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Uncoded: Legal Gaps in India's EdTech Revolution - A Critical Study on Data Privacy, Consumer Protection and Advertising Standards

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India's EdTech sector has grown rapidly in the past decade. Learning systems, educational institutions, and educators have all gone digital, transforming the traditional way of education. This has offered great flexibility to the students and ensured access to education anywhere and anytime. However, with this unprecedented growth, certain vulnerabilities of the EdTech sector have also come to light, particularly regarding data privacy, consumer rights, and misleading advertisements. This article critically examines the quick growth of the EdTech platforms, the existing legal framework they are governed by, and most importantly, the regulatory gaps within. It highlights the lack of specific regulations for the EdTech sector and the limited enforceability of guidelines. From the perspective of case studies such as WhiteHat Jr. v Pradeep Poonia, actions taken by statutory bodies like the NCPCR and CCPA, and comparative analysis with countries like the United States and the European Union, the article reveals India's lag in establishing standard rules and platform accountability. In conclusion, the article advocates for changes and advancements to bridge this gap and align India's digital education with legal principles of data privacy, consumer protection, and honest advertisements by EdTech companies.

Keywords: edtech sector, data privacy, consumer protection, misleading advertising, specific regulations.

INTRODUCTION

The Indian educational system is one of the most diverse in the world, and the credit can be given to the different cultures, languages, and socio-economic backgrounds of the great population of this country. Some might say that it is faulty, like any other education system in the world, but it has its merits too. Currently, India's education sector as a whole has grown to 225 billion dollars.¹ Reports say that, by 2030, India's EdTech market alone is set to be valued at a 29-billion-dollar industry.²

The past decade has already been fruitful for the education industry in India, but after the COVID-19 pandemic hit, unprecedented growth was seen in the EdTech sector. Schools and universities had shut down all over the globe. In such circumstances, students had to resort to the online mode of things. This could have been a monetary issue if not for the Reliance Jio revolution in 2016, which provided services for cheap, unlimited internet access and made it possible for students to learn online with their mobile phones and laptops.³ Indian EdTech companies were able to grow and sell their services to the population efficiently, and it turned out to be a win-win situation for everyone. However, it is a detrimental issue that the legal regulations for the EdTech sector have not been as fast-paced in their development as the sector itself.

Given this context, the question must be raised, "Are the current legal framework and regulations in India adequate to govern the EdTech sector, especially in terms of privacy, consumer interest, and advertising ethics?"

Along with a focus on the Digital Personal Data Protection (DPDP) Act 2023, the Consumer Protection Act 2019, and the guidelines for advertising standards in India, this article also aims to examine the current legal and societal challenges that create friction to the growth of the

¹ 'Indian E-commerce Industry Analysis' (IBEF) <<https://www.ibef.org/industry/education-presentation>> accessed 15 June 2025

² 'India's EdTech Market Set to Reach \$29 Billion by 2030: Report' *The Economic Times* (17 January 2025) <<https://economictimes.indiatimes.com/tech/technology/indias-EdTech-market-set-to-reach-29-billion-by-2030-report/articleshow/117321708.cms?from=mdr>> accessed 15 June 2025

³ Malvika Maloo, 'India's EdTech Had the Most Pivotal Past Two Years since Jio Revolution: Report' (VCCircle, 14 December 2022) <<https://www.vccircle.com/indias-EdTech-had-the-most-pivotal-past-two-years-since-jio-revolution-report>> accessed 15 June 2025

EdTech sector in India. In addition to this, it also assesses how other nations regulate their EdTech sectors and how India can strive to do better, learning from them.

