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1 d. Retaining personal information collected from children online only as long as is
2 reasonably necessary to fulfill the purpose for which the information was collected.

3 10. For purposes of this Complaint, the terms “child,” “collects,” “collection,” “disclosure,”
4 “Internet,” “obtaining verifiable consent,” “online contact information,” “operator,” “parent,” “personal
5 information,” and “Web site or online service directed to children” are defined as those terms are
6 defined in Section 312.2 of the COPPA Rule, 16 C.F.R. § 312.2.

7 **DEFENDANT**

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1 14. In the United States, Defendant offered two versions of the Edmodo Platform to students,
2 teachers, and parents—a free version (the “Free Platform”) and a subscription version (“Edmodo
3 Enterprise”).

4 15. Students could access the Free Platform either by downloading the free “Edmodo: Your
5 Online Classroom” mobile application from Apple’s App Store or Google Play, or they could register
6 for the service through Defendant’s website, www.edmodo.com.

7 16. Access to the Free Platform did not require any contractual arrangement on a school or
8 district level—any individual teacher could register independently. Once a teacher registered for an
9 account, the teacher could create a class and invite students to join Edmodo by (a) creating student
10 accounts in advance, (b) inviting students to join by email, (c) sharing a unique class URL, or (d)
11 sharing a unique class code. To generate the student accounts in advance, a teacher entered the
12 student’s first name, last name, and email address. If invited to join by email, class URL or class code,
13 students registered by providing first name, last name, and email address. Defendant also asked students
14 to provide date of birth (between July-September 2020) and phone number (prior to July 2020).

15 17. Once an account was created on the Free Platform, Defendant allowed students to
16 provide additional information to Defendant such as school name, phone number, location, and a profile
17 picture. Defendant also automatically collected certain usage and device information, including cookies,
18 IP address, device type, operating system, browser type and ID, and geographic location based on IP
19 address.

20 18. In contrast to the Free Platform, the Edmodo Enterprise was available to schools and
21 school districts that first entered into a contractual arrangement with Edmodo and paid a subscription fee
22 based on the number of users expected to use the platform in that school or district. The teachers then
23 created student accounts in a manner similar to the Free Platform, and Edmodo collected the same
24 personal information from students.

25 19. As described in further detail below, until approximately September 2022, both the Free
26 Platform and Edmodo Enterprise collected personal information from student users in the United States
27 without informed parental consent. Additionally, between at least 2018 and September 2022, Defendant
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COMPLAINT
CASE NO.

1 schools or teachers to serve as a parent’s agent because Defendant used children’s personal
2 information for a non-educational purpose (advertising).

3 28. In the second scenario, Defendant could not rely on schools and teachers to be
4 intermediaries to obtain consent from parents because Defendant failed to adequately inform schools
5 and teachers of their role as intermediaries, failed to provide them with the information necessary for
6 them to act as intermediaries, and failed to monitor whether parents ultimately actually provided
7 verifiable consent.

8 **I. SCENARIO I: DEFENDANT IMPROPERLY RELIED ON SCHOOLS OR**
9 **TEACHERS AS AGENTS CONSENTING ON BEHALF OF PARENTS.**

10 29. In order to obtain verifiable parental consent in this scenario, an operator must (1)
11 provide a direct notice of its information practices to the school or teacher, and (2) use “reasonable
12 efforts” to obtain authorization from the school on behalf of the parent. 16 C.F.R. § 312.5(b)(1).
13 Defendant failed to provide schools and teachers the required direct notice and also failed to obtain
14 authorization from the school on behalf of the parent for both the Free Platform and Edmodo
15 Enterprise. As a result, Defendant collected children’s personal information in violation of the
16 COPPA Rule.

