

FERPA, COPPA, KOSA, TAPP, AADCs – On My! (Unpacking the Rapidly Changing Landscape for EdTech and KidTech. It's Not Just About Kids Anymore)

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Meet the Speakers



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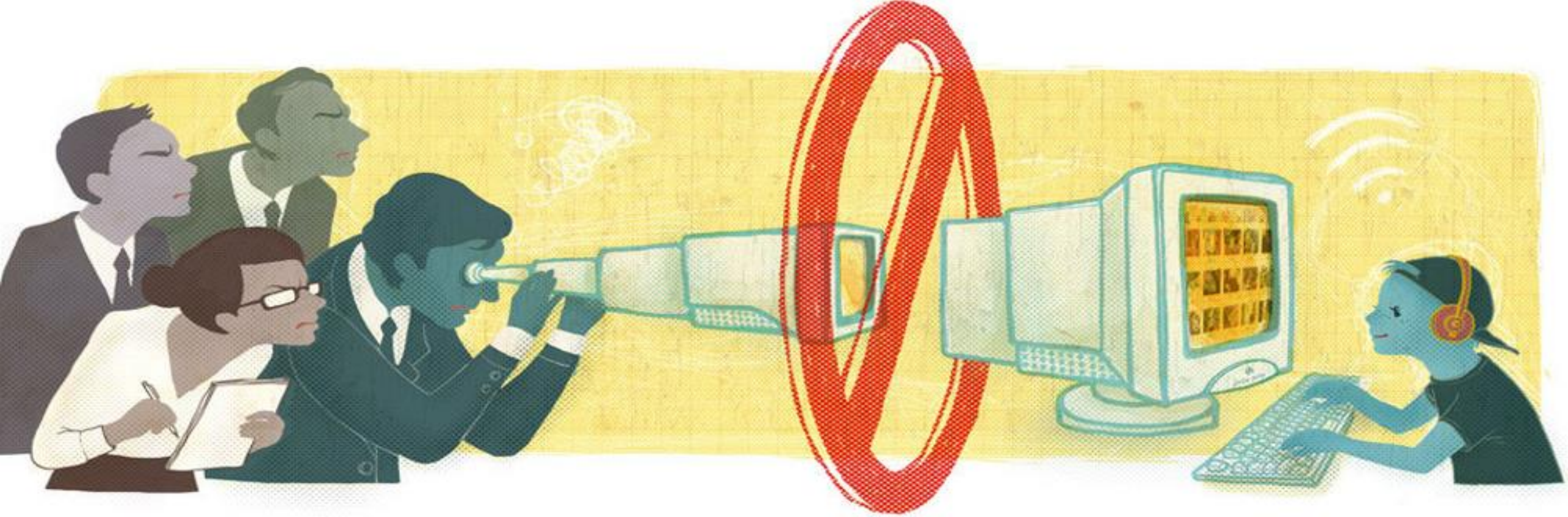


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Topics for Today

- I. Introduction
- II. Current Landscape of KidsTech and EdTech
- III. Overview of Privacy Laws, Regulations, and Self-Regulatory Regimes
- IV. Other Considerations in Children's Privacy
- V. Best Practices for KidsTech and EdTech Companies
- VI. Conclusion



CURRENT LANDSCAPE OF KIDSTECH AND EDTECH



Overview of Privacy Laws, Regulations, and Self-Regulatory Regimes

Children's Online Privacy Protection Act

- **What is COPPA?**
 - Federal law enacted in 1998; Updated in 2013
 - Law directed the FTC to create and enforce rules relating to the online privacy of children's information.
- Child = Minor Under the Age of 13.
- **Penalties:**
 - Up to \$46,517 per violation
 - Data destruction, 20 year reporting requirements
- State Attorneys General may also enforce the Rule



The Future of COPPA Enforcement After *Jones v. Google*



The Future of COPPA????



Monday, October 7, 2019 | 9:00AM



Thursday, September 8, 2022 | 2:00PM - 7:30PM

FTC Extends Comment Deadline
on Commercial Surveillance, Lax
Data Security Practices Initiative
Exploring Possible Rules

Public will have until November 21 to comment
on Advance Notice of Proposed Rulemaking

The Future of COPPA????

SENATORS MARKEY AND BLUMENTHAL, REP. CASTOR REINTRODUCE LEGISLATION TO PROTECT CHILDREN AND TEENS FROM ONLINE MANIPULATION AND HARM

Senators Markey and Cassidy Introduce Bill to Update the Children's Online Privacy Protection Act

Rep. Castor Reintroduces Bill to Rewrite the Children's Online Privacy Protection Act

Biden's State of the Union remarks put children's privacy front and center



U.S. Congress Introduces Kids Online Safety Act

Responses to Congressional Inaction

Bucket #1 Self-Regulatory Regimes

TAPP

Bucket #2 FTC Expansion of Powers

Epic Games Decision
Expansion of Facebook Order

Bucket #3 Age Appropriate Design Code

California

Bucket #4 Restrictions on Minors Use of Social Media

Arkansas
Utah

Bucket #5 General Privacy Laws that Reach Beyond COPPA

Colorado
Indiana
Utah

Connecticut
Iowa
Virginia

The TAPP Roadmap: Helping U.S. Companies Responsibly Collect and Manage Teenager Data