LEGAL FRAMEWORK GOVERNING EDTECH IN INDIA

In India, EdTech is governed by several legal frameworks. However, a specific legislation tailored just for EdTech is yet to be framed. The Digital Personal Data Protection Act (DPDP), which came into force just two years ago, in 2023, is the latest data protection legislation in India. It applies to the collection, processing, and storage of personal data both inside and outside Indian borders, given that it involves offering services within India. The Central Government has the power to designate a data fiduciary,⁴ as educational institutions that process personal and sensitive data of students as a significant data fiduciary under the Act, based on the volume or degree of sensitivity of such data, security of the State, and public order.⁵ Apart from compliance with the Act, practising accuracy and consistency, and providing grievance redressal, a data fiduciary has several other obligations, such as taking adequate safety measures, notifying the principal and the Data Protection Board in case of a personal data breach, and erasing the data in case of withdrawal of consent by a principal.⁶

The Information Technology (IT) Act, 2000, is another legislation governing EdTech in India. It mainly constitutes provisions for legally validating electronic records and digital signatures, and dealing with cybercrime. As the foundational law for cybersecurity and data protection, the Act is naturally relevant to the EdTech sector. Through the IT Act, EdTech companies are able to legally conduct online transactions for payments for online courses or for issuing course completion certificates to students by signing them digitally. EdTech companies must protect the sensitive data of students from illegal practices like hacking, data theft, and identity theft at any cost; and this is ensured under the IT Act by preventing it from unauthorised access, misuse, or disclosure. EdTech companies are considered intermediaries under the IT Act, and the Act obligates intermediaries to practice due diligence.⁷

EdTech companies that are not affiliated with any board and are not providing education to students for them to ultimately acquire a degree or diploma from such a company are merely

⁴ Digital Personal Data Protection Act 2023, s 2(i)

⁵ Digital Personal Data Protection Act 2023, s 10

⁶ Digital Personal Data Protection Act 2023, s 8

⁷ Information Technology Act 2000, s 79

rendering services according to the Consumer Protection Act, 2019.⁸ They are only helping students with extra courses on the side and competitive exams, and since it is done digitally, such services must abide by the Consumer Protection (E-Commerce) Rules, 2020.⁹

Advertising plays a vital role in the EdTech industry as well. To keep away harmful and misleading ads from students who are always seeking information, the Advertising Standards Council of India (ASCI) has laid out certain guidelines for educational institutions, programmes, and platforms.¹⁰ It prohibits EdTech companies from misleading students by fake advertising their recognition, placement statistics, etc. It ensures transparency, accountability, and honesty.

NOTABLE REGULATORY ISSUES

There are multiple concerns with regards to the conduct of the EdTech sector in India. They are directly opposed to the relevant legal regulations present for the EdTech sector.

Privacy Concern: User data has to be treated with care. That is the essence of providing a safe and efficient education to people. Such data becomes even more sensitive when it potentially belongs to minors. It is explicitly provided under the DPDP Act that digital fiduciaries must obtain verifiable parental consent before they process the personal data of minors.¹¹ When children get involved with various platforms unsupervised that ask them to provide identity proof, names, addresses, etc, their very safety is at risk. Sometimes this data includes biometric data, and many times it is collected without prior consent. This method can be used to exploit children and parents by designing the EdTech platforms, pricing, and fake advertising in a manner that would lure them and coerce them into investing in it.¹²

One such case was with the EdTech company Byju's. In 2022, National Commission for the Protection of Child Rights (NCPCR) Chief Priyank Kanoongo claimed that Byju's had been buying children's and parents' phone numbers to sell to them and coerce them into entering into

⁸ Consumer Protection Act 2019, s 2(42)

⁹ Consumer Protection (E-Commerce) Rules 2020, r 5

¹⁰ 'ASCI Guidelines for Educational Institutions, Programmes and Platforms' (*Advertising Standards Council of India*, May 2023) <<https://www.ascionline.in/wp-content/uploads/2023/05/ASCI-GUIDELINES-FOR-EDUCATIONAL-INSTITUTIONS-PROGRAMMES-AND-PLATFORMS.pdf>> accessed 15 June 2025

