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PERSPECTIVE

It's a Snap, Snap, Snap, Snap world

By Jonathan Michaels

Snapchat, America's latest internet darling, recently raised $3.4 billion in its public offering, catapulting the company past the high-watermarks previously set by tech giants Google ($1.6 billion) and Twitter ($1.8 billion). The March IPO, with its opening share price of $17, is just the latest billion-dollar stock spin-up of a young company that has yet to earn its first dollar.

The offering set the 5-year-old company's valuation at $24 billion — more than the value of Fannie Mae, AutoNation and Jet Blue *combined*. Yet while those companies posted a 2016 profit of $13.5 billion, Snapchat continuously drowns in a sea of red.

Under the stewardship of 26-yearold CEO Evan Spiegel, Snap Inc. has posted losses that would make even Tesla shudder. Soon after the close of its public offering, Snapchat posted its financial results for the first quarter of 2017, reporting a three-month loss of $2.2 billion. Wall Street was expecting heavy bleeding, but no one was prepared for this kind of carnage just one month after the company took billions from investors.

In truth, $2 billion of the loss was due to an orgy of stock-based compensation that was passed out to wild-eyed employees immediately after the raise, creating instant millionaires with other people's money, and setting the 20-something-year-old employees up for a lifetime of private aviation. Yet even after deducting the fast cash-grab, the company posted a first quarter loss of $188 million — a remarkable feat considering that the company manufacturers nothing and has only 1,859 employees.

Snap's losses have actually been mounting precipitously for some time. In 2015, it lost $382 million; in 2016, the loss was $515 million. This year, excluding the bundles of cash handed out to its employees, Snapchat is trending to lose a staggering $750 million, begging the question of whether it will ever earn a buck. Much of Snapchat's value proposition was its steady increase of end-users. Yet with each user it adds, it becomes significantly less viable.

And then there is the matter of Facebook. In 2013, Facebook's CEO Mark Zuckerberg made a run to buy Snapchat for $3 billion. Evan Spiegel rejected the offer, telling Zuckerberg in a personal letter that in a few years the company would be "dancing on Facebooks' grave." The response didn't sit well, launching an all-out mission to create a platform that would beat Snapchat at its own game.

In August 2016, Facebook (which owns Instagram) launched "Instagram Stories," an app that mimics Snapchat in several respects, including having pictures and video that disappear after 24 hours. The impact has been manifest. Snapchat closed the first quarter with 166 million users, but its rate of acquisition has begun to materially slow, raising serious concerns from investors who thought they were buying an increasing user base that would never end.

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Just how bad is it? Drawing on Facebook's 1.9 billion users, Instagram Stories has become a virtual overnight success, amassing 200 million users in just eight months. And it gets worse. Facebook has also inserted the "Stories" feature into its main Facebook platform, as well as its WhatsApp and Messenger platforms, leaving some wondering whether Snapchat will be able to withstand the assault.

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Much of Snapchat's novelty has been the user's ability to overlay a picture with a particular filter, such as the time the picture was taken, the altitude where the picture was taken, or the speed the phone was traveling at the time of capture. And it is this last one that has turned deadly.

The majority of Snapchat's users are 18 to 24 years old, and some have begun the challenge of seeing how fast they can drive while taking a selfie, all so they can have the picture stamped with the vehicle's speed, impressing their friends with their wild-like ways. For those familiar with the app, the speed stamp almost invites recklessness.

In one instance, 18-year-old Georgia resident Christal McGee sped her Mercedes to 107 miles per hour so that she could take a selfie in front of her three friends in the car, before losing control and crashing into another driver. The crash landed McGee in jail on felony charges, and put the other driver, Wentworth Maynard, in intensive care for five weeks with traumatic brain injuries. The event also put Snapchat at the center of a brewing debate about the social — and legal — responsibilities technology companies have with their products.

The Maynard family sued Snapchat, alleging that it knew its users were engaging in reckless driving with the speed filter, and that it was aware of prior accidents because of it. Earlier this year, the Georgia trial court dismissed the lawsuit, stating that Snapchat had immunity under the Communications of Decency Act of 1996.

The Communications of Decency Act was originally enacted in response to concerns about minors' access to online pornography, and has sense been expanded to provide federal immunity to any cause of action that would make an internet service provider liable for information originating with a third-party user.

The obvious application of immunity clause is, for instance, trying to sue Yelp for a negative review. In such instances, Yelp should enjoy immunity for a third-party's positing that it neither endorses nor supports. Failing to protect companies such as Yelp would serve to chill community platforms where information, both positive and negative, is freely exchanged.

Yet the mischief created by Snapchat is of a different cloth. Creating an app directed toward teens which offers — if not encourages — its young users to engage in knowingly reckless conduct is at the heart of irresponsibility. Yes, users need to act with responsibility, but we also need to be cognizant of the realities of youth, and hold companies responsible for creating foreseeable, or more appropriately stated, predictable, dangers to society. As the world enters a new era, the situation will not be getting better.

Jonathan Michaels *is the founding member of MLG Automotive Law, APLC, which specializes in representing clients in the automotive industry. You can reach him at (949) 581-6900 or jmichaels@mlgautomotivelaw.com*