



# International regulatory decisions concerning EdTech companies' data practices

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# Executive summary

- Recent regulatory decisions highlight the increasing global concerns about the data practices of EdTech companies in schools. Main concerns include unfair data practices such as lack of transparency, complexity around what data is handled and how it is handled, failure to take appropriate measures to comply with the law, deceptive data practices, abuse of companies' dominant market positions, and pervasive data practices that we increasingly see with the prevalence of AI use in schools.
- Regulatory and legal actions in different countries show that EdTech companies have breached data protection laws, with schools and local authorities bearing the consequences of legal obligations as the responsibility falls on them as data controllers. It is striking that many countries have taken legal action against EdTech companies, especially Google, but there has been little such action in the UK as yet.
- Our proposals for [A blueprint for education data](#) and a [code of practice for EdTech](#) would address the urgent challenges we see in today's data-driven education. Our proposed code of practice would set the parameters for responsible data processing and design of EdTech, which would help schools to assess whether the EdTech they use in school complies with the law.

During the course of our research on EdTech, key issues emerged around surveillance and profiling of children in education for commercial purposes, data transfers made with inadequate protection, a lack of transparency by tech companies as to data collection, and failures to properly restrict the purposes for which children's data could be used. Often, EdTech was provided for 'free', but a hidden price was paid using children's data – data collection and use practices are often hidden behind opaque policies and terms and conditions.

Over the last few years, regulators and courts have consistently reached decisions that demonstrate that children's data collected in education settings has been insufficiently safeguarded, and that compliance with regulations is low. Although this appears to be a result of big technology companies' policies and practices, responsibility for ensuring the protection of children's data rests with schools, which have the primary responsibility as data controllers but often lack the power, resources and knowledge to keep big tech in check.

The result is that schools and other education authorities are often held liable rather than the tech companies. Although it is important that schools remain data controllers where children's data in education is concerned, one adverse consequence is that this potentially enables tech companies not only to gain access to data that would previously have been unavailable, but also to hide behind opaque policies and terms of service while pushing responsibility for data protection compliance on to the schools.

# Recent regulatory actions in different countries

Recent regulatory actions in different countries showcase a growing international concern over big tech companies' handling of children's data, particularly in educational settings, and also highlight the problem for schools. The following key decisions, show that the concerns mostly relate to unfair data practices such as lack of transparency, complexity around what data is handled and how it is handled, failure to take appropriate measures to comply with the law, deceptive and pervasive data practices, and abuse of companies' dominant market positions. All this results in unfair advantages for companies' own commercial interests while violating General Data Protection Regulation (GDPR) provisions, therefore undermining children's rights to data protection.

Notably, we also see public authorities and schools being held legally responsible for allowing children to use EdTech services without ensuring that they meet the legal requirements set out in the law. Our concern is that schools have insufficient control over how data by EdTech companies are handled, and a lack of sufficient knowledge and resources to meet the requirements set out in the GDPR. The data feeding into EdTech services and products often comes from children who use these in school settings, mostly without having an awareness of their data risk implications. We are also concerned to note the absence of adequate reference to children as rights holders in the decisions themselves.

## France

The Commission nationale de l'informatique et des libertés (CNIL, National Commission on Informatics and Liberty) imposed a fine on Google of €50 million for violating the GDPR in [2019](#). Two key reasons for this decision were Google's failure to comply with transparency and consent rules in the GDPR, among others. CNIL found that Google carried out opaque data processing and failed to obtain valid user consent for ad personalisation. CNIL noted that Google scattered the information across several documents, and its design choices fragmented the information further (e.g., complicating the process by adding extra layers such as links that users needed to click to access the information).

CNIL also underscored further confusion and complexities arising from Google's plurality of services and lack of information about how data is used and combined across different services (e.g., YouTube, Google Maps and Gmail – users need to cross-reference and click on buttons/links to understand what processing operations are being carried out across different services). Even though CNIL's decision is not specific to EdTech products, it is still relevant considering the complexity of navigating through different policies, and the lack of transparency about how data is handled across different services remains a problem in EdTech services provided by big tech companies such as Google and Microsoft.

Moreover, cross-border data transfers and lack of adequate protection of students' data outside the EU have also been topics of significant concern in France. In [2022](#), French

authorities urged schools against using US-based cloud services, including Microsoft Office 365. They referred to CNIL's (2021) recommendations for education institutions to use cloud services that showed compliance with the GDPR. While concerns over the use of EdTech in schools continued, in 2022 and 2023, CNIL also focused on its EdTech sandbox projects and took steps to help the EdTech sector comply with the GDPR.

