

A Window of Opportunity to Regulate Addictive Technologies
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ABSTRACT

We spend large parts of our days on screens. Often more than we intend to. Screen time has increased steadily for over a decade, even before the Covid-19 pandemic. This is no coincidence. Reports leaking from Silicon Valley revealed that tech companies used manipulative designs to extend users' time on screens. The internet economy's business model relies on extending user time online to collect more data and target more advertising at users.

This Article aims to answer why regulators did not intervene for years to protect users, especially children, from the harms of excessive screen time. It does so by developing law and technology theory to examine what influences the creation and breadth of windows of opportunity to regulate new technologies. Specifically, it identifies three factors that can obstruct the creation of meaningful windows of opportunity: (i) the invisibility of the technology; (ii) rapid entrenchment of norms and business interests; and (iii) social and institutional resistance to early intervention. The article also offers insight into how the occurrence of mega-historical events can reopen windows of opportunity by shaking up entrenched norms and practices.

The Article sheds light on how a window of opportunity to regulate addictive technologies failed to originally materialize, while re-opening later. First, the technology design that made screens addictive was invisible. As a result, users did not notice that their time online was gradually extended. By the time that public reports raised awareness of the technology addiction and overuse problem, both user norms and business interests were deeply engrained. Screens permeated practically every aspect of everyday lives. And, the primary business model of the internet economy relied on maximizing user time. Second, U.S. regulators generally resist early intervention, particularly of information technology and the Internet. Unsurprisingly, they opted for a wait-and-see approach in addressing technology overuse. Finally, the Article argues that the Covid-19 pandemic was a mega-historical event that created a window of opportunity to tackle the technology overuse problem. While the pandemic exacerbated the problem by significantly increasing screen time, it also made the technology visible. People realized how much time they spent on screens and how it affected them. This realization, coupled with increasing scientific evidence of the harms of technology overuse, created a window to regulate addictive technologies,