PRIVAINI · CASE STUDY

A large education publisher verifies its privacy program from the outside in.

How a major education publisher's data ethics team got the regulator's view of their digital properties — and closed policy-practice gaps before they became enforcement targets.

INDUSTRY	PROGRAM	CLIENT LIFT	OUTCOME
Publishing & EdTech	Dedicated data ethics function	None — domain only	Independently verified

EXECUTIVE SUMMARY

A large education publisher — one of the most recognizable names in learning content, with digital properties reaching students, educators, and institutions across the United States and internationally — had built exactly the privacy program conventional wisdom prescribes: governance frameworks, internal controls, and a dedicated data ethics function reporting to executive leadership. What the program could not do was answer the question that determines enforcement outcomes: *what do our properties look like from the outside, to the people empowered to act on what they see?*

This case study describes how the publisher's data ethics team deployed Privaini to conduct an independent, outside-in audit of its digital properties; what the audit revealed across four categories of exposure; the regulatory regimes that made those findings urgent; and how the team converted a one-time verification exercise into a continuous monitoring cadence that now underpins its assurance reporting.

It also makes a broader argument, one the publisher's experience illustrates concretely: for content businesses whose properties embed video, serve learners, and monetize attention, the distance between a documented privacy program and observable digital behavior is not a paperwork discrepancy. It is the primary source of litigation and enforcement exposure — and it is measurable.

MARKET CONTEXT

The enforcement economy.

Privacy violations now cost organizations more than **$1.7 billion in regulatory fines every year** — and fines are the smaller half of the story. US data privacy litigation surged **78% between 2020 and 2024**, average settlements under the Biometric Information Privacy Act and the Video Privacy Protection Act reached **$11.5 million**, and wrongful-collection claims now average **$1.9 million**. Behind those numbers sits a plaintiff's bar that has industrialized privacy litigation: automated scanning of corporate websites for tracking technologies, template complaints keyed to statutory damages provisions, and demand letters that arrive weeks after a new marketing tag goes live.

What makes this risk category structurally different from breach risk is **where the evidence lives**. A data breach requires an attacker, a vulnerability, and an incident. A privacy violation requires none of those things — it is committed in public, continuously, by the company's own digital properties. The trackers firing before consent, the session-replay script recording keystrokes, the video player sharing viewing data with an advertising pixel, the privacy policy that describes none of it: all of it is observable by anyone who looks. Regulators look. Plaintiff's attorneys look. Insurers are learning to look.

This is why mature privacy programs still generate enforcement actions. Internal tools — consent management platforms, data mapping software, assessment workflows — manage what the organization *says* and *documents*. Enforcement is triggered by what the organization *does*, as experienced from the outside. The gap between the two is where regulatory actions originate, class

actions are filed, and insurance claims are generated. Most organizations have never measured that gap, because none of their tools can see it.

INDUSTRY EXPOSURE

The exposure anatomy of a modern publisher

Few industries concentrate as many distinct privacy exposures in one digital estate as publishing. The revenue model depends on advertising technology: pixels, tag managers, header bidding, and audience analytics, each a data-sharing relationship that must be disclosed and consented. The content model depends on video — precisely the pairing of viewing data and tracking that the VPPA converts into $2,500-per-viewer class actions. The engagement model deploys session analytics, replay tools, and increasingly AI-powered features that collect interaction data in ways wiretapping statutes were never drafted to imagine but are now routinely applied to.

An education publisher adds a further layer: student-facing properties. Content that reaches learners implicates COPPA's parental-consent requirements and FERPA's student-record expectations, and institutional customers — school districts, universities, state adoption committees — now verify privacy posture during procurement. For an education publisher, privacy failures don't just create legal exposure; they threaten the sales pipeline.

Finally, scale itself is an exposure multiplier. A major publisher operates hundreds of properties: brand sites, course platforms, marketing microsites, event pages, acquired-company domains. Every one of them is scanned by the same plaintiff-side tooling that scans the flagship — and the microsite nobody has reviewed since a 2019 campaign is exactly where an unreviewed tag is most likely to fire.

THE CHALLENGE

A mature program with no outside view.

The publisher's privacy and data ethics team had invested meaningfully in their internal privacy program. They had governance frameworks, internal controls, and a dedicated data ethics function. What they didn't have was an independent view of what their digital properties actually looked like from the outside — the same vantage point a regulator, litigator, or plaintiff's attorney would use.

Their existing stack was built to manage what they reported internally. It was not built to observe what was happening in the outside-in user experience: consent flow behavior, tracker activity, policy-practice alignment, AI data collection signals, dark patterns, and jurisdictional compliance gaps. These are the signals that drive enforcement — and they were invisible to the tools the team had deployed.

