagement maximization, are precisely the features that the K.G.M. plaintiffs identify as the proximate cause of their harm.

Platforms are required to incorporate protective measures by design and by default, including safeguards related to data protection, exposure to harmful content, and exploitative commercial practices. The statute imposes affirmative duties, including risk assessment, mitigation of foreseeable harms, age-appropriate design, and restrictions on behavioral advertising. This creates a model of *ex ante* responsibility, where compliance depends not only on responding to violations but on structuring systems to prevent harm in advance (Rodrigues; Mendonça; Zanatta, 2026).

4.3 Institutional Framework and Enforcement

The enforcement of the Digital ECA has been assigned to the Brazilian Data Protection Agency (ANPD), which was elevated to the status of an independent regulatory agency on the same day the law was enacted, by Provisional Measure No. 1.317 and Decree No. 12.622 (Badillo, 2025). This elevation is institutionally significant: the ANPD had previously operated as an executive body, subject to political direction in ways that an independent agency is not. With increased decisional, administrative, and financial autonomy, and a mandate that now encompasses both general data protection under the LGPD and children's online safety under the Digital ECA, the ANPD is positioned to become a major regulatory actor in Latin American digital governance (Badillo, 2025). In enforcement, the ANPD is empowered to investigate, conduct administrative proceedings, and impose sanctions, including fines and operational restrictions. It also acts as a coordinating body, interacting with consumer protection authorities, the Ministry of Justice, and institutions focused on child protection.[9] This positions the ANPD as a regulatory hub in a multi-actor governance ecosystem.

Sanctions under the Digital ECA are substantial: fines of up to 10 percent of the economic group's revenue in Brazil, or up to R$50,000,000 (approximately USD $9.1 million) per violation, plus the possibility of temporary or permanent suspension of operations and judicial blocking orders enforced through telecommunications providers (Badillo, 2025; Human Rights Watch, 2025). For platforms with over one million minor users, semi-annual public reporting obligations regarding content moderation actions, complaints received, and risk management measures are also required (Brasil, 2025).

4.4 ECA Digital and the Brazilian Legal Tradition

The "ECA Digital" does not exist in isolation from the existing structure of Brazilian law. Its interaction with the LGPD has been extensively analyzed by the Future of Privacy Forum (Badillo, 2025) and can be understood as a deepening and specification of data protection obligations for children (Rodrigues; Mendonça; Zanatta, 2026). More broadly, the legislation also builds on the framework of the Marco Civil da Internet (Brasil, 2014), which text was designed for an earlier phase of the internet (Rossini; Brito Cruz; Doneda, 2015) and has been overtaken by the emergence of algorithmically curated platforms (Rossini; Zanatta, 2026).

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[9] See the federal decree 12.880/2026, which establishes a system of coordination ("Comitê Intersetorial") involving the Children's Rights Committee (Conanda), the Secretariat of Digital Rights of the Ministry of Justice, and the Brazilian Data Protection Agency.

The interaction between the Digital ECA and the Consumer Defense Code (Brasil, 1990a) is particularly important for the purposes of this analysis. Brazilian product liability doctrine, as developed under the CDC, imposes strict liability on manufacturers and suppliers for defects that render products unreasonably dangerous to consumers (Articles 12-14, CDC). As Rossini and Zanatta (2026) note, if the K.G.M. litigation establishes that algorithmically engineered design features constitute defective products, giving rise to liability under U.S. tort law. It will offer a structural template that Brazilian courts could readily adapt: the foreseeability doctrine, the duty of care, and the concept of defective design are functional equivalents in the Brazilian consumer law tradition. The Digital ECA's explicit prohibition on "compulsive use" design features reinforces this framework by establishing a legislative standard of care that platform conduct can be measured against.