17 **A. Defendant Failed to Provide Direct Notice of its Information Practices or Obtain**
18 **Authorization from Schools and Teachers on Behalf of Parents.**

19 30. The COPPA Rule requirement to provide a direct notice of information practices means
20 specifying the collection, use, and disclosure practices prior to collecting information from children.
21 Such notice must be clearly and understandably written, must be complete, and must contain no
22 unrelated, confusing, or contradictory materials. Further, the operator must make reasonable efforts,
23 taking into account available technology, to ensure that a parent of a child (or school in appropriate
24 circumstances) receives the direct notice.

25 31. On the Free Platform, Defendant did not provide direct notice of Defendant’s
26 information collection, use, and disclosure practices, as required by the COPPA Rule, during the user
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1 sign-up process or by another means. The limited documents Defendant included during the user sign-
2 up process do not satisfy the COPPA Rule’s direct notice requirements.

3 32. Specifically, during the sign-up process for the teacher account on the Free Platform,
4 the registration screen was silent with respect to Defendant’s personal information collection, use, and
5 disclosure practices and instead merely stated in small print at the bottom, “By signing up, you agree
6 to our Terms of Service and Privacy Policy.”

7 33. Further, neither the Terms of Service nor Defendant’s privacy policy (“Privacy Policy”)
8 satisfied the COPPA Rule’s direct notice requirements. First, teachers were not required to click on
9 the linked documents or review them before creating an account and using Edmodo. Therefore,
10 Defendant failed to make reasonable efforts to ensure

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1 no point in the contract process for schools to gain access to Edmodo Enterprise did Defendant provide
2 schools in the United States with a direct notice.

3 36. In addition, as with the Free Platform, the online sign-up process for Edmodo Enterprise
4 also failed to inform schools of Defendant's data collection, use, and disclosure practices, and therefore
5 failed to satisfy the COPPA Rule's direct notice requirement.

6 37. Because Defendant did not provide teachers or schools in the United States direct notice
7 of its information collection, use, and disclosure practices as required by the COPPA Rule, teachers and
8 schools did not have the information necessary to provide authorization on behalf of students' parents.

9 **B. Schools and Teachers Could Not Act As Agents for Parents** (b)(1)-(2) (b)(3) (b)(4) (b)(5) (b)(6) (b)(7) (b)(8) (b)(9) (b)(10) (b)(11) (b)(12) (b)(13) (b)(14) (b)(15) (b)(16) (b)(17) (b)(18) (b)(19) (b)(20) (b)(21) (b)(22) (b)(23) (b)(24) (b)(25) (b)(26) (b)(27) (b)(28) (b)(29) (b)(30) (b)(31) (b)(32) (b)(33) (b)(34) (b)(35) (b)(36) (b)(37) (b)(38) (b)(39) (b)(40) (b)(41) (b)(42) (b)(43) (b)(44) (b)(45) (b)(46) (b)(47) (b)(48) (b)(49) (b)(50) (b)(51) (b)(52) (b)(53) (b)(54) (b)(55) (b)(56) (b)(57) (b)(58) (b)(59) (b)(60) (b)(61) (b)(62) (b)(63) (b)(64) (b)(65) (b)(66) (b)(67) (b)(68) (b)(69) (b)(70) (b)(71) (b)(72) (b)(73) (b)(74) (b)(75) (b)(76) (b)(77) (b)(78) (b)(79) (b)(80) (b)(81) (b)(82) (b)(83) (b)(84) (b)(85) (b)(86) (b)(87) (b)(88) (b)(89) (b)(90) (b)(91) (b)(92) (b)(93) (b)(94) (b)(95) (b)(96) (b)(97) (b)(98) (b)(99) (b)(100)

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1 41. Therefore, given that Defendant used students’ personal information for non-educational
2 commercial purposes (i.e., to serve contextual advertising), it could not rely on schools or teachers to
3 authorize collection on behalf of parents.

4 **II. SCENARIO II: DEFENDANT UNREASONABLY RELIED ON SCHOOLS OR**
5 **TEACHERS TO ACT AS AN INTERMEDIARY TO PROVIDE NOTICE TO, AND**
6 **OBTAIN CONSENT FROM, PARENTS.**

7 42. In addition to relying on teachers and schools to provide authorization *on behalf of*
8 parents, Defendant also claims that it relied on teachers and schools to act *as intermediaries* to obtain
9 consent *from* parents for both the Free Platform and Edmodo Enterprise.

