

v.

GOOGLE LLC, a Delaware limited liability
company,

Defendant.

COMPLAINT

Plaintiff, State of New Mexico, by and through Hector Balderas, Attorney General for the State of New Mexico, brings this Complaint against Defendant Google LLC, and alleges as follows:

NATURE OF THE ACTION

1. Throughout the country, school districts are racing to bring technology into classrooms and Google has quickly become a dominant player in this space. In just a few years, Google has infiltrated more than half the nation's primary- and secondary-schools by offering a "free" web-based service called G Suite for Education ("Google Education"), which gives students access to Google's Gmail, Calendar, Drive, Docs, and other applications.
2. Though Google Education has been marketed to schools, parents, and students as a free and purely educational tool, the use of Google Education and other Google products comes at a very real cost that Google purposefully obscures.
3. Google Education is now used by more than 80 million educators and students in the United States—including more than 25 million who use Google-powered laptops, called

4. To drive adoption in more schools—and to alleviate legitimate concerns about its history of privacy abuses—Google has been making public statements and promises that are designed to convince parents, teachers, and school officials that Google takes student privacy seriously and that it only collects education-related data from students using its platform. Google has also publicly promised never to mine student data for its own commercial purposes.

5. Unfortunately, Google has broken those promises and deliberately deceived parents and teachers about Google’s commitment to children’s privacy. In direct contradiction of its numerous assurances that it would protect children’s privacy, Google has used Google Education to spy on New Mexico children and their families by collecting troves of their personal information, including:

- their physical locations;
- websites they visit;
- every search term they use in Google’s search engine (and the results they click on);
- the videos they watch on YouTube;
- personal contact lists;
- voice recordings;
- saved passwords; and
- other behavioral information.

6. And until April 2014, Google also mined students’ email accounts, extracted information about them, and used that data—along with the personal information described above—for advertising purposes.

7. These privacy concerns—and the effects of Google’s misrepresentations and

on their private computers and phones, and on their private networks. This is particularly concerning considering that teenagers turn to the Internet to search for issues they otherwise would be too embarrassed or afraid to ask friends, parents, or relatives, such as general health information, sex education, diet advice, how to deal with bullying, anxiety and depression, puberty, and more.¹ In fact, as many as four out of five teenagers turn to the Internet to learn about health information, such as anxiety, ADHD, and sexually transmitted diseases.²

8. Google is aware of how problematic it is to mine children’s data in a commercial context. Outside of its Google Education platform, Google forbids children under the age of 13 in the United States from having their own Google accounts.³ But Google attempts to get around this by using Google Education to secretly gain access to troves of information about New Mexican children that it would not otherwise have.

9. The data Google accumulates is then stored in profiles attributed to each student and used by Google for its own commercial purposes—as Google itself admitted in response to a

¹ *Teens, Health, and Technology: A National Survey*, Center on Media and Human Development, School of Communication, Northwestern University (June 2015), https://cmhd.northwestern.edu/wp-content/uploads/2015/05/1886_1_SOC_ConfReport_TeensHealthTech_051115.pdf.

² *Id.*

³ *Age Requirements on Google Accounts*, Google FAQs, <https://support.google.com/accounts/answer/1350409?hl=en> (last visited February 20, 2020).

Children’s Online Privacy Protection Act, 15 U.S.C. §§ 6501, *et seq.* (“COPPA”), in response to a growing concern over the collection of children’s data on the Internet. In passing COPPA, Congress specifically sought to increase parental involvement in children’s online activities, ensure children’s safety during their participation in online activities, and most importantly, protect children’s personal information. Ultimately, Congress enacted COPPA with the specific goal of placing parents in control over what information is collected from their young children online.

11. To that end, COPPA requires—in relevant part—that websites and online services fully and clearly disclose their data collection, use, and disclosure practices, and obtain “verifiable parental consent” before collecting, using, or disclosing personal information from children under 13. Further, COPPA requires websites and online services to permit parents to review all personal information they collect and maintain from children under 13, and to allow parents to refuse further use or maintenance of those data. Similarly, websites and online services may not condition a child’s use of a site or service on the collection of more personal information than is reasonably necessary, and must take reasonable steps to keep confidential and safe any personal information in its possession.

⁴ Susan Molinari, Vice President, Public Policy and Government Relations, Americas, Google LLC February 12, 2016 Letter to Senator Al Franken, *available at* <https://www.eff.org/files/2016/12/14/160216googleresponse.pdf> (“Google may use the data from additional services outside of the GAFE core services for the purposes described in our Privacy Policy, which include, for example, product improvement and product development.”).

collected and used, and (2) conditions use of its product on expansive (and unnecessary) collection and use of personal information.

13. These practices do not simply violate federal law, nor do they merely impact children under the age of 13. Covertly monitoring children of *all* ages, despite unambiguous representations to the contrary, violates longstanding rights rooted in the common law, as well as New Mexico’s statutory prohibitions on unfair, deceptive, and unconscionable business practices, codified in the New Mexico Unfair Practices Act, N.M. Stat. Ann. §§ 57-12-1, *et seq.* (“UPA”). And, although not protected by COPPA, educators are likewise victims of Google’s practices as—in addition to its deceptive promises—Google similarly monitors teachers utilizing the Google Education platform when they browse the Internet, including in their private homes, on their private computers and phones, and on their private networks.

14. Accordingly, the State of New Mexico, by and through Hector Balderas, Attorney General for the State of New Mexico, seeks all appropriate injunctive relief to address, remedy, and prevent harm to New Mexico residents resulting from Google’s misconduct, as well as civil penalties, fees, costs, and any other relief this Court deems proper.

PARTIES

15. This action is brought for and on behalf of the sovereign State of New Mexico, by and through its duly elected Attorney General, Hector Balderas. The Attorney General, as chief legal officer of the State, is statutorily authorized to initiate and prosecute any and all suits

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