

No. 24-AP-295

IN THE SUPREME COURT OF THE STATE OF VERMONT

INSTAGRAM, LLC and META PLATFORMS, INC., Appellants

v.

STATE OF VERMONT, Appellee

ON APPEAL FROM THE VERMONT SUPERIOR COURT
CIVIL DIVISION, CHITTENDEN UNIT
DOCKET NO. 23-CV-04453

BRIEF OF AMICUS CURIAE STATE OF IOWA AND 46 OTHER STATES AND
COMMONWEALTHS IN SUPPORT OF APPELLEE VERMONT

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STATEMENT OF THE ISSUE

Whether the Due Process Clause of the U.S. Constitution permits a Vermont court to exercise personal jurisdiction over Meta in this case.

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INTEREST OF AMICI CURIAE AND CONSENT TO FILE

The undersigned 47 States and Commonwealths submit this amicus brief because they, like Vermont, have a “ ‘manifest interest’ in providing [their] residents with a convenient forum for redressing injuries inflicted by out-of-state actors.” *Burger King Corp. v. Rudzewicz*, 471 U.S. 462, 473 (1985) (quoting *McGee v. Int’l Life Ins. Co.*, 355 U.S. 220, 223 (1957)). When out-of-state businesses “purposefully derive benefit” from activities within a State, they should be accountable for the proximate consequences of those injuries inside of that state. *Id.*

Pursuant to Vermont Rule of Appellate Procedure 29(a), counsel for Iowa sought and obtained the written consent of the Parties to this appeal to file this brief on behalf of the *amici* States.

INTRODUCTION

Social media companies choose to operate nationwide for many reasons. One is that the companies’ value is often tied to the number of users—users with whom they have deep legal relationships. Social media companies often track and sell those users’ data, sell other goods to their users, and advertise both their products and other products and services to those users. Those intentional and plentiful contacts with a State and its citizens fit neatly within longstanding personal jurisdiction jurisprudence. And creating a social media carveout to those longstanding and straightforward rules risks depriving States of key enforcement authority under their statutes. Every State has statutes intended to protect consumers. If Defendants prevail here, companies will have a roadmap for evading law enforcement by States’ top law enforcers. That absurd result is not required under the U.S. Constitution.

Under the existing specific personal-jurisdiction caselaw, social-media companies can be sued in state court in any State with which they have minimum contacts and where those contacts relate to the claims alleged. Here, straightforwardly applying that caselaw means that the Meta Defendants are properly subject to specific personal jurisdiction. The Meta Defendants have minimum contacts with Vermont because they have entered ongoing contracts with tens of thousands of Vermont users, provide a product experience that is specifically tailored to Vermont users, and conduct substantial business in this state. Each of those Vermont-based activities is sufficient to establish minimum contacts.

Those contacts also relate to Vermont’s claims here because the Meta Defendants acquired their Vermont users based, at least in part, on their allegedly unfair and deceptive conduct both in the design of their Instagram product and in their statements (and material omissions) about that product. Accordingly, this case belongs in Vermont state court.

Instead of accepting this straightforward application of personal jurisdiction precedent, the Meta Defendants are seeking special treatment, and their arguments are revolutionary. If accepted, their arguments could defeat specific personal jurisdiction over the Meta Defendants (and other social media companies, like the companies that operate the TikTok platform) in forty-eight States. That would insulate those companies from the jurisdiction of state courts in the States where they intentionally operate, thus eliminating specific personal jurisdiction over them altogether and forcing states to bring their state-law claims only in courts with general personal jurisdiction (only courts in the state where the company is incorporated or domiciled).

Almost-nation-wide immunity for entire industries is unprecedented, and it turns personal-jurisdiction related Due Process concerns on their head. In effect, if entering thousands of contracts with Vermonters, monitoring and selling Vermonters’ data, creating a Vermont-specific product, and earning substantial revenue in Vermont is not enough to establish specific personal jurisdiction, then this Court will have carved a Big Tech exception into personal jurisdiction jurisprudence. *Amici* instead ask this Court to affirm the decision below and treat the Meta Defendants the same as any other large company that seeks and maintains substantial contacts with a state and its consumers.