There is also a deeper connection with the theory of consumer law that was built in the 1990s in Brazil. The rules of Article 6 of the Digital ECA (Statute of the Child and Adolescent) can be seen as obligations associated with good faith and the safety duties foreseen in the Consumer Protection Code. Since 1990, Brazilian legislation has required that products and services placed on the consumer market not pose risks to consumers' health or safety, except those considered normal and foreseeable given their nature and use, and obligates suppliers, in any case, to provide the necessary and adequate information about them. The legislation also requires that suppliers of products and services that are potentially harmful or dangerous to health or safety must inform, in a conspicuous and adequate manner, of their harmfulness or dangerousness, without prejudice to the adoption of other measures applicable in each specific case.

5 Conclusions

The K.G.M. trial and the Brazilian Digital ECA, though arising from different legal traditions and institutional contexts, converge on a common normative proposition: that the design of digital platforms is a form of corporate conduct that carries obligations of safety, care, and accountability, and that those obligations are not discharged by pointing to the fact that users post the content that ultimately causes harm. The long-standing legal architecture of platform immunity, built on Section 230 in the United States and on similar intermediary liability provisions in Brazil's Marco Civil da Internet, was designed for a different kind of internet: one in which platforms were relatively passive conduits for human expression rather than precision-engineered behavioral systems that use machine learning to identify and exploit individual psychological vulnerabilities for commercial gain.

The emerging doctrinal framework, treating algorithmic design as actionable conduct subject to product liability standards, does not resolve every contested question. The scientific literature on social media harm remains genuinely uncertain in important respects, and courts will need to continue developing appropriate evidentiary standards for assessing the foreseeability and causation elements of these claims. The First Amendment implications of product liability theories applied to expressive platforms require careful analysis. And the practical consequences of holding platforms liable for their design choices, including potential impacts on smaller platforms and new entrants, deserve attention that the current litigation does not fully address.

What the K.G.M. litigation and the Digital ECA together suggest is that democratic societies are moving, however imperfectly, toward a governance model in which platforms are treated as architects of behavioral environments who bear responsibility for the foreseeable consequences of their architectural choices. This shift, from passive intermediary to responsible designer, is one of the most significant developments in the legal treatment of digital platforms since the enactment of Section 230 in 1996. For Brazil, the Digital ECA represents an opportunity to embed this logic not merely in litigation strategy but in proactive regulatory design, with the ANPD positioned to translate the statute's safety-by-design mandate into enforceable standards of conduct before harms accumulate to the scale that drove the K.G.M. proceedings in the United States.

The Digital ECA crystallizes a shift that is already visible in litigation, such as the K.G.M. case: the gradual reclassification of digital platforms from neutral intermediaries to architectures of risk that generate legally cognizable harms. By embedding duties of safety by design, risk mitigation, and protection against compulsive use directly into statutory law, Brazil moves beyond the reactive logic that has traditionally governed platform accountability. The law does not merely respond to harm once it materializes; it anticipates it, translating empirical concerns about addiction, mental health, and behavioral manipulation into ex ante legal obligations.

This alignment is particularly significant when read alongside the evidentiary and doctrinal challenges observed in K.G.M. The jury's findings—structured around harm, causation, and liability—mirror, at a different institutional level, the normative commitments of the Digital ECA. Where litigation struggles to establish a case-by-case basis through expert testimony and factual reconstruction, the statute presumes, as a matter of regulatory design, that certain platform features can foreseeably contribute to harm and therefore require proactive governance. In this sense, the Digital ECA can be understood not only as a protective instrument but as a legislative consolidation of emerging legal theories regarding algorithmic accountability and product liability in digital environments.

The effectiveness of the Digital ECA cannot yet be assessed and will likely depend on a set of contingent institutional and political variables. Its ambitious design places significant weight on the ANPD's capacity and regulatory posture, whose interpretation, prioritization, and enforcement choices will determine how the statute operates in practice. At the same time, broader political and economic dynamics—including shifts in regulatory priorities, industry pressure, or external factors such as trade tensions—may shape both the scope and intensity of its application.

For these reasons, the Digital ECA should be understood not as a settled solution, but as an evolving regulatory experiment. Its real impact will only become visible over time, through patterns of enforcement, compliance strategies, and judicial interpretation. This makes it a particularly relevant object for future research at the intersection of digital rights and the sociology of law.