The team understood this gap intellectually long before they could act on it. As their data ethics leader put it, an independent outside-in view was 'something we've wanted for years' — the missing verification layer that would tell them whether years of internal program investment were actually translating into compliant external behavior. The obstacles were practical: conventional external assessments meant consultants, questionnaires, months of elapsed time, and a point-in-time answer

that began decaying the day it was delivered. Repeating that exercise across hundreds of properties, on a continuous basis, was operationally impossible with the tools available.

The question wasn't whether they had a privacy program. The question was whether it was working as experienced from the outside — and until that question was answerable, every assurance the program provided carried an asterisk.

THE REGULATORY LANDSCAPE

The laws that make the outside view mandatory.

For a publisher whose properties serve video, embed advertising technology, reach learners, and touch users in every US state and across Europe, the enforcement stakes concentrate in five regimes — each of which judges observable behavior, not documentation:

Video Privacy Protection Act (VPPA)

The VPPA is a 1988 federal statute born from an analog scandal: a newspaper obtained and published Supreme Court nominee Robert Bork's video rental history during his confirmation hearings. Congress responded by prohibiting 'video tape service providers' from knowingly disclosing information that identifies a person as having requested or obtained specific video materials, and set **liquidated damages at $2,500 per person** — with no requirement to prove actual harm.

Thirty-five years later, that analog statute has become the digital plaintiff bar's favorite instrument. Courts have applied the VPPA to streaming platforms and to ordinary websites that embed video content, and the modern fact pattern is devastatingly simple: a site hosts video, an advertising or analytics pixel transmits the viewer's identity together with the video title to a third party, and every affected visitor becomes a class member at $2,500 each. A publisher with a few hundred thousand video viewers is looking at nine-figure theoretical exposure from a single misconfigured tag. The wave of VPPA class actions filed since 2022 has targeted media companies, publishers, sports leagues, and healthcare systems — anyone whose properties pair video with tracking.

The critical operational fact: VPPA exposure is created and cured at the level of observable site behavior. Whether a pixel transmits video-viewing data is not a question about policy language — it is a question about what the page actually does when a user presses play.

State wiretapping statutes and CIPA

A second front opened when plaintiff's attorneys began applying all-party-consent wiretapping statutes — written for telephone taps — to modern website tooling. The California Invasion of Privacy Act (CIPA) is the leading vehicle: its provisions against intercepting communications without all parties' consent carry **$5,000 in statutory damages per violation**, and since 2022 they have been deployed against session-replay tools that record keystrokes and mouse movements, third-party chatbots that route conversations through vendors' servers, and tracking pixels characterized as unlawful 'pen registers' under CIPA's device provisions.

Massachusetts, Pennsylvania, Florida, and other all-party-consent states have seen parallel filings under their own statutes. The pattern is consistent: a routine analytics or support tool, deployed by marketing without legal review, silently creates a per-visitor statutory damages theory. Because these tools are visible in the page source and network traffic of the live site, plaintiffs can — and do — identify defendants by scanning the web at scale. The defense posture is equally observable: companies that can demonstrate exactly what their properties transmit, when, and under what consent state are the ones that can dispose of these claims early.

COPPA and FERPA: the education overlay

Organizations serving learners carry two additional regimes. The Children's Online Privacy Protection Act requires verifiable parental consent before collecting personal information from children under 13, with FTC civil penalties now exceeding **$50,000 per violation** — and the FTC has pursued edtech and publishing platforms specifically for tracking embedded in learning experiences. FERPA, while enforced through federal funding conditions rather than fines, sets expectations for student-record handling that district and university customers increasingly verify contractually. For an education publisher, a single tracker firing on a student-facing property implicates both statutes at once — and procurement teams, not just regulators, now ask for evidence.

The US state privacy law patchwork

Twenty states have now enacted comprehensive consumer privacy statutes, and no two are identical. California's CCPA as amended by the CPRA created a dedicated enforcement agency — the California Privacy Protection Agency — alongside the Attorney General, with civil penalties of **$2,500 per violation and $7,500 per intentional violation or violation involving minors**, counted per consumer. Other states vest enforcement in their Attorneys General with penalty structures of similar magnitude.

The obligations that matter most are the ones visible from the outside: honoring opt-out preference signals like the Global Privacy Control — the basis of California's landmark Sephora settlement — presenting compliant notice at collection, operating functional 'do not sell or share' mechanisms, and ensuring that stated practices match observed data flows. Obligations attach based on whose data a company processes, not where the company is headquartered, which means a single national website is simultaneously subject to twenty overlapping regimes. A configuration compliant in one state can be a violation in the next — and regulators have shown they will test sites directly rather than take a company's paperwork at its word.