ARGUMENT

Vermont law “permits state courts to exercise jurisdiction over nonresident defendants to the full extent permitted by the Due Process Clause of the U.S. Constitution.” *Fox v. Fox*, 2014 VT 100, ¶ 9, 197 Vt. 466, 471, 106 A.3d 919, 923 (internal citation omitted). Under the U.S. Constitution, personal jurisdiction may be either “general or specific.” *Id.* ¶ 27. “General jurisdiction applies to suits not arising out of or related to the defendant’s contacts with the forum state[,]” while “specific jurisdiction [exists] where a defendant has ‘purposefully directed . . . activities at residents of the forum and the litigation results from alleged injuries that arise out of or

relate to those activities.’ ” *Id.* (quoting *Burger King Corp.*, 471 U.S. at 472). Only specific personal jurisdiction is at issue here.

Consistent with the Due Process Clause, specific personal jurisdiction exists “over a defendant *in any state* where the defendant has ‘certain minimum contacts . . . such that the maintenance of the suit does not offend traditional notions of fair play and substantial justice.’” *Id.* ¶ 26 (quoting *Int’l Shoe Co. v. Washington*, 326 U.S. 310, 316 (1945)) (emphasis added). This exercise of jurisdiction is important because “[a] State generally has a ‘manifest interest’ in providing its residents with a convenient forum for redressing injuries inflicted by out-of-state actors.” *Burger King Corp.*, 471 U.S. at 473 (quoting *McGee*, 355 U.S. at 223). Defendants like Meta may not “wield[]” “the Due Process Clause . . . as a territorial shield to avoid interstate obligations that have been voluntarily assumed.” *Id.* at 474.

Meta and its supporting *amici* complain about the purported unfairness of being subject to suit not only in Vermont but in other States too—but their complaints misunderstand the Due Process Clause’s protections. The Due Process Clause protects defendants like Meta by limiting *the types of contacts* that support jurisdiction, not by limiting the raw number of States where jurisdiction exists. What matters here is whether Meta has purposefully established minimum contacts with Vermont that relate to this case.

Because Meta plainly has done so, specific personal jurisdiction exists over Meta. If Meta has constructed its business such that it has purposefully established these kinds of minimum contacts with many States, then it is subject to suit in many States. Meta’s business model cannot exempt it from the application of specific personal jurisdiction, which also serves the states’ interest in providing a convenient forum for the redress of its citizens’ injuries.

I. Meta Has Established Minimum Contacts with Vermont.

Meta has established minimum contacts with Vermont in at least three ways, each of which is enough to confer jurisdiction over Meta: (1) by entering into ongoing contractual relationships with tens of thousands of Vermonters; (2) by targeting Vermonters with a Vermont-specific product; and (3) by conducting substantial business in Vermont.

A. Meta Has Entered Ongoing Contractual Relationships with Tens of Thousands of Vermonters.

The State alleged that Meta entered tens of thousands of contracts with individual Vermont users. Compl. ¶¶ 50–52, 85 (Oct. 24, 2023). Through these ongoing contracts, Meta purposefully avails itself of the privilege of doing business—substantial and highly profitable business—in Vermont.

The United States Supreme Court’s landmark decision in *Burger King Corp. v. Rudzewicz* is directly on point. There, the Court held that one of Burger King’s franchisees, a Michigan resident, was subject to personal jurisdiction in Burger King’s home state of Florida because he had entered a contract with Burger King (the franchise agreement) that created an ongoing “relationship that envisioned continuing and wide-reaching contacts with Burger King in Florida.” *Burger King*, 471 U.S. at 480. While “an individual’s contract with an out-of-state party *alone* can[not] automatically establish sufficient minimum contacts in the other party’s home forum,” the Court explained, when the defendant “has created continuing obligations between himself and residents of the forum,” then “he manifestly has availed himself of the privilege of conducting business there, and because his activities are shielded by the benefits and protections of the forum’s laws it is presumptively not unreasonable to require him to submit to the burdens of litigation in that forum as well.” *Id.* at 476, 478 (cleaned up).

Like the franchisee in *Burger King*, Meta has “reach[ed] out” into Vermont, by advertising its application in the State and making it available here, and has entered contracts with many thousands of Vermonters that “create continuing relationships and obligations” with them. *Id.* at 473. To be sure, rather than individually negotiating a contract, Vermont residents accept a set of terms and conditions put forward by Meta, but the contractual relationship that results is no less “continuing and wide-reaching” than an individually negotiated contract might be. *Id.* at 480.

