



Edtech: finding a way to lead students through the Covid-19 crisis and beyond

Schools, universities and other educational providers, as well as students and their families, are facing serious disruption resulting from the coronavirus pandemic. The EdTech sector already offers a vast array of possible solutions. To harness this potential in the medium-longer term, it is clear that suppliers need to be able to rise to the challenges faced and to convince institutions and their students that the platforms they can offer are sufficiently engaging and robust.

As Daniel Sobel, Founder and CEO of Inclusion Expert, an award winning international provider of online training resources to schools and parents succinctly puts it:

“ *The biggest barriers to entry in this [EdTech] market from customers' perspectives are always time, stress and money. This “holy trinity” has only been amplified in the current climate. Those who are best able to meet this challenge head on will undoubtedly develop the most fruitful and long-lasting business relationships* ”

This note, which is based on our discussions with clients and other industry contacts, highlights some of the key issues for educational providers looking to procure and deploy EdTech, for e-learning and related solutions and explains the legal issues which may arise during that process.

What is EdTech?

EdTech (a portmanteau of Education and Technology) refers to technology which is intended to promote and improve the delivery of education through the adoption of software (including apps), hardware, processes and related tools. Well-known EdTech examples include:

- Bussu, a digital learning platform providing foreign language courses,
- Purple Mash, a cloud-based, e-learning system for primary schools, and

- FutureLearn which provides free Massive Open Online Courses (MOOCs) from leading educational establishments.

Prior to the COVID-19 outbreak, education analysts had estimated that the global market would be worth over \$340 billion by 2025, with EdTech exports from the UK worth around £170 million a year, making it one of the UK's fastest growing sectors. As a result, these tools and technologies form a key plank of the Government's Education Technology strategy¹ which seeks to:

- Reduce teachers' marking workload,
- Boost training opportunities for teachers,
- Improve anti-cheating software, and
- Promote the use of innovative tech to level the playing field for people with special educational needs and disabilities.

Other areas highlighted in the strategy include essay marking, formative assessment, parental engagement and timetabling technology.

A recent surge in uptake

The coronavirus crisis has already led to a huge upsurge in demand for online education capabilities. School closures turn around the world have been largely responsible for a sharp increase worldwide in the number of students forced to study at home. In China, for example, classes have continued online for the country's 180 million students through apps and online platforms, and the Chinese state has launched a massive 'National Online Cloud Classroom'. With the US, much of mainland Europe and now the UK following Asia in shutting schools, the trend towards online education looks set to continue. Many EdTech providers are currently offering their services for free for a trial period in the hope of

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<https://www.gov.uk/government/publications/realising-the-potential-of-technology-in-education>



converting to paying customers in due course; others such as Khan Academy provide online learning on a free-to-view basis.

Careful marketing needed

Whilst the pandemic is a good chance to promote technology and solutions for online learning and teaching as the future direction of education, using COVID-19 to shamelessly plug your wares might well backfire. Without doubt some sensitivity is required from the EdTech companies' sales and marketing teams at a time when educational providers may be overwhelmed by the crisis and the pace at which schools, both public and private, are being forced to shut their doors.

And, equally, careful purchasing...

Schools, universities and other educational providers need to navigate a host of legal and contractual issues when purchasing and integrating EdTech in order to provide education and learning at a distance.

Common issues include:

- *Data protection and GDPR* - personal data, including protection of biometric information, needs to be carefully handled with the risk of large fines and terrible publicity for getting it wrong, especially when there are minors and other vulnerable groups involved in consuming the services.
- *Data and cyber security* - inadequate data security can lead to regulatory and contractual problems as well as giving rise to reputational damage not just to the EdTech companies themselves but to the schools and colleges that they work with.
- *Accessibility* - websites and mobile applications used by schools and universities in the public sector are subject to various accessibility requirements over and above the general requirements of the Equality Act 2010.

- *Online harms* - the UK government recently published a White Paper² which sets out a new regulatory framework to tackle online harms, which will likely include the establishment of an independent regulator - contractual arrangements with EdTech companies should be flexible enough to accommodate these future changes to applicable law.
- *Safeguarding* - schools and colleges have legal duties to safeguard and promote the welfare of children and young people under the age of 18 - again contractual arrangements with EdTech companies should take this into account, for example by requiring the EdTech company to comply with or support a school's e-Safety policies.
- *Intellectual property* – much of the content on EdTech platforms is “user generated”. Suppliers of EdTech will need to think about who owns the IP in that content (to the extent it is unique).
- *Other Contractual terms* – other issues which need to be dealt with in the contract documents between suppliers and purchasers can include:
 - *End user terms*- whether the EdTech also incorporates end user terms which have to be accepted by a user before he/she can use the product (especially relevant regarding children),
 - *Uptime and downtime* – i.e. what promises the supplier can make in terms of availability of the service, and
 - *Where the platform/product includes chat rooms and the like*, who bears the responsibility for moderating any content.



Concluding thoughts

Many EdTech companies are early stage businesses, a number of which were started in the US and elsewhere and consequently are not familiar with UK laws and regulations, with standard terms and conditions based on the laws and regulations of their home country. These contractual terms are then presented as standard and non-negotiable with signature required in a very short period of time. Notwithstanding these pressures, **careful review and consideration is needed especially where the EdTech company will handle personal data relating to minors.**

It is also worth noting that for both students and teachers, being online for hours at a time can be draining, bringing levels of stress not experienced during the normal school day. **Home learning needs to be engaging and interactive to avoid re-enforcing perceptions of online learning being un-engaging and less valuable than face-face teaching.**

Clearly there is a lot to play for in this rapidly evolving area.

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