## Germany

We see similar concerns in Germany. In 2019, the Data Protection Authority (DPA) in Hesse banned schools from using Microsoft's cloud-based service Office 365 due to concerns that the personal data of students and teachers could be accessed by US officials and the lack of adequate protections that Microsoft had to demonstrate to comply with the GDPR requirements. In Baden-Württemberg, the Commissioner for Data Protection and Freedom of Information received numerous complaints about data protection issues linked to Microsoft Office 365 usage in schools. In 2022, following the complaints, schools were requested to show that the services they used complied with the GDPR. The DPA called on schools to ensure that their software complied with data protection laws, leading to over 30 schools opting to change their software by the end of the first half of the current school year.

[In 2022](#), the Baden-Württemberg Commissioner for Data Protection and Freedom of Information called on schools to ensure that the software they used (Microsoft) complied with data protection laws over concerns raised about GDPR compliance – Microsoft's lack of transparency about their data practices (e.g., about sub-processors, making it difficult to assess the extent of data processing from the information given in the contract, and potentially hindering the company's use as a data processor in the public sector, including schools) as well as the data transfer to the USA (raising concerns about the protection of students' data on US cloud-based services).

Other data protection concerns relate to Google's market power and business model, which affect its data practices. In 2021, the Bundeskartellamt, Germany's antitrust authority, challenged Alphabet Inc.'s data practices, calling for Google to allow users more control over their personal data across various services. The Bundeskartellamt started an investigation in 2021 about Google's market dominance and data processing terms, looking at whether Google gives users sufficient choices and control about how it uses users' data across several services it provides. In 2023, Bundeskartellamt found Google in breach of the law and underscored the need to provide greater user choice and compliance with the new competition rules in addition to existing data protection laws.

## The Netherlands

In 2019, the Dutch Government commissioned Privacy Company to conduct a Data Protection Impact Assessment (DPIA) on various large platform technologies. As a result of the DPIA conducted in respect of Google Workspace for Education, the Dutch DPA issued a warning recommending the educational sector discontinue using Google Workspace for Education, and raised concerns about the use of Chromebooks and the Chrome browser. In its DPIA, the Privacy Company identified high risks in the processing of personal data that was not in compliance with the GDPR. Following this warning, Google made some changes to its policies. As a result of the changes in its data transfer policies, SURF and SIVON (educational bodies in



the Netherlands) allowed schools to continue using Google Workspace. The changes to the general Privacy Policy, particularly the additions to the Lawful Grounds sections and the Addendum for cloud-specific education services, are some attempts to address some of these data protection risks, particularly the lack of transparency and cross-border data transfers.

Following these changes, [in 2023](#), Privacy Company published an updated [DPIA report](#), and it was announced that privacy risks from the 2021 Google Workspace for Education DPIA were sufficiently resolved. It was also agreed that a Data Transfer Impact Assessment would be conducted. Google applied this to EU countries and the UK by making changes to its privacy policies and terms of service, which are explained in our Research Brief *Enforcement action improves privacy for children in education: more is needed*. The Dutch authorities determined that the high risks identified in the DPIA had been appropriately mitigated. This also resulted in contact being made to update other EU countries where Google products were being used in education to inform them about what had been achieved in the Netherlands, with the possibilities for international cooperation in this area being explored.

## Sweden

In Sweden, the DPA fined Östersund Municipality's children's and education board for failing to conduct a DPIA before using Google Workspace for Education in schools in 2020. Another area of concern was the trial that was initiated using facial recognition technology (FRT) to help with tracking class attendance in a school in the Skellefteå Municipality. After this trial period, the aim was to use FRT to automatise the process of recording class attendance, saving significant time for school staff. The DPA found that [this practice violated the GDPR](#) – specifically, several of the data protection principles set out in Article 5, unlawful processing of special category data in violation of Article 9, and failure to meet the requirements contained in Articles 35 and 36 (DPIAs and prior consultation).

## UK

In Scotland, the Information Commissioner's Office (ICO) stepped in after nine schools in Ayrshire began taking payments for school lunches by using biometric facial recognition technology (FRT). FRT processes biometric data, which is a [special category](#) under the GDPR. The ICO outlined that the education authority must explain the risks associated with the processing and any mitigations that it has put in place. It must be clear what the education authority will do with the data and the risks must be explained. Technology such as FRT relies on the use of AI and other algorithms, and presents key risks of bias and discrimination. The ICO made clear that it is unlikely that the use of FRT is 'necessary' for the provision of school lunches, and that explicit consent must be obtained before it is used in schools. The ICO also explained in its guidance [Case study: North Ayrshire Council schools – use of facial recognition technology](#) that if the student or parents don't give consent, then the school should give students an alternative to FRT.