References

ALLUHIDAN, A. Social media design is key to protecting kids online. **The Conversation**, [*s.l.*], 19 mar. 2025. Disponível em: https://theconversation.com/social-media-design-is-key-to-protecting-kids-online-243547. Acesso em: 20 mar. 2026.

ALTER, A. **Irresistible**: The rise of addictive technology and the business of keeping us hooked. Nova York: Penguin, 2018.

BADILLO, M. **Brazil's Digital ECA**: New paradigm of safety & privacy for minors online. Washington, DC: Future of Privacy Forum, 2025. Disponível em: https://fpf.org/wp-content/uploads/2025/12/Issue-Brief-Brazils-Digital-ECA.pdf. Acesso em: 20 mar. 2026.

BANSAL, V. What does the first US social media addiction trial mean for the tech industry? **Tech Policy Press**, [*s.l.*], 8 fev. 2026. Disponível em: https://www.techpolicy.press/what-does-the-first-us-social-media-addiction-trial-mean-for-the-tech-industry/. Acesso em: 20 mar. 2026.

BATT, M. Social media giants on trial in California as courts revisit tech immunity. **Tech Policy Press**, [*s.l.*], 5 fev. 2026. Disponível em: https://www.techpolicy.press/social-media-giants-on-trial-in-california-as-courts-revisit-tech-immunity/. Acesso em: 20 mar. 2026.

BRANNON, V. C.; HOLMES, E. N. **Section 230**: An overview. Washington, DC: Congressional Research Service, 2023. (CRS Report R46751). Disponível em: https://www.congress.gov/crs-product/R46751. 30 mar. 2026.

CEDARBAUM, J. G. Does Product Liability Offer a Route Around Section 230? **Lawfare**, [*s.l.*], 26 mar. 2026. Disponível em: https://www.lawfaremedia.org/article/does-product-liability-offer-a-route-around-section-230. Acesso em: 20 mar. 2026.

CITRON, D. K.; WITTES, B. The Internet Will Not Break: Denying Bad Samaritans § 230 Immunity. **Fordham Law Review**, [*s.l.*], v. 86, p. 401, 2017. Disponível em: https://ir.lawnet.fordham.edu/flr/vol86/iss2/3/. Acesso em: 20 mar. 2026.

COUTINHO, D.; KIRA, B.; OLIVEIRA, V. A economia do vício. **Folha de São Paulo**, [*s.l.*], 19 out. 2024. Disponível em: https://www1.folha.uol.com.br/opiniao/2024/10/a-economia-do-vicio.shtml. Acesso em: 20 mar. 2026.

DHESI, N.; JOHNSON, J. Side by side: Evaluating liability in K.G.M. v. Meta Platforms, Inc. **Center for Law, Technology, and Social Good**, San Francisco, 20 fev. 2026. Disponível em: https://usfblogs.usfca.edu/centerforlawtechsocialgood/kgm-v-meta. Acesso em: 20 mar. 2026.

CITRON, D. K. How to fix section 230. **Boston University Law Review**, [*s.l.*], v. 22, n. 18, p. 714-761, 2022. Disponível em: https://www.bu.edu/bulawreview/files/2023/10/CITRON.pdf. Acesso em: 20 mar. 2026.

DICKINSON, G. M. Section 230: A juridical history. **Stanford Technology Law Review**, [*s.l.*], v. 28, n. 1, p. 1-34, 2025. Disponível em: https://law.stanford.edu/wp-content/uploads/2025/02/A-Juridical-History-of-Section-230.pdf. Acesso em: 20 mar. 2026.

