**Technology Entrepreneurship**

Misrepresentation and Product Liability

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Over the last 2 decades, technology and entrepreneurship itself have evolved immensely. What constitutes a business today would be shocking to people going back even 10 years. The growing of technology has shaped the way businesses are formed and has molded the way people think about developing a product for consumers. When compared to other fields such as economics, entrepreneurship, and management, technology entrepreneurship is at its beginnings and is already making its impact on the modern world.

Technology Entrepreneurship, as defined by Bailetti, is “an investment in a project that assembles and deploys specialized individuals and heterogeneous assets that are intricately related to advances in scientific and technological knowledge for the purpose of creating and capturing value for the firm” (Giones & Brem, 2017, p. 44). However, as the world advances technologically and more businesses enter the technical field, we need to extend the legalities that surround this area of entrepreneurship and the products and services provided by businesses.

“A tort is an act or omission that gives rise to injury or harm to another and amounts to a civil wrong for which courts impose liability. In the context of torts, ‘injury’ describes the invasion of any legal right, whereas ‘harm’ describes a loss or detriment in fact that an individual suffers” (Legal Information Institute). The goal of tort laws is to protect users and their data from harmful actions against them caused by businesses and their products/services. It puts liability on the businesses to discourage them from committing harmful acts against their customers. “Torts can shift the burden of loss from the injured party to the party who is at fault or better suited to bear the burden of the loss” (Legal Information Institute).

Misrepresentation is an implication of tort law that can be defined as “an untrue statement of fact; an incorrect or false representation” (Ibid, p. 574). Business owners and technical entrepreneurs need to place a great deal of importance on representing their products and services correctly. “There is an expectation that the information (about the product or the instructions therein) will be accurate and kept reasonably current, and where injury is caused by outdated or inaccurate information, liability may still be imposed” (Yates et al., 2013, p. 479).

A second implication of tort law is product liability. “Product liability is the area of tort law that governs the liability of entities responsible for placing products into the stream of commerce and who are liable for injuries caused by defective products” (Product liability law). There are 4 possible bases for product liability: design defects, manufacturer defects, failure to warn and breach of warranty (Product liability law).

Misrepresentation and product liability carry with them legal implications for violating the policies of both tort laws. It was uncovered that recently Facebook made false claims about the functionality of their product and misrepresented some information to the users of the platform. “The Wall Street Journal reported that Facebook executives, including Zuckerberg, made public statements about the company’s enforcement policy for offensive material that is contradicted by internal documents” (Jena Martin, 2021). Essentially, an investigation into the internal workings of Facebook’s algorithms uncovered a “whitelisting” (creating a list of approved/favored people) that allows for only some of the users to get around the company's normal enforcement procedures (Jena Martin, 2021). A contradictory claim made by Zuckerberg states that all users are on equal grounds when content is flagged as offensive and removed. Facebook appeared to give everyone equal treatment regarding their posts, however behind the scenes their algorithms were treating people with wealth and status differently than your average user.

In addition to the misrepresentation claims, Facebook also could potentially face product liability implications. It is evident that many criminals and people breaking the law use the service to aid them in committing crimes. For example, countless robberies have occurred to people using the marketplace feature, as well as many instances of human trafficking have occurred using the platform. While Facebook is not directly involved in the crimes, it is very clear that the people committing the crimes are using the service to assist them in harming other users.

In my opinion I believe Facebook should be held accountable for both misrepresentation of their service and its product liability in the sense that they aid criminals in committing crimes against other users on the platform. In the case of misrepresentation, violation of this law typically brings a financial loss or penalty. In the case of product liability, depending on the severity, this can also bring in a financial penalty or in some extreme circumstances criminal charges. However, unfortunately I believe that proving Facebook violated either of these laws will be nearly impossible.

In terms of misrepresentation, there needs to be significant proof that the false statements were made intentionally and knowingly. “That this misrepresentation was material – read, significant; and that the misrepresentation was done with some level of knowledge regarding its falsity. In other words, it would have to be more than an innocent or stupid mistake” (Jena Martin, 2021). With this loophole it will be almost impossible to say that Zuckerberg or any other Facebook official violated this law and misrepresented the service.

Product liability is a grey area for online services and in the examples given above, it makes it that much harder to hold Facebook liable for anything that happens on their platform. The platform itself isn’t the direct cause of harm to its users, it’s the malicious users utilizing Facebook in order to commit their crimes. Negligence is also an implication of tort law that is worth mentioning here. It is defined as “a tort that involves a non-intentional, careless, or reckless act that breaches a legally recognized duty of care and results in damages to another person” (Doorey, 2020, pp. 254 - 255). In my opinion, Facebook has a duty of care to warn its users of potential dangers while using their services. For example, Facebook could flag suspicious accounts for users (e.g., brand new accounts, not much activity on them, no pictures, etc.) when using the marketplace. Another solution could be shielding people from these types of accounts from adding them as friends and sending them messages. It could also provide warning messages while people are on the application so that they are more aware of the potential dangers, and to not interact with strangers and only meetup with buyers/sellers in public places. Providing more awareness to the users about the potential dangers would remedy many of the issues in my opinion.

Facebook requires significant changes to its platform to abide by Canadian laws. As described above, some of their practices go against Canada’s concept of torts. For Facebook to abide by the misrepresentation tort, it is apparent that they must be truthful about how their product functions. Product liability is the most important in my opinion, as their product has done harm to some users (albeit, indirectly). For Facebook to abide by this tort, I feel we must go back to the 4 bases of product liability: design defects, manufacturer defects, failure to warn and breach of warranty (Product liability law). Failure to warn is what applies to Facebook, and I feel it is their responsibility to warn users of potential dangers and harm that could occur as a result of using their platform.

It is evident that as technology evolved the laws surrounding products such as Facebook did not keep up as well as they should have. Facebook has gotten away with more than what was described here, such as privacy breaches and selling off sensitive information about its users. As time goes on, I feel it is crucial to the longevity of technology entrepreneurship that the laws surrounding it need to be extended to protect the users. If it is unsafe to use services such as Facebook, or their product is misrepresented, people will stop using it and similar services which would be detrimental to technology entrepreneurship and its future evolution.

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