GDPR, UK GDPR and PECR

European regimes remain the reference point for consent discipline. The GDPR and UK GDPR carry fines up to **4% of global annual revenue or €20 million, whichever is greater**, and the ePrivacy rules (PECR in the UK) require consent *before* non-essential cookies and trackers fire — not after, and not by default. European regulators enforce from observation: the UK ICO's enforcement

communications describe what its own review of a company's live properties found, including trackers that fire pre-consent and consent banners that nudge users toward acceptance.

For US-based organizations with European users, this creates a specific and testable standard: load the site as a European user, observe what fires before any consent interaction, and compare the observed behavior to the consent record. That is precisely the review a regulator conducts — and precisely the review most internal privacy stacks have no ability to perform on a continuous basis.

THE CLAIM MACHINE

Anatomy of a modern privacy claim.

How a modern privacy claim is born

Understanding the exposure requires understanding the machinery. A modern privacy class action rarely begins with an aggrieved user. It begins with software: plaintiff-side firms and their vendors continuously scan the public web for actionable fact patterns — video players paired with advertising pixels, session-replay scripts, chatbots routing through third-party servers, consent banners that load trackers before anyone clicks. A hit becomes a target list entry; a target list entry becomes a demand letter citing statutory damages; and because the underlying conduct is observable and continuous, every day of delay grows the putative class.

The economics then do the work. At $2,500 per person under the VPPA or $5,000 per violation under CIPA, a mid-sized website's monthly traffic generates theoretical exposure large enough that even a strong defense carries unacceptable variance — which is why so many of these matters settle, and why average settlements have climbed to eight figures. The defendant's practical leverage comes almost entirely from evidence: an organization that can demonstrate precisely what its properties transmitted, when, and under what consent state can distinguish defensible facts from indefensible ones early — and fix the indefensible ones before the scan finds them.

That is the strategic meaning of outside-in monitoring: it runs the plaintiff's playbook against your own estate, first.

THE SOLUTION

An independent, outside-in audit — then a cadence.

The publisher deployed Privaini to conduct an independent, outside-in assessment of its digital properties. Because Privaini observes publicly accessible signals the same way regulators and litigators do — from a company name and domain, without internal data, questionnaires, or IT involvement — the engagement imposed essentially zero operational burden on the publisher's teams: no integration project, no vendor security review of internal systems, no coordination tax across hundreds of property owners. The data ethics function received a view of the organization's privacy posture that no amount of internal tooling could have produced.

The assessment covered the signals that drive enforcement for a content business: consent flow behavior as experienced by real users in different jurisdictions; tracker and cookie activity, including what fires before consent; policy-practice alignment between the privacy policy's claims and the properties' observable conduct; AI data-collection indicators from embedded tools; and litigation-exposure markers keyed to the VPPA and state wiretapping statutes.

Key capabilities used

→ Outside-in assessment of consent flows, tracker behavior, and cookie practices

→ Policy-practice gap analysis — comparing privacy policy language to observable behavior

→ Jurisdiction mapping across applicable US state laws and international regulations

→ AI data collection signal detection across digital properties

→ Litigation exposure signals: VPPA, state wiretapping, wrongful collection

How outside-in monitoring works

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Observation, not attestation

Privaini approaches privacy risk from the same vantage point as the parties who create it: outside the firewall. Starting from nothing more than a company name and a domain, the platform observes the organization's public digital footprint — websites, subdomains, consent experiences, embedded technologies, policies, and disclosures — exactly as a regulator, plaintiff's attorney, or underwriter would encounter them. No questionnaires. No internal data feeds. No IT integration. Nothing to install and no one's calendar to book.

That independence is methodological, not incidental. Self-reported assessments inherit every blind spot of the organization's own documentation; an outside-in assessment inherits none of them. If a tag manager deployed a new pixel last Tuesday, the outside view shows it — whether or not any internal record does.

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One hundred signals, mapped to law

The platform evaluates **100+ proprietary signals** spanning tracking technologies, consent flow behavior, cookie practices, policy language, AI data-collection indicators, dark-pattern markers, and disclosure consistency — and then does the step that turns detection into intelligence: mapping each observation to the specific regimes it implicates across **144 countries and 20 US states**. A raw finding like '47 trackers detected' is operationally useless. Privaini's jurisdiction mapping converts it into '12 violate LGPD in Brazil; 8 create wiretapping exposure in California; 3 fire before consent for UK visitors in breach of PECR.' Risk becomes addressable the moment it becomes specific.

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Policy-practice gap analysis

The single most predictive indicator of enforcement and claim risk is the distance between what a company's privacy policy says and what its properties observably do. Privaini reads the policy the way opposing counsel would — as a set of testable claims — and verifies each against observed behavior: data collected but not disclosed, sharing relationships