No. 25A____

In the Supreme Court of the United States

META PLATFORMS, INC. AND INSTAGRAM, LLC,

Applicants,

v.

COMMONWEALTH OF MASSACHUSETTS,

Respondent.

APPLICATION FOR AN EXTENSION OF TIME WITHIN WHICH TO FILE A PETITION FOR A WRIT OF CERTIORARI TO THE SUPREME JUDICIAL COURT OF MASSACHUSETTS

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RULE 29.6 DISCLOSURE STATEMENT

Applicant Meta Platforms, Inc. is a publicly traded company (NASDAQ: META). Meta Platforms, Inc. has no parent company, and no publicly held corporation owns 10% or more of its stock. Applicant Instagram, LLC is a wholly owned subsidiary of Meta Platforms, Inc.

TO THE HONORABLE KETANJI BROWN JACKSON, ASSOCIATE JUSTICE OF THE SUPREME COURT AND CIRCUIT JUSTICE FOR THE FIRST CIRCUIT:

Under this Court's Rules 13.5 and 30.2, applicants Meta Platforms, Inc. and Instagram, LLC respectfully request a 32-day extension of time, to and including August 10, 2026, within which to file a petition for a writ of certiorari to review the judgment of the Supreme Judicial Court of Massachusetts. That court entered its judgment on April 10, 2026. App., *infra*, 1a-50a. Unless extended, the time within which to file a petition for a writ of certiorari will expire on July 9, 2026. The jurisdiction of this Court would be invoked under 28 U.S.C. § 1257(a). Counsel for respondent does not oppose this request.

1. This case presents an important and recurring question about the scope of Section 230 of the Communications Decency Act, 47 U.S.C. § 230. Several courts have held that Section 230(c)(1) bars claims that implicate "a provider's role as a publisher, including its editorial choices concerning whether, how, when, for how long, and to whom to publish information." App., *infra*, 24a & n.19. In this case, the state supreme court departed from that interpretation, limiting protection under Section 230 to claims that "see[k] to impose liability based on" a specific piece of third-party content. *Id.* at 27a; *see id.* at 39a-40a.

a. Congress enacted Section 230 to "promote the continued development of the Internet," to "preserve the vibrant and competitive free market" that existed "for the Internet and other interactive computer services, unfettered by Federal or State regulation," and to "encourage the development of technologies which maximize user control over what information is received." 47 U.S.C. § 230(b)(1)-(3). To that end, Section 230 grants broad protection to interactive computer service providers—like applicants—for publishing content provided by others. Section 230 states 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." *Id.* § 230(c)(1). In applying that prohibition, the key question typically is whether "the plaintiff's claim holds the defendant responsible as the publisher or speaker" of third-party content. *M.P. ex rel. Pinckney* v. *Meta Platforms Inc.*, 127 F.4th 516, 524 (4th Cir. 2025) (citation omitted). Congress barred any state cause of action that is "inconsistent" with that directive. 47 U.S.C. § 230(e)(3).

b. Applicants own and operate Instagram, a social-media service. App., *infra*, 4a. Instagram enables users to post images and videos and to interact with others. *Id.* at 4a-5a. Users view content through various means, including a "main feed," which has posts from accounts users follow, suggested posts, and advertisements; an "explore" page, which contains third-party content that could potentially interest users based on the other content they have viewed or liked; and "stories," which are ephemeral posts. *Id.* at 5a.

The Commonwealth sued applicants in Massachusetts state court, claiming that applicants harmed young users' health and well-being by allegedly designing Instagram "to induce compulsive use" and deceiving the public about Instagram's safety. App., *infra*, 5a-6a. First, the Commonwealth alleged that applicants engaged in unfair business practices by (a) designing Instagram to send notifications about the availability of third-party content, (b) displaying posts in an "infinite scroll" and videos with "autoplay," (c) allowing people to post ephemeral "stories" that disappear after 24 hours, and (d) using "intermittent variable reward[s]," a label that the Commonwealth attached to notifications that do not have a fixed schedule and to the delay "between the moment the user swipes to refresh his or her feed and the display of new content." *Id.* at 7a-9a. Second, the Commonwealth alleged that applicants deceived the public by claiming that Instagram is safe for youth. *Id.*