## Denmark

In 2021, the Danish DPA raised concerns about data processing activities carried out in using Google's services in municipalities and primary schools, and ordered Helsingør Municipality to

make a risk assessment of the data processing practices in the primary school that used Google products and services (specifically, Chromebooks and Google Workspace). Following the assessment, the Danish DPA gave [its final decision](#) in [2022](#) with reference to its earlier decision in [2021](#), and suspended Helsingør Municipality's data processing practices that involved cross-border data transfers to countries that lacked the adequate level of protection required under EU data protection laws. It also prohibited data processing carried out using Google Workspace for Education until the necessary compliance with the GDPR was ensured. [In 2024](#), 53 municipalities were found to violate the data protection principles set out in the GDPR. The Danish DPA ordered these municipalities to ensure compliance with the data protection laws in their use of Google Workspace for Education and Chromebooks.

## Iceland

The DPA carried out an audit on the use of Google Cloud services in primary schools in several municipalities in 2022. The audit focused on how the personal data of elementary school students were processed when they used Google Workspace for Education. In 2023, the DPA shared the results of the audit, which showed that Google Cloud services were used without taking adequate data protection measures. As a result, several municipalities were found to be in breach of the data protection laws. [In 2023](#), Iceland's DPA fined five municipalities (a total of ISK12.8 million) over the alleged data processing violations at primary schools that were found to be improperly processing student data using Google Cloud's education technology services. Among other reasons for this fine, the DPA found Google to have processed elementary school students' personal data beyond the instructions of the local authorities, and did not demonstrate that this process could fit within the purposes those authorities defined for the processing of personal data.

## USA

In the USA [in 2020](#), the Attorney General of New Mexico filed a complaint against Google in the State Court based on allegations of unfair data practices when children interacted with Google's Workspace for Education products. A settlement was reached [in 2021](#), and Google agreed to provide schools with tools to protect children's data in compliance with the law, introducing a requirement that apps implement age screening measures to ensure that Google did not collect data from children under the age of 13, and that parents were given more information about the Google services that collected data from their children. The settlement also included New Mexico schools having early access to new products and initiatives as part of the Google for Education Pilot Program.

The Federal Trade Commission (FTC) has taken significant steps to protect children's privacy in educational settings. [In 2022](#), they issued a policy statement focused on the EdTech sector (Policy Statement of the Federal Trade Commission on Education Technology and the Children's Online Privacy Protection Act), emphasising that children should not be subjected to commercial surveillance as a condition of accessing educational tools, and nor should parents or schools be forced to accept commercial surveillance practices. The FTC's policy statement explicitly warns EdTech companies that such practices are against the law.

[In 2023](#), the FTC issued an order against Edmodo, a social learning EdTech platform for schools, highlighting its unfair data practices that violate the Children's Online Privacy

Protection Act and Federal Trade Commission Act. Notably, the FTC found that Edmodo outsourced its compliance responsibilities to schools and teachers, and failed to provide sufficient information to help them comply with the law. Moreover, it unfairly and unlawfully used children's data outside of 'Educational Purposes', which excludes any commercial uses not directly related to education. As such, Edmodo's data practices were found to be commercially exploitative since the company used children's data for its own commercial interests, such as advertising and developing algorithms not related to education.

# The way forward for protecting children's data at school

This Research Brief has shown that robust regulation, appropriately resourced and enforced, results in tangible changes to EdTech companies' data practices and policies. We have set out one example of this arising primarily from the above regulatory actions in our Research Brief *Enforcement action improves privacy for children in education: more is needed*.

Looking to the future, given that data is the foundation on which AI is designed, developed, trained and deployed, the robustness of regulatory frameworks and their effective enforcement is all the more important. While there is often a noticeable gap in lawmakers' understanding of the relationship between data and AI in the UK, promising developments are emerging elsewhere, such as the [EU AI Act](#) and AI policies in the USA, introducing specific measures to address AI-related challenges in education. Similarly, the increased focus on children as rights holders distinct from adults in these new legislative actions is to be encouraged.

The Digital Futures Commission proposals for [A blueprint for education data](#) and [code of practice for EdTech](#) would address the urgent challenges we see in today's data-driven education. Our proposed code of practice would set the parameters for responsible data processing and use, and ensure child-appropriate design of EdTech, enabling schools, caregivers and children to assess whether the EdTech they use in school complies with the law and respects their rights.



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