Burger King teaches that specific personal jurisdiction does not turn on formalities like whether the parties’ contract is tailored or boilerplate because “a contract is ordinarily but an intermediate step serving to tie up prior business negotiations with future consequences which themselves are the real object of the business transaction.” *Id.* at 479 (cleaned up).

Meta’s Terms of Use contracts with thousands of Vermont users impose extensive, ongoing, and mutual obligations that take place *in Vermont*. Meta commits to give its Vermont customers ongoing access *from Vermont* to the content library it hosts, as well as the capability of posting content of their own *in Vermont*; and in exchange those Vermonters authorize Meta to *reach into Vermont* and continuously collect massive amounts of their highly profitable data—including data about their location in Vermont. Compl. ¶¶ 54–61. As the district court found, “[t]his is not merely fortuitous, attenuated, or random contact.” Ruling on Mot. to Dismiss, *State of Vermont v. Meta Platforms, Inc.*, No. 23-CV-4453, at 8 (Vt. Sup. Ct. July 29, 2024).

While Meta contends that personal jurisdiction is defeated because “[t]he State does not allege Meta requires Vermont-based users alone to accept the Terms of Use, or that such Terms are specific to Vermont,” the Due Process Clause does not require that a defendant’s purposeful minimum contacts with a state be *exclusive* of other States. Principal Br. of Appellants Meta Platforms, Inc., et al. at 15 (Mar. 3, 2025) (“Meta Br.”); *see Riley v. MoneyMutual, LLC*, 884 N.W. 2d 321, 335 (Minn. 2016) (“[I]t is not necessary to rule out the targeting of other forums, in addition to Minnesota, in order to establish Minnesota’s personal jurisdiction over a particular defendant.”). Just as Meta has sought and created continuous and systematic contractual relationships with at least tens of thousands of Vermonters, it may also have created similar contacts with users in other States.

If accepted, Meta’s revolutionary argument would mean that it is not subject to specific personal jurisdiction anywhere but where it was already subject to general personal jurisdiction. That fundamentally misunderstands how the Due Process Clause protects defendants: by limiting the types of contacts that support jurisdiction, not by limiting the raw number of states where jurisdiction exists. For example, the fact that Hustler magazine is “a national publication aimed at a nationwide audience,” *Keeton v. Hustler Mag., Inc.*, 465 U.S. 770, 781 (1984), and that Ford “markets, sells, and services its products across the United States,” *Ford Motor Co. v. Mont. Eighth Jud. Dist. Ct.*, 592 U.S. 351, 355 (2021), is no reason to *deny* jurisdiction in any State.

Companies purposefully directing their business at people in every State open themselves up to liability in those States. Indeed, Ford “is a global auto company” that “is incorporated in Delaware and headquartered in Michigan. But its business is

everywhere.” *Id.* The Supreme Court explained that no company should be sued in a State’s courts if that is not a reasonably foreseeable consequence of their business operations. But if “encourag[ing] ‘Montana residents to drive Ford vehicles’ ” or “influenc[ing] state residents to ‘purchase and drive more Ford vehicles’ ” is enough to find personal jurisdiction, then so too must be Meta’s efforts to entice so many thousands of Vermonters to create Instagram accounts governed by its contractual terms. *Id.* at 357 (quoting *Ford Motor Co. v. Mont. Eighth Jud. Dist. Ct.*, 395 Mont. 478, 491 (2019) & *Bandemer v. Ford Motor Co.*, 931 N.W.2d 744, 754 (Minn. 2019)).

Indeed, Meta’s reasoning reflects “a perverse understanding of personal jurisdiction and amounts to a demand that the States divest themselves of personal jurisdiction over the largest companies with the greatest reach.” *Indiana v. TikTok Inc.*, 245 N.E.3d 681, 692 (Ind. Ct. App. 2024) (quotation marks omitted). That reasoning effectively eliminates the existence of specific jurisdiction for nationwide companies, forcing those who are wronged by them to sue them only where they are “essentially at home” and subject to general jurisdiction. *But see Ford*, 592 U.S. at 358. No precedent supports this rule, and many cases are incompatible with it.