at 9a. Third, the Commonwealth asserted that applicants engaged in deceptive and unfair business practices because their measures for preventing children under the age of 13 from using Instagram were allegedly ineffective. *Id.* at 10a. Fourth, the Commonwealth contended that applicants created a public nuisance of youth addiction to Instagram based on the conduct alleged for the first three claims. *Ibid.*

c. The superior court denied applicants' motion to dismiss the Commonwealth's claims under Section 230. App., *infra*, 11a. In its view, the unfair-business-practices claims targeted applicants for their design of Instagram, not the third-party content to which young users were allegedly addicted. *Ibid.* The court also held that the deception-based claims targeted applicants' speech instead of their role in publishing third-party content. *Ibid.* Because the public-nuisance claim is derivative of the other three claims, the court denied applicants' motion to dismiss in full. *Ibid.*

d. The Supreme Judicial Court of Massachusetts affirmed. App., *infra*, 20a-50a. It observed that courts are divided on the "construction" of Section 230(c)(1)'s key phrase: "'treated as the publisher . . . of any information.'" *Id.* at 23a (quoting 47 U.S.C. § 230(c)(1)). While many courts have applied Section 230 to bar claims that "implicate a provider's role as a publisher, including its editorial choices concerning whether, how, when, for how long, and to whom to publish information," *id.* at 23a-24a & n.19, others have limited Section 230 to claims that "mak[e] the defendant liable for intentionally or negligently publishing information to someone other than the subject of the information" *plus* "see[k] to impose liability based on the content of the information published," *id.* at 27a. The court adopted the narrower view, *id.* at 39a-40a, and concluded that the Commonwealth's claims survive

Section 230 because they target how applicants display content in the aggregate rather than a decision to publish a particular piece of content, *id.* at 44a-50a.

2. The Supreme Judicial Court's decision warrants this Court's review.

a. The decision below is incorrect. As the state supreme court recognized, the "plain meaning of 'publisher'" is "'one that makes public,' 'the reproducer of a work intended for public consumption,' and 'one whose business is publishing.'" App., *infra*, 23a (quoting *Webster's Third New International Dictionary* 1837 (1981)); *accord Webster's Third New International Dictionary* 1837 (1993). Section 230(c)(1) thus bars any claim that implicates a provider's role as a publisher of third-party content, including its editorial choices concerning whether, how, when, for how long, and to whom to publish information. App., *infra*, 23a-24a. The court erred in cabining that statutory protection based on the "common law of information-based torts such as defamation." *Id.* at 26a. Congress expressly provided that "[*n*]*o* cause of action may be brought and *no* liability may be imposed under any State or local law that is inconsistent with" the categorical bar on treating applicants as publishers of third-party content. 47 U.S.C. § 230(e)(3) (emphases added).

b. The decision below deepened an entrenched, acknowledged lower-court conflict on the scope of Section 230. As the state supreme court observed, many courts have held that Section 230 bars any claims that implicate the provider's role as a publisher. App., *infra*, 23a-25a & n.19. But the state supreme court departed from that interpretation in adopting the outlier view that a claim treats a defendant as a publisher of third-party content only when it both "makes the defendant liable for intentionally or negligently publishing information to someone other than the subject of the information" *and* "seeks to impose liability based on the content of the information published." *Id.* at 27a; *see id.* at 39a-40a.

c. The question presented is outcome determinative. The state supreme court held that Section 230 did not bar the Commonwealth's claims based on the additional requirement that the claim "seeks to impose liability based on the content of the information published." App., *infra*, 46a, 48a-49a.

3. Additional time is necessary for counsel to prepare a petition that would be most helpful to the Court. Undersigned counsel of record did not represent applicants in the proceedings below. Counsel also has had and will continue to have substantial briefing and professional obligations near the current July 9 deadline.

4. Counsel for respondent does not oppose the requested extension.

Accordingly, applicants respectfully request that their time to file a petition for a writ of certiorari be extended by 32 days, to and including August 10, 2026.

Respectfully submitted,

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