¹¹ Digital Personal Data Protection Act 2023, s 9

¹² Pooja Pandey, 'EdTech in India: The Quest for Child Privacy and Well-being' (*Observer Research Foundation*, 16 October 2024) <<https://www.orfonline.org/expert-speak/ed-tech-in-india-the-quest-for-child-privacy-and-well-being>> accessed 15 June 2025

loan-based agreements, threatening that “their future will be ruined” if they did not.¹³ He called it “predatory behaviour” and a “violation of privacy,” amounting to malpractice and promised to initiate action. As a result, Byju’s CEO, Byju Raveendran, was summoned by the Commission in December 2023.¹⁴

The NCPCR reported that EdTech companies had been largely involved in acquiring personal data without prior consent and then using the same for aggressive marketing tactics and pressuring parents into costly schemes without being clear about their policies for quality, content, and refunds. It has highlighted the need for clear guidelines for the EdTech sector.¹⁵

Consumer Protection Issues: Another major issue is the exploitation of consumers. The Consumer Protection Act, 2019, is the legislation that governs the interests of consumers, and it defines “unfair trade practices” as the sale of goods or services deceptively or unfairly.¹⁶ All EdTech companies that fall under the ambit of the Act must abide by its provisions. However, in 2024, another such company, Edu Tap Learning Solutions, failed to do so. The Central Consumer Protection Authority (CCPA) imposed a penalty of 3 lakh rupees on the company for engaging in misleading advertisements. The company had claimed that 144 students who had cleared the RBI Grade B exam in 2023 had taken courses from it.¹⁷ Although what they avoided mentioning was that 57 of those students had only opted for a free “Interview Guidance Course,” which they did after clearing the main written exams already.¹⁸ Edu Tap tried to take credit for the success of these students, thereby misleading other parents and children into believing that their courses would result in success and therefore increasing their sales.

¹³ ‘This is What BYJU’S Has to Say on Buying Student Database’ *The Times of India* (21 December 2022) <<https://timesofindia.indiatimes.com/gadgets-news/this-is-what-byjus-has-to-say-on-buying-student-database/articleshow/96407131.cms>> accessed 15 June 2025

¹⁴ ‘NCPCR Summons BYJU’S CEO over Database Buying Claims’ *Deccan Herald* (22 December 2022) <<https://www.deccanherald.com/india/ncpcr-summons-byjus-ceo-over-database-buying-claims-1173895.html>> accessed 15 June 2025

¹⁵ Rambhau Mhalgi Prabodhini, ‘Effects (Physical, Behavioural and Psycho-social) of Using Mobile Phones and Other Devices by Children’ (July 2021) <[https://ncpcr.gov.in/report#:~:text=Effects%20\(Physical%2C%20Behavioural%20and%20Psycho.35](https://ncpcr.gov.in/report#:~:text=Effects%20(Physical%2C%20Behavioural%20and%20Psycho.35)> accessed 15 June 2025

¹⁶ Consumer Protection Act 2019, s 2(47)

¹⁷ ‘EduTap Fined Rs 3 Lakh for Misleading RBI Grade B Exam Ads’ *The Economic Times* (13 June 2024) <<https://economictimes.indiatimes.com/industry/services/education/edu-tap-fined-rs-3-lakh-for-misleading-rbi-grade-b-exam-ads/articleshow/110962041.cms>> accessed 15 June 2025

¹⁸ ‘CCPA Imposes Penalty on EdTech Company for False, Misleading Ad’ *Indian Express* (13 June 2024) <<https://indianexpress.com/article/india/central-consumer-protection-authority-penalty-EdTech-company-false-misleading-ad-9390101/>> accessed 15 June 2025

Misleading Advertising: It has been a common practice of some companies to advertise falsely so as to delude customers and increase profits. During the COVID-19 crisis, some companies went to the extent of falsely advertising that they had a cure for COVID-19. Complaints were filed against 363 such advertisements, which were investigated by the ASCI (Advertising Standards Council of India), and 76 of those were immediately removed.¹⁹