DRUMMOND, A.; SAUER, J. D. Video game loot boxes are psychologically akin to gambling. **Nature Human Behavior**, [*s.l.*], v. 2, n. 8, p. 530–532, 2018. DOI: https://doi.org/10.1038/s41562-018-0360-1

DYNAMIS LLP. **Section 230 under fire**: Recent cases, legal workarounds, and reforms. [*s.l.*]: Dynamis LLP, 6 abr. 2025. Disponível em: https://www.dynamisllp.com/knowledge/section-230-immunity-changes. Acesso em: 20 mar. 2026.

EUROPEAN UNION. European Parliament. Regulation (EU) 2022/2065 of the European Parliament and of the Council of 19 October 2022 on a Single Market for Digital Services (Digital Services Act). **Official Journal of the European Union**: series L, n. 277, p. 1-102, 27 oct. 2022. Disponível em: https://eur-lex.europa.eu/eli/reg/2022/2065/oj/eng. Acesso em: 20 mar. 2026.

FALLON, E. E. Bellwether Trials. **UMKC Law Review**, [*s.l.*], v. 89, p. 951, 2021. Disponível em: https://irlaw.umkc.edu/lawreview/vol89/iss4/15/. Acesso em: 20 mar. 2026.

GRABENSTEIN, H. What legal experts say about a major “bellwether trial” over child social media addiction. **PBS NewsHour**, [*s.l.*], 28 jan. 2026. Disponível em: https://www.pbs.org/newshour/nation/what-to-know-about-a-trial-that-will-test-tech-giants-liability-for-child-social-media-addiction. Acesso em: 20 mar. 2026.

HAIDT, J. **The anxious generation**: How the great rewiring of childhood is causing an epidemic of mental illness. Nova York: Penguin Press, 2024.

HEMENDIGER, E. Surgeon general’s call for warning labels on social media underscores concerns for teen mental health. **The Conversation**, [*s.l.*], 21 jun. 2024. Disponível em: https://theconversation.com/surgeon-generals-call-for-warning-labels-on-social-media-underscores-concerns-for-teen-mental-health-232809. Acesso em: 20 mar. 2026.

HUMAN RIGHTS WATCH. **Brazil Passes Landmark Law to Protect Children Online**. [*s.l.*]: Human Rights Watch, 17 set. 2025. Disponível em: https://www.hrw.org/news/2025/09/17/brazil-passes-landmark-law-to-protect-children-online. Acesso em: 20 mar. 2026.

INSTITUTO ALANA. **Crianças e Adolescentes Primeiro**: como o ECA Digital virou o jogo da proteção online no Brasil. São Paulo: Alana, 2026. Disponível em: https://alana.org.br/wp-content/uploads/2026/03/eca-digital-protecao-online-criancas-adolescentes-livro-digital.pdf. Acesso em: 20 mar. 2026.

UNITED STATES. Superior Court of California (County of Los Angeles). **K.G.M. v. Meta Platforms, Inc.** (No. 23SMCV03371): Order Denying Defendants’ Motion for Summary Judgment. Los Angeles, 5 nov. 2025. Disponível em: https://www.courthousenews.com/wp-content/uploads/2025/11/social-media-lawsuits-kgm-motion-denied.pdf. Acesso em: 20 mar. 2026.

KOSSEFF, J. **The twenty-six words that created the internet**. Ithaca: Cornell University Press, 2019.

KOYA, M. Addicted by design: Reassessing Section 230 in the new era of social media addiction litigation. **University of Cincinnati Law Review Blog**, [*s.l.*], 4 dez. 2025. Disponível em: https://uclawreview.org/2025/12/04/addicted-by-design-reassessing-section-230-in-the-new-era-of-social-media-addiction-litigation/. Acesso em: 20 mar. 2026.

LAHAV, A. D. Bellwether trials. **George Washington Law Review**, [*s.l.*], v. 76, p. 576-638, 2007. Disponível em: https://www.gwlr.org/wp-content/uploads/2012/08/76-3-Lahav.pdf. Acesso em: 20 mar. 2026.

BRASIL. **Lei nº 8.078, de 11 de setembro de 1990**. Dispõe sobre a proteção do consumidor e dá outras providências. Brasília, DF: Presidência da República, 1990a. Disponível em: https://www.planalto.gov.br/ccivil_03/leis/l8078compilado.htm. Acesso em: 20 mar. 2026.