Instead, due process prevents unfairness by limiting jurisdiction to those States where the defendant genuinely has minimum contacts—no matter how many states that is. That is the principle that explains the Fifth Circuit’s statement, which Meta invokes, that “[m]erely running a website that is accessible in all 50 states . . . is not enough to create the ‘minimum contacts’ necessary to establish personal jurisdiction.” *Admar Int’l, Inc. v. Eastrock, LLC*, 18 F.4th 783, 785 (5th Cir. 2021) (quoting *Int’l Shoe Co.*, 326 U.S. at 316). Such a result would be fundamentally unfair not because of how many States would possess jurisdiction but because merely “run[ning] an interactive website” does not establish that a company “has engaged in business transactions with forum residents or entered contracts with them.” *Id.* at 786–87 (cleaned up). Meta’s Instagram app is not merely an “interactive website.” It is a service that Meta provides in which Vermont users sign up for accounts and enter an ongoing contractual relationship with Meta in Vermont. And part of that contract includes Vermonters’ data being frequently sent back and shared with Meta.

Meta’s tens of thousands of Instagram Terms of Use contracts with Vermont residents are sufficient to establish intentional minimum contacts with Vermont.

B. Meta Creates a Vermont-Specific Product.

Meta has also established minimum contacts with Vermont because it crafts a unique product experience that is specifically tailored for users who are Vermont residents. Meta’s Instagram product actively targets content and advertisements to Vermont users based on their location. Compl. ¶¶ 60–62, 68. In doing so, Meta creates a Vermont-specific experience designed to encourage Vermont users to return to the app frequently and for long durations, thereby increasing Meta’s ability to earn advertising revenue. *Id.* ¶¶ 65–73. Likewise, Meta collects personal data from Vermont users and sells that data to Vermont businesses to allow them to specifically target Vermonters. When a company not only does business in a State but specifically crafts a unique product for that State and then sells it there, there can be no question that it has “‘purposefully directed’ [its] activities at residents of the forum” in a way that satisfies due process. *Burger King*, 471 U.S. at 472 (quoting *Keeton*, 465 U.S. at 774).

Meta has independently established minimum contacts with Vermont by creating a Vermont-specific product experience.

C. Meta Conducts Substantial Business in Vermont Through Instagram.

Meta has also established minimum contacts with Vermont for a third reason: it conducts substantial business in this State.

As the Complaint alleges, “Instagram is widely used by Young People in Vermont.” Compl. ¶ 74. For example, during one year’s time, at least 41,537 Vermont teens between 13 and 17 used Instagram monthly, while 29,484 used Instagram daily. *Id.* ¶ 75. Those young Vermont users contribute to Meta’s significant profits. *Id.* ¶¶ 68, 70, 72. Tens-of-thousands of daily Vermont users are part of a substantial and profitable business relationship pervasive throughout the State.

Binding precedents hold that doing appreciable amounts of business in a State is enough to support specific personal jurisdiction. For example, *Keeton* held that Hustler, the well-known nationwide magazine publisher, was subject to personal jurisdiction in New Hampshire based on its “regular circulation of magazines” there. 465 U.S. at 773–74. While Hustler did not target New Hampshire residents for magazine subscriptions to any greater or different degree than the residents of the other 49 states, the Court

concluded that the “regular monthly sales of thousands of magazines” in New Hampshire “cannot by any stretch of the imagination be characterized as random, isolated, or fortuitous[.]” and that the specific jurisdiction of the New Hampshire courts was thus “unquestionable.” *Id.* at 774.

Similarly, the federal circuit courts have held in several cases that personal jurisdiction exists when a company engages in the “deliberate exploitation of the market in the forum state.” *uBID, Inc. v. GoDaddy Grp., Inc.*, 623 F.3d 421, 423 (7th Cir. 2010). *GoDaddy* found jurisdiction over a company offering online website domain registration and maintenance services that engaged in a “nationwide advertising campaign” that “successfully reached Illinois consumers,” resulting in “hundreds of thousands” of customers in the forum state. *Id.* at 424, 427. While GoDaddy did not “specifically target[] Illinois customers in its advertising,” the court concluded that “it is easy to infer that GoDaddy’s national marketing campaign is intended to reach as large an audience as possible, including the 13 million potential customers in the nation’s fifth most populous state.” *Id.* at 428.