ASCI has issued guidelines for the Education Sector Advertising in 2022, barring companies from making false claims about their institutions in their ads and promoting them to practice due diligence in their conduct.²⁰ Nonetheless, some EdTech companies like WhiteHat Jr, which was acquired by Byju's in 2020, had been advertising aggressively and making unverified claims. These claims were as dubious as professing that kids as young as 13-year-olds, who were associated with their platform, were getting Silicon Valley trips and salaries as high as 20 crore rupees after learning courses like coding from WhiteHat Jr.²¹ 15 complaints were eventually raised against 7 of their ads, and 5 of them were found in violation of the ASCI Code for Self-Regulation in Advertising²² and were asked by the Commission to be taken down, to which WhiteHat Jr. complied.²³ These fake success stories were advertised to entice parents to invest in the company's schemes, believing it to be the best path for their children.

COMPARATIVE PERSPECTIVES

For the sake of gaining a deeper understanding of the gaps in India's regulatory system with regard to the EdTech sector, a comparison must be drawn between India and other countries. Only by comprehending how other nations have responded to the numerous challenges posed by this offline-to-online shift in the education industry can we strive to reform ourselves and develop more sector-aware methods for protecting the data of the students.

¹⁹ Harshit Rakheja, 'WhiteHat Jr Told to Remove Misleading Ads after Social Media Furore' *Inc42* (28 October 2020) <<https://inc42.com/buzz/whitehat-jr-told-to-remove-misleading-ads-after-social-media-furore/>> accessed 15 June 2025

²⁰ ASCI Guidelines for Educational Institutions, Programmes and Platforms (n 10)

²¹ Rakheja (n 19)

²² 'THE CODE FOR SELF-REGULATION OF ADVERTISING CONTENT IN INDIA' (ASCI)

<<https://ascionline.in/ascicodes/ascicode.html>> accessed 15 June 2025

²³ Rajiv Singh, 'Exclusive: Advertising Body Asks WhiteHat Jr to Pull Down Ads' *Forbes India* (27 October 2020) <<https://www.forbesindia.com/article/special/exclusive-advertising-body-asks-whitehat-jr-to-pull-down-ads/63767/1>> accessed 15 June 2025

United States: FERPA and COPPA: The Family Educational Rights and Privacy Act (FERPA), which primarily regulates how the educational institutions are using and disclosing the personal educational records of the students, is the broader legislation in this regard in the U.S. It extends to EdTech companies when schools use digital platforms as third party to manage student personal data.²⁴ However, unlike India, the United States also has specific legislation for regulating the digital educational and children-centric platforms. Children’s Online Privacy Protection Act (COPPA), which, much like the provisions under the DPDP Act in India, mandates obtaining verifiable parental consent, but this law only applies to the personal data of children under 13 years old. It encourages companies to be transparent with the principal when they are using their data and imposes certain limits on the retention of the same by the company. This is enforced by the Federal Trade Commission.²⁵

European Union: DSA, GDPR, & Digital Education Action Plan: The central legislation for online privacy is the Digital Services Act (DSA). It prohibits platforms from targeted advertising to minors and manipulative designs that show fake, exaggerated, or harmful content. It applies to all EdTech platforms. Another legislation is the General Data Protection Regulation (GDPR), which also applies to EdTech and mainly regulates the collection of data and how it is handled. These, nevertheless, are not specified EdTech laws and that puts the EU at par with India in this matter. However, it must be taken into consideration that the EU has taken initiatives to promote AI in education²⁶ and has developed the roadmap to the Digital Education Action Plan, which promotes equal access to digital education across the whole of the EU by 2030, predicting digital skills to be required by over 90 per cent of jobs by that year.²⁷ India is yet to take such strong initiatives in favour of digital education and promote the EdTech sector.