BRASIL. **Lei No. 8.069, de 13 de julho de 1990**. Dispõe sobre o Estatuto da Criança e do Adolescente e dá outras providências. Brasília, DF: Presidência da República, 1990b. Disponível em: https://www.planalto.gov.br/ccivil_03/leis/l8069.htm. Acesso em: 20 mar. 2026.

BRASIL. **Lei No. 12.965, de 23 de abril de 2014**. Estabelece princípios, garantias, direitos e deveres para o uso da Internet no Brasil. Brasília, DF: Presidência da República, 2014. Disponível em: https://www.planalto.gov.br/ccivil_03/_ato2011-2014/2014/lei/l12965.htm. Acesso em: 20 mar. 2026.

BRASIL. **Lei No. 13.709, de 14 de agosto de 2018**. Lei Geral de Proteção de Dados Pessoais (LGPD). Brasília, DF: Presidência da República, 2018. Disponível em: https://www.planalto.gov.br/ccivil_03/_ato2015-2018/2018/lei/l13709.htm. Acesso em: 20 mar. 2026.

BRASIL. **Lei No. 15.211, de 17 de setembro de 2025**. Dispõe sobre a proteção de crianças e adolescentes em ambientes digitais (Estatuto Digital da Criança e do Adolescente). Brasília, DF: Presidência da República, 2025. Disponível em: https://www.planalto.gov.br/ccivil_03/_ato2023-2026/2025/lei/l15211.htm. Acesso em: 20 mar. 2026.

UNITED STATES. District Court for the District of Maryland. **Mason v. Machine Zone, Inc.** (No. 1:15-cv-01045). Maryland, 2016. Disponível em: https://law.justia.com/cases/federal/appellate-courts/ca4/15-2469/15-2469-2017-03-17.html. Acesso em: 20 mar. 2026.

MACPHERSON, L. Is this really Big Tech's "Big Tobacco" moment? Only Congress can make it so. **Public Knowledge**, [*s.l.*], 29 out. 2021. Disponível em: https://publicknowledge.org/is-this-really-big-techs-big-tobacco-moment-only-congress-can-make-it-so/. Acesso em: 20 mar. 2026.

MCQUE, K. Meta on trial over child safety: Can it really protect its next generation of users? **The Guardian**, [*s.l.*], 19 mar. 2026. Disponível em: https://www.theguardian.com/us-news/2026/mar/19/meta-child-safety-trial-facebook-instagram. Acesso em: 20 mar. 2026.

NOVOA, N.; MENDONÇA, E. ECA Digital: próximos passos e desafios após sanção da nova lei. **Data Privacy Brasil**, [*s.l.*], 2026. Disponível em: https://www.dataprivacybr.org/documentos/tabuleiro-%F0%9F%8E%B2-eca-digital-proximos-passos-e-desafios-apos-sancao-da-nova-lei/. Acesso em: 20 mar. 2026.

OFCHUS, K. Cracking the Shield: CDA Section 230, Algorithms, and Product Liability. **UA Little Rock Law Review**, v. 46, p. 27, 2023. Disponível em: https://research.ualr.edu/bowen_lawreview/vol46/iss1/2. Acesso em: 20 mar. 2026.

ORBEN, A. The Sisyphean cycle of technology panics. **Perspectives on Psychological Science**, v. 15, n. 5, p. 1143- 1157, 2020. DOI: https://doi.org/10.1177/1745691620919372

PANISH SHEA RAVIPUDI. Judge rules social media giants must face a jury to answer for alleged harms to youth. **Panish Shea Ravipudi**, [*s.l.*], 6 nov. 2026. Disponível em: https://www.panish.law/2025/11/judge-rules-social-media-giants-must-face-a-jury-to-answer-for-alleged-harms-to-youth/. Acesso em: 20 mar. 2026.