Apr 19, 2022 by Dona Fraser, Senior Vice President, Privacy Initiatives, BBB National Programs

- Personal Information Collection – Require teen users to give affirmative opt-in consent to the collection of their personal information
- Targeted Advertising – Avoid targeting content to teens using a single criterion that could be especially sensitive to teens (such as body odor, weight)
- Precise Geolocation Data – Requiring opt-in and routine reminders of ongoing collection
- User Generated Content – Mechanisms to limit harmful or potentially harmful interactions
- Inappropriate Content – Monitor for inappropriate content and remove/ban users
- Algorithmic Content Monitoring – Monitor for harmful content and suppress
- Information Retention – Minimize potential for profiling adults based on teenage interests and behaviors

A Record-Breaking Privacy Case

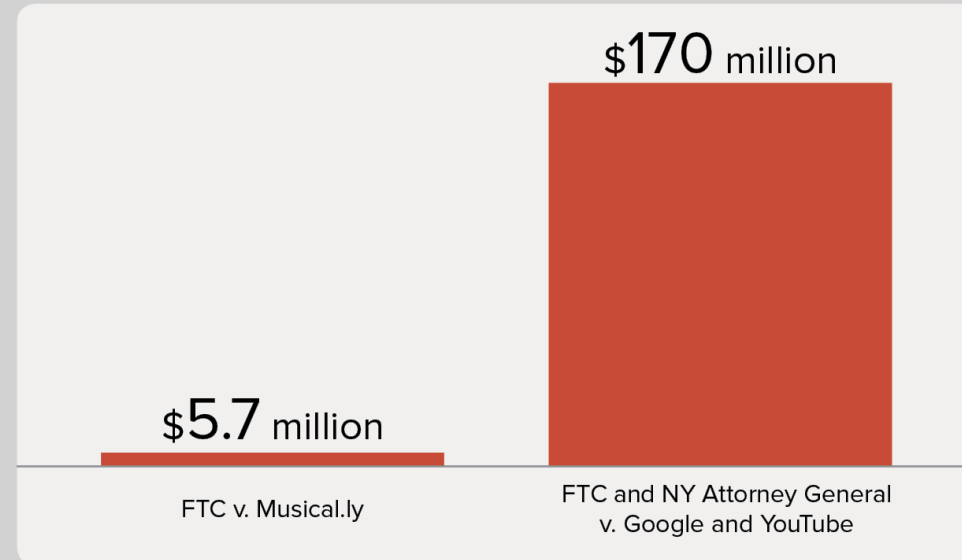
FTC and NY Attorney General v. Google and YouTube

\$170,000,000 judgment



Biggest judgment in a **COPPA** case

Source: Federal Trade Commission | [FTC.gov](https://www.ftc.gov)



Fortnite Privacy Settlement



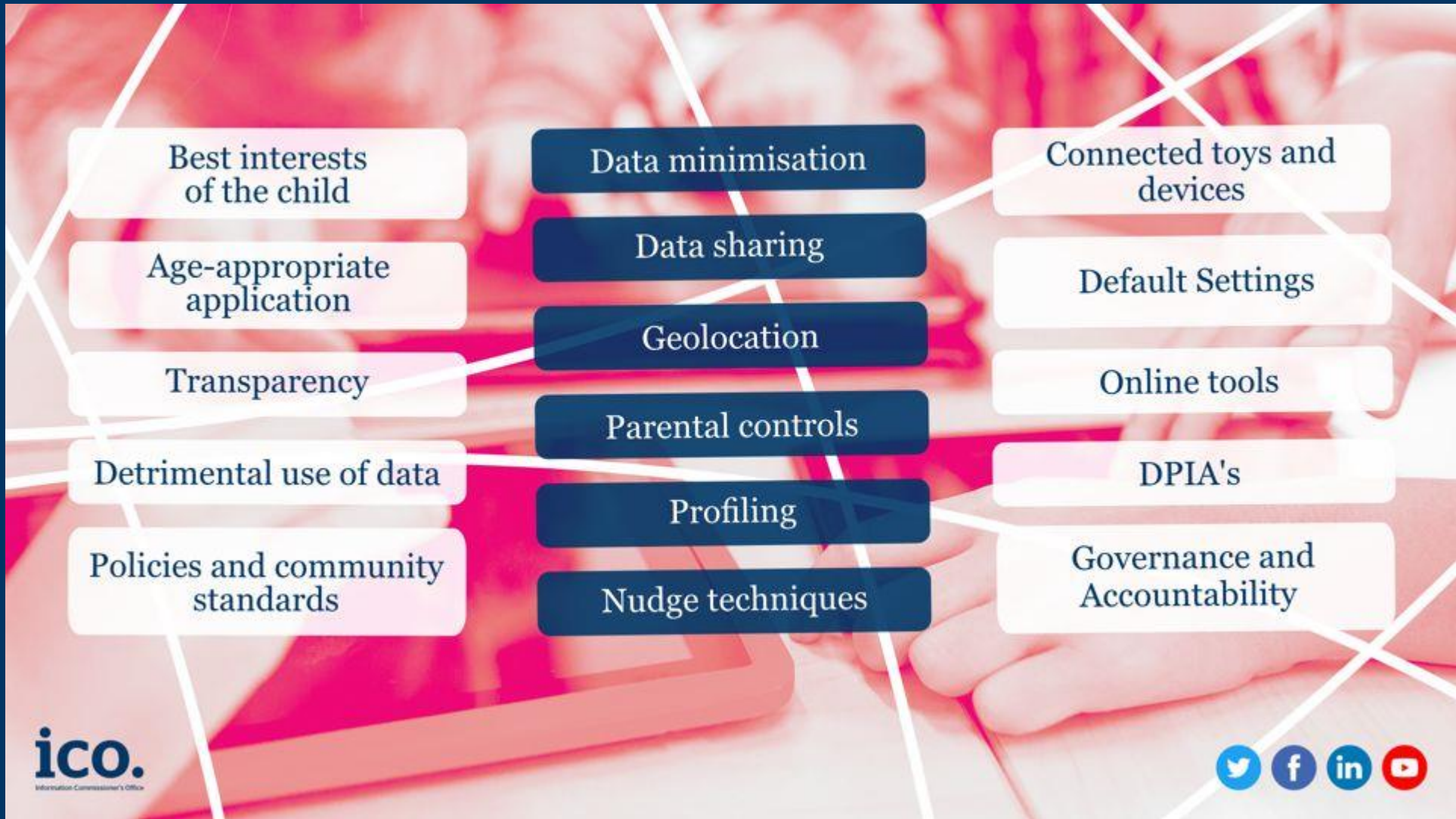
The Future of COPPA Enforcement After Epic Settlement