10 43. The Rule provides that an operator must “make reasonable efforts, taking into account
11 available technology, to ensure that a parent of a child receives direct notice” of Defendant’s
12 information collection, use, and disclosure practices. 16 C.F.R. §312.4(b). In any event, where an
13 operator relies on an intermediary, the sole responsibility for COPPA compliance remains with the
14 operator.

15 44. Defendant’s purported use of schools and teachers as intermediaries for the notice and
16 authorization mechanism under the Rule fails to satisfy this standard because Defendant failed to inform
17 teachers and schools about their role and expected duties as intermediaries. Because of its failure to
18 provide such information, Defendant necesail l t(of]A61 -2 16 (ce)-1TTTTTTTTTTTT11)2()b4.5Tion m, i a chie.

1 responsibility for ensuring that parents receive the required notice of the platform’s information
2 practices and authorize the collection of their children’s personal information. Indeed, Defendant did
3 not provide the teacher or school with the requisite information needed to provide the notice of its
4 information practices, as required by the COPPA Rule.

5 46. As discussed above, the sign-up process for a teacher account on the Free Platform
6 provided minimal information to the teacher, and merely included a small link to Defendant’s Privacy
7 Policy and Terms of Service. The teacher was not required to click on the Terms of Service or Privacy
8 Policy in order to sign up. Defendant’s Privacy Policy said nothing about the expectation that teachers
9 would provide notice to and obtain authorization from parents, and the Terms of Service language
10 purporting to convey to teachers and schools their responsibility to provide notice and obtain
11 authorization from parents did not satisfy the Rule’s requirements.

12 47. It is only if a teacher or school clicked on the Terms of Service link and scrolled down to
13 a paragraph buried on the bottom of the second page that she would learn that Defendant intended for
14 the teacher or school to be solely responsible for complying with the COPPA Rule. Specifically,
15 Defendant’s Terms of Service stated:

16 If you are a school, district, or teacher, you represent and warrant that you are solely responsible
17 for complying with COPPA, meaning that you must obtain advance written consent from all
18 parents or guardians whose children under 13 will be accessing the Services. . . . When obtaining
19 consent, you must provide parents and guardians with our Privacy Policy; you can find a sample
20 permission slip here [NO LINK PROVIDED]. You must keep all consents on file and provide
21 them to us if we request them. For more information on COPPA, please click here [NO LINK
22 PROVIDED]. If you are a teacher, you represent and warrant that you have permission and
23 authorization from your school and/or district to use the Services as part of your curriculum, and
24 for purposes of COPPA compliance, you represent and warrant that you are entering into these
25 Terms on behalf of your school and/or district.

26 48. As an initial matter, the statement in Defendant’s Terms of Service is nonsensical and
27 misleading. Schools or teachers could never be “solely responsible” for complying with the COPPA
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1 retained personal information collected online from children indefinitely and had amassed
2 approximately 36 million student accounts, of which only one million were actively using the platform
3 in 2020.

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- c. Failing to obtain verifiable parental consent before any collection, use, or disclosure of personal information from children, in violation of Section 312.5(a)(1) of the Rule, 16 C.F.R. § 312.5(a)(1); and
- d. Retaining personal information collected online from children for longer than reasonably necessary to fulfill the purpose for which the information was collected, in violation of Section 312.10 of the Rule, 16 C.F.R. § 312.10.

65. Pursuant to Section 1303(c) of COPPA, 15 U.S.C. § 6502(c), and Section 18(d)(3) of the FTC Act, 15 U.S.C. § 57a(d)(3), a violation of the Rule constitu wh79(o)-10 (r)-7 (e5(T)1 2 (nm.5(T)1 2 (nm.5(T)

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