Likewise, *NBA Properties, Inc. v. HANWJH* held that Illinois had personal jurisdiction over a Chinese Amazon.com shop that “established an online store, using a third-party retailer, Amazon.com,” “unequivocally asserted a willingness to ship goods to Illinois and established the capacity to do so,” and then “intentionally shipp[ed] an infringing product to the customer’s designated Illinois address.” 46 F.4th 614, 624 (7th Cir. 2022). Having “structured its sales activity in such a manner as to invite orders from Illinois and developed the capacity to fill them,” the court explained, the defendant “cannot now point to its customers in Illinois and tell us, ‘It was all their idea.’ ” *Id.* at 625 (cleaned up) (quoting *GoDaddy*, 623 F.3d at 428).

Again, cases across the country show that Meta is subject to personal jurisdiction in Vermont related to its pervasive Instagram app. Instagram has made its product available in Vermont and “unequivocally asserted a willingness” to deliver its products virtually to Vermont customers and “established the capacity to do so.” *Id.* at 624. To be sure, Instagram is a virtual product that Meta “sells” in exchange for data rather than money. But while its “unusual business model . . . allows it to avoid the type of physical presence that makes these questions easier when dealing with non-Internet companies that operate on a similar scale,” that is plainly “not decisive under the flexible

jurisdictional analysis that the Supreme Court has applied consistently.” *GoDaddy*, 623 F.3d at 429.

Meta attempts to dismiss the relevance of the tens of thousands of Vermont user downloads as the Vermont “users’ unilateral decision,” Meta Br. at 16, but the State seeks to call Meta to account in Vermont based on its own purposeful acts, not a third party’s unilateral ones. Given that Meta has taken steps to market Instagram in Vermont, make it available here, and profit from Vermonters’ use of it by collecting their location data and targeting them in Vermont with ads, the decision by many Vermont consumers to download and access Instagram is not “unilateral” at all. Those Vermont residents did not decide to use Instagram out of the blue. And having “structured its sales activity in such a manner as to invite orders from [Vermont] and developed the capacity to fill them,” Meta “cannot now point to its customers in [Vermont] and tell us, ‘It was all their idea.’ ” *NBA Props.*, 46 F.4th at 625 (cleaned up) (quoting *GoDaddy*, 623 F.3d at 428).

Meta asks this Court to disregard its own internal communications and practices to find that its purposeful direction of action towards Vermont is generalized and not State-specific. As explained above, it is not necessary for the State to show that Meta targets Vermont to the exclusion of other States for jurisdiction to exist. But even still, the Complaint alleges that Meta *has* specifically targeted Vermont for market research about teen users. Compl. ¶¶ 78–85. In this way, Meta has clearly “structured its sales activity in such a manner as to invite orders from [Vermont] and developed the capacity to fill them.” *NBA Props.*, 46 F.4th at 625.

Meta has established minimum contacts with Vermont by conducting a substantial amount of business here through its Instagram app.

II. This Case Relates to Meta’s Contacts with Vermont.

The second requirement of specific personal jurisdiction is that the action relate to the defendants’ minimum contacts with the forum State. Specific jurisdiction exists so long as the plaintiff’s claims “arise out of *or relate to* the defendant’s contacts with the forum” and that does not require “only a strict causal relationship between the defendant’s in-state activity and the litigation.” *Ford*, 592 U.S. at 362 (internal citation omitted). *Ford*, found specific jurisdiction where the auto manufacturer “serves a market for a product in the forum State and the product malfunctions there,” even though it “sold

the specific cars involved in the[] crashes [giving rise to the plaintiffs’ claims] outside the forum States.” *Id.* at 363, 366.

Vermont’s claims against Meta are related to the company’s purposeful direction of activities toward the Vermont market under *Ford*’s standard. The State challenges the Instagram App’s intentionally addicting design and Meta’s affirmative misrepresentations to consumers about that app. Those features and misrepresentations are part of how Meta induced its Vermont users to acquire and continue using its product. That use of the product then gives Meta access to valuable data from Vermonters to sell to advertisers. Indeed, this case meets even the heightened “strict causal relationship” that *Ford* rejected as too stringent. *Id.* at 362.