- What age group does COPPA protect?
- Should we expect to have some limited protections from teens?
- What information is considered “Personal Information” under COPPA?
- What is the “collection” of information??
- Does COPPA protect children from inappropriate and potentially harmful contacts with third parties on-line?



FTC v. Meta





ICO's Age Appropriate Design Code – Key Takeaways

- Age – The Code applies to any user under 18.
- Effective Date – The code came into force on September 2, 2020. Organizations should confirm by September 2, 2021.
- Enforcement – This is a code, not a law. However, if you do not comply with the code, that will be taken into account when determining whether you have complied with the GDPR and PECR.
- Conflicts with COPPA – Differences of parent involvement; privacy policies (age appropriate privacy policies); compelling reason v. parental consent



California's Age Appropriate Design Code



The New York Times 
@nytimes



California became the first state to pass a comprehensive online safety bill for minors. The new rules would compel many online services to curb the risks that some popular features, like allowing strangers to message one another, may pose to child users. [nyti.ms/3TqXbYC](https://www.nytimes.com/2022/09/27/us/politics/california-online-safety-bill.html)

Sweeping Children's Online Safety Bill Is Passed in California

The bill, the California Age-Appropriate Design Code Act, could herald a shift in the way lawmakers regulate the tech industry and would require many online services to increase protections for children.

ALT



Other States Adopting the Age Appropriate Design Code



Connecticut



Maryland



Minnesota



New Mexico



Oregon

Restrictions on Minor Social Media Access



General State Privacy Laws

State	Effective Date	General Requirements/Applicability to Data
California	CPRA – January 1, 2023	Must obtain opt-in for sale or sharing of information under 16
Colorado	July 1, 2023	Personal Data means information that is linked or reasonably linkable to an individual. Sensitive data includes personal data from a known child. Does not apply to personal information already covered by COPPA. Exception for providing product/service to child on behalf of parent/guardian.
Connecticut	July 1, 2023	Personal Data means any information that is linked or reasonably linkable to an individual. Cannot process data for targeted advertising or sell the consumer's personal data without consumer's consent if 13-15.
Indiana	January 1, 2026	Personal Data means any information that is linked or reasonably linkable to an individual. Sensitive Data includes personal data collected from a known child. Exception for providing product/service to child on behalf of parent/guardian
Iowa	January 1, 2025	Same as Indiana. But exception for personal data used in accordance with COPPA.
Utah	December 31, 2023	Personal Data means information that is linked or reasonably linkable to an individual.
Virginia	January 1, 2023	Same as Indiana. NO Exception for providing product/service to child on behalf of parent/guardian; limited to consumer.

FERPA/SOPIPA





Other Considerations



What are Manipulative Patterns?

What Are Manipulative Patterns?

Visual misdirection	Confusing language	Trick questions	Confirm-shaming
Hidden information	Hidden alternatives	Preselection	Asymmetry between sign-up and cancellation
Price comparison prevention	Sneak item into basket	Hidden costs	Hidden subscription
Forced registration	Bait and switch	Fake urgency	Misleading testimonials



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Best Practices

Questions?

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