China: Double Reduction Policy: Post the “double reduction” policy, the tutoring institutions in China resorted to the use of digital tools like learning tablets. Since digital tools

²⁴ ‘Family Educational Rights and Privacy Act (FERPA)’ (*US Department of Education*) <<https://studentprivacy.ed.gov/ferpa>> accessed 15 June 2025

²⁵ Lisa Weintraub Schifferle, ‘COPPA Guidance for Ed Tech Companies and Schools during Coronavirus’ (*Federal Trade Commission*, 09 April 2020) <<https://www.ftc.gov/business-guidance/blog/2020/04/coppa-guidance-ed-tech-companies-and-schools-during-coronavirus>> accessed 15 June 2025

²⁶ ‘European Approach to Artificial Intelligence’ (*European Commission*) <<https://digital-strategy.ec.europa.eu/en/policies/european-approach-artificial-intelligence>> accessed 15 June 2025

²⁷ ‘Four Years of Progress: Celebrating the Digital Education Action Plan’ (*EARLALL*, 25 June 2025) <<https://www.earlall.eu/four-years-of-progress-celebrating-the-digital-education-action-plan/>> accessed 25 June 2025

are not in themselves tutoring services, the legal regulations apply only to tutoring institutions and not to EdTech products. The after-school tutoring has been largely affected in the past few years.²⁸ In 2021, China imposed severe restrictions on all tutoring institutions in the EdTech sector to convert into not-for-profit institutions, which resulted in the sector losing nearly 1 trillion dollars in market capital. Major EdTech firms like New Oriental and TAL initiated downsizing and had to resort to focusing on services apart from education.²⁹ This might look arbitrary and overly strict on the part of the government, but it in consequence does contribute to ensuring high-end privacy and protection of personal data.

WHITEHAT JR v PRADEEP POONIA

The lack of specific legislation for the EdTech sector has also created confidence in EdTech companies to believe that they can engage in misuse of such a situation and profit out of it, curtailing criticism and free speech.

In November 2020, Pradeep Poonia, a software engineer, was summoned to court for a 20-crore rupee defamation charge filed against him by WhiteHat Jr., acquired by Byju's. Poonia was accused of spreading misinformation about the company on Twitter (now X) and infringing the trademark and copyright of WhiteHat Jr by using the name "WhiteHat Sr." on his YouTube channel. The case against Poonia also highlighted his criticism of 'Wolf Gupta', a fictional character created by WhiteHat Jr. and used for advertising its success stories. The practice was declared to be misleading the customers and fake advertising by Poonia.³⁰ It is, however, quite interesting that the company removed the character from its advertisements after the matter went quiet.³¹

At first, Poonia was instructed to remove only 8 of his tweets, but by Twitter's own rules, his entire handle was suspended in December of 2020. The Delhi High Court, in its order, stated

²⁸ Giulia Interesse, 'China's After-School Tutoring New Draft Regulations: Key Points' *China Briefing* (23 February 2024) <<https://www.china-briefing.com/news/china-after-school-tutoring-new-draft-regulations-key-points/>> accessed 15 June 2025

²⁹ Yi-Ling Liu, 'The Larger Meaning of China's Crackdown on School Tutoring' *The New Yorker* (16 May 2022) <<https://www.newyorker.com/culture/culture-desk/the-larger-meaning-of-chinas-crackdown-on-school-tutoring>> accessed 15 June 2025

³⁰ 'WhiteHat Jr Drops Rs 20 Cr Defamation Suit Against Critic Pradeep Poonia' *Business Today* (04 May 2021) <<https://www.businesstoday.in/latest/corporate/story/whitehat-jr-drops-rs-20-cr-defamation-suit-against-critic-pradeep-poonia-294974-2021-05-04>> accessed 15 June 2025

³¹ *Karan Bajaj & Anr v Pradeep Poonia CS (COMM) 515/2020*

that Poonia was barred from acquiring any data by hacking and then sharing it. He had used terms like “housewives” for the WhiteHat Jr. instructors and had mocked the entire company by calling it a pyramid scheme.³²

Even so, the case was retracted by the company in 2022 without any public explanation whatsoever.³³ Poonia posted on his LinkedIn account, celebrating and calling it a win against the company, claiming that corporate institutions like WhiteHat Jr. and Byju’s are not above citizens and their right to freedom of speech and expression in case someone merely criticises their practices.