RODRIGUES, C.; MENDONÇA, E.; ZANATTA, R. A. F. O conceito jurídico de acesso provável no ECA Digital. **Data Privacy Brasil**, [*s.l.*], 19 jan. 2026. Disponível em: https://www.dataprivacybr.org/o-conceito-juridico-de-acesso-provavel-no-eca-digital/. Acesso em: 20 mar. 2026.

ROSSINI, C.; ZANATTA, R. A. F. O julgamento que pode mudar a internet: por que o Brasil precisa prestar atenção. **Jota**, [*s.l.*], 19 fev. 2026. Disponível em: https://www.jota.info/opiniao-e-analise/artigos/o-julgamento-que-pode-mudar-a-internet-por-que-o-brasil-precisa-prestar-atencao. Acesso em: 20 mar. 2026.

ROSSINI, C. How Instagram's addictiveness lawsuit could reshape social media: Platform design meets product liability. **The Conversation**, [*s.l.*], 6 mar. 2026. Disponível em: https://theconversation.com/how-instagram-addictiveness-lawsuit-could-reshape-social-media-platform-design-meets-product-liability-277066. Acesso em: 20 mar. 2026.

ROSSINI, C.; BRITO CRUZ, F.; DONEDA, D. **The Strengths and Weaknesses of the Brazilian Internet Bill of Rights**: Examining a Human Rights Framework for the Internet. Waterloo: CIGI; London: Chatham House, 2015. 32 p. (Global Commission on Internet Governance Paper Series, n. 19). Disponível em: https://www.cigionline.org/sites/default/files/no19_0.pdf. Acesso em: 20 mar. 2026.

ROZENSHTEIN, A. Z. Interpreting the ambiguities of Section 230. **Yale Journal on Regulation Bulletin**, [*s.l.*], v. 41, n. 60, p. 60-87, 2024. Disponível em: https://www.yalejreg.com/bulletin/interpreting-the-ambiguities-of-section-230/. Acesso em: 20 mar. 2026.

UNITED NATIONS. Committee on the Rights of the Child. **General Comment No. 25 (2021) on children's rights in relation to the digital environment**. [*s.l.*]: UN, 2 mar. 2021. CRC/C/GC/25. Disponível em: https://www.ohchr.org/en/documents/general-comments-and-recommendations/general-comment-no-25-2021-childrens-rights-relation. Acesso em: 20 mar. 2026.

VERUS LLC. Latest Developments in Social Media Addiction Litigation. **Vesus LLC**, [*s.l.*], 26 mar. 2026. Disponível em: https://verusllc.com/articles/case-management/social-media-addiction-litigation-timeline/. Acesso em: 30 mar. 2026.

VIEIRA, O. V. **Crianças e adolescentes primeiro**: como o ECA Digital virou o jogo da proteção on-line no Brasil. São Paulo: Alana, 2026. 198 p. Disponível em: https://alana.org.br/wp-content/uploads/2026/03/eca-digital-protecao-online-criancas-adolescentes-livro-digital.pdf. Acesso em: 20 mar. 2026.

ZANATTA, R. A. F.; ABRAMOVAY, R. Dados, vícios e concorrência: repensando o jogo das economias digitais. **Estudos Avançados**, [*s.l.*], v. 33, n. 96, p. 421-446, 2019. DOI: https://doi.org/10.1590/s0103-4014.2019.3396.0021.

ZIPURSKY, B. C. Foreseeability in breach, duty, and proximate cause. **Wake Forest Law Review**, [*s.l.*], v. 44, p. 1247-1275, 2009. Disponível em: https://wakeforestlawreview.com/wp-content/uploads/2014/10/Zipursky_LawReview_December2009.pdf. Acesso em: 20 mar. 2026.

XIAO, L. Y. Breaking ban: Belgium's ineffective gambling law regulation of video game loot boxes. **Collabra: Psychology**, [*s.l.*], v. 9, n. 1, p. 1-31, 2023. DOI: https://doi.org/10.1525/collabra.57641