If Meta did not “structure[] its sales activity in such a manner as to invite orders from [Vermont] and develop[] the capacity to fill them,” *NBA Props.*, 46 F.4th at 625, it would never have made the misrepresentations at issue to Vermont consumers; and if Meta did not provide those consumers with ongoing access to its content pursuant to its “continuing relationships and obligations” with them, *Burger King*, 471 U.S. at 473, those Vermont consumers would never have been harmed by those misrepresentations and by Instagram’s addictive design features. The “contacts upon which the State’s claims are based” are thus “part-and-parcel with the usage of [Meta]’s app by [Vermont] residents,” *Indiana*, 245 N.E.3d at 690, and Meta’s attempts to defeat that conclusion all come to naught.

For similar reasons, the State’s claims relate to Meta’s conduct in exploiting the location data of its Vermont consumers to craft a Vermont-specific product experience that it aims at those in-State consumers. Indeed, the complaint alleges that if Meta had not made the misrepresentations at issue, it would not have been able to obtain the location data of so many Vermont users (especially young Vermont users), and it consequently could not have used that data to serve content and Vermont location-specific advertisements to those users. Compl. ¶¶ 261–79. And if Meta’s Vermont-tailored product experience had not successfully kept so many Vermont users on the platform, those users would not have been injured by Defendants’ misrepresentations and addictive platform design. *Id.* ¶¶ 65–73, 86–222. Once again, then, the State’s claims and Meta’s contacts are intimately related by tight causal chains that run in both directions. Those claims may not be *directly* based on “viewing advertisements,” Meta Br. at 18, but

again, under *Ford* they need not be. And as with the other contacts discussed above, the claims “arise out of or relate to” Meta’s use of location data to craft a Vermont-specific product experience. *Ford*, 592 U.S. at 359 (quotation marks omitted).

Finally, the State’s claims are connected to the large volume of business Meta does in Vermont. Again, because Meta’s misrepresentations about the age-appropriateness of Instagram’s content and features are material to the decisions parents and young people make about whether or how much to use the Instagram app, it is a fair inference that a large proportion of the business Meta does in Vermont would not exist at all, but for the misrepresentations and addictive design features that form the basis of the State’s claims.

Meta’s counterarguments do not negate the relationship between the State’s claims and Meta’s contacts with Vermont. Meta asserts that its thousands of contracts with Vermont users cannot support specific jurisdiction because “[t]he State [does not] allege that Meta breached the Terms of Use,” Meta Br. at 16, but under *Ford*, a defendant’s contacts with the forum do not need to constitute the basis of the claim; it suffices that the claim “arise out of or relate to” those contacts. 592 U.S. at 362 (emphasis omitted) (quotation marks omitted).

Here, the State’s claims both arise out of and relate to Meta’s Vermont contacts: Meta induces Vermont residents to acquire its product and enter the ensuing contractual relationship by making the deceptive statements that are the basis of the State’s claims. And under those contracts, Vermont users continuously view the content available on the platform and suffer serious harm because of Meta’s misrepresentations and intentionally addictive Instagram design.

Nor does it matter that “the State does not allege that teens are ‘addicted’ to viewing advertisements.” Meta Br. at 17–18. The State’s claims do not depend on the content of the geo-targeted advertising but on the fact that Meta profits from that advertising, which incentivized Meta to misrepresent Instagram to Vermont consumers and intentionally design Instagram to be addictive, especially to young users. Again, this clearly establishes that the State’s claims here *relate to* Meta’s contacts with Vermont.

III. Decisions from Other Jurisdictions Support the Exercise of Personal Jurisdiction Here.

The overwhelming weight of authority from other jurisdictions supports jurisdiction over national social media providers like Meta. Courts in Tennessee, New

Mexico, New Hampshire, Oklahoma, and Utah have all recently held that Meta was subject to jurisdiction in those respective states, reasoning that “Meta collects data from its consumers, including locational data,” and “then uses that data to deliver its consumers a customized experience on Instagram,” including by offering “highly targeted, data-informed advertising opportunities . . . based on consumers’ locations.” *Tennessee v. Meta Platforms, Inc.*, No. 23-1364-IV, 2024 WL 3253106, at *6 (Tenn. Ch. Ct. Mar. 13, 2024); *see also* Order at 2, *New Mexico v. Meta Platforms, Inc.*, No. D-101-CV-2023-02838 (1st Jud. Dist. Ct. June 21, 2024); Order at 11–21, *New Hampshire v. Meta Platforms, Inc.*, No. 217-2023-CV-00594 (N.H. Super. Ct. Dec. 10, 2024); Order at 2–5, *Oklahoma v. Meta Platforms, Inc.*, No. CJ-2023-180 (Okla. Dist. Ct. Nov. 20, 2024); *Utah Div. of Consumer Prot. v. Meta Platforms, Inc.*, No. 230908060, 2024 WL 3741422, at *4 (Utah 3d Dist. Ct. July 18, 2024).