SUGGESTIONS AND WAY FORWARD

India’s EdTech industry is definitely facing multiple crises at the moment. From start-ups like Lido Learning, Udayy, Superlearn, and Crejo fun having shut down to the funding for the sector itself dropping from 4.1 billion dollars in 2021 to 2.5 billion dollars in 2022, it is an indication that there needs to be changes.³⁴ The filing of 4,199 consumer complaints against leading EdTech companies like Byju’s as of this date is a poor reflection of India’s EdTech industry.³⁵

The main focus, as established by this article, should be on creating a clear legal regulation specifically designed for the EdTech sector, which provides safety norms, defines standard practices, and has provisions for grievance redressal. A central/state body can be formed to govern the EdTech platforms to which they are accredited and must adhere. Self-regulation can also be a useful method and is already in effect to some extent, but it must align with codified rules and must be monitored by supervising authorities from time to time. Campaigns for privacy

³² Shreya Agarwal, ‘Are You Saying Housewives Are Uneducated?’: Delhi High Court Asks Pradeep Poonia To Take Down Tweets Against WhiteHat Jr, Restrain Him From Commenting’ *LiveLaw* (23 November 2020) <<https://www.livelaw.in/news-updates/are-you-saying-housewives-are-uneducated-delhi-high-court-asks-pradeep-poonia-to-take-down-tweets-against-whitehat-jr-restrain-him-from-commenting-166253>> accessed 15 June 2025

³³ ‘WhiteHat Jr Withdraws Defamation Case Against Pradeep Poonia Before Delhi High Court’ *Bar and Bench* (05 May 2021) <<https://www.barandbench.com/news/litigation/whitehat-jr-withdraws-defamation-against-pradeep-poonia-before-delhi-high-court>> accessed 15 June 2025

³⁴ Trisha Shreyashi and Renu Gupta, ‘India’s EdTech Sector Needs Stronger Laws’ (17 May 2023) <<https://www.deccanherald.com/opinion/india-s-EdTech-sector-needs-stronger-laws-1219459.html>> accessed 15 June 2025

³⁵ ‘Byju’s Complaints’ (*Consumer Complaints*) <<https://www.consumercomplaints.in/byjus-b115389>> accessed 15 June 2025

awareness shall be promoted among parents and educators so as to educate them on how to protect their data and be cautious and steer clear of falling for scams.

EdTech companies must also be held responsible for designing their platforms in a manner that is safe and helpful for minors and require parental consent. Protecting the interests of children has to be paramount in places where education is involved, since the larger population of students is underage in India. With these changes, India can lead to improvement.

CONCLUSION

Be it traditional or digital, education holds the power to drive socio-economic development, and therefore, India must prioritise this industry. Only by acknowledging the gaps in the current legal regulations and the real-world scenario where implementation of rules is a tough job can this country fully comprehend what advancements need to be introduced in the EdTech sector. India has a great history of visionary policies that have made us come so far in these few decades after independence, and this is the time to take a notch further. The world is digitalising and we cannot fall behind.

By taking the necessary steps, we can ensure the frictionless development of the EdTech sector and promote the interests of students, who are the next generation and the future of our country. If we fail to contribute here, the economy as well as society will suffer. Therefore, quality education must be promoted, especially when there are so many ways to exploit the learners in this industry. This can be done by taking safety measures and introducing strict laws that make the functioning of the EdTech sector smoother and uncorrupted.