Courts have similarly held that specific personal jurisdiction exists in states where TikTok Inc. and its corporate affiliates operate the TikTok app, which is a close competitor of Instagram and operates in essentially the same way. An appellate court in Indiana recently “ha[d] little trouble concluding that Indiana’s judiciary has specific personal jurisdiction over TikTok,” reasoning that TikTok’s “engagement with [its] end-users [in the forum state] is neither passive nor fleeting—TikTok uses the internet, to which its app is connected, to knowingly and repeatedly transmit data to and from each of those . . . end-users each and every hour of each and every day.” *Indiana*, 245 N.E.3d at 690. And so have courts in Iowa, Nebraska, Kansas, Utah, and Nevada. *See* Order at 16, *Iowa v. TikTok Inc.*, No. EQCE089810 (Iowa District Court for Polk County, Aug. 26, 2024); Order at 3, *Nebraska v. TikTok Inc.*, No. CI 24-1759 (Lancaster Cnty. Dist. Ct. Jan. 10, 2025); Judge’s Minutes, *Kansas v. TikTok, Inc.*, No. SN-2024-CV-000165 (Kan. Dist. Ct. Dec. 26, 2024); Order at 5–9, *Utah Div. of Consumer Prot. v. TikTok Inc.*, No. 230907634 (Utah 3d Jud. Dist. Ct. Nov. 12, 2024); Tr. of Hr’g re: Mot. to Dismiss at 97–98, *Nevada v. TikTok, Inc.*, No. A-24-886127-B (Nev. Dist. Ct. Sept. 24, 2024).

Many federal courts have likewise recognized that specific personal jurisdiction exists when an app developer contracts with thousands of residents in a State, actively collects their personal information, and uses that information to target individual users. *E.g.*, *Dzananovic v. Bumble, Inc.*, No. 21-cv-06925, 2023 WL 4405833, at *4 (N.D. Ill. July 7, 2023); *Doffing v. Meta Platforms, Inc.*, No. 1:22-cv-00100-CL, 2022 WL

3357698, at *4 (D. Or. July 20, 2022); *Chien v. Bumble Inc.*, 641 F. Supp. 3d 913, 928–30 (S.D. Cal. 2022).

By contrast, a decision for Meta here would diminish States’ ability to vindicate their consumer-protection statutes in their own court systems. Each State has a “manifest interest” in providing a convenient forum for redressing in-state injuries inflicted by out-of-state actors. *Burger King Corp.*, 471 U.S. at 473. That interest is most substantial when the State *itself* brings a suit for the protection of its own consumers as set out in its own state law. State consumer-protection laws allow a State attorney general to bring this type of lawsuit, often to vindicate broadly the rights of many consumers who have been the victims of unfair and deceptive conduct practiced widely by a particular entity. Where, as here, that entity is an out-of-state company that has “purposefully derive[d] benefit” from in-state activities, it is “unfair to allow [it] to escape having to account ... for consequences that arise proximately from such activities.” *Id.* at 474. The unfairness is only magnified when an out-of-state actor’s in-state conduct affects *many* consumers, as is alleged in this case and many others brought by State attorneys general.

CONCLUSION

For all these reasons, *amici* urge this Court to affirm the district court’s Order asserting specific personal jurisdiction over Defendants.

Date: April 16, 2025

Respectfully submitted,

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CERTIFICATE OF COMPLIANCE

I, Brady Toensing, counsel for Amici Curiae and a member of the Bar of the State of Vermont, certify, under Vermont Rules of Appellate Procedure 32(a)(1)(D) and 32(a)(4)(A)(i), that the attached Brief of the Amici Curiae States was prepared using Microsoft Word, is proportionally spaced, has a typeface of 13 points, and contains 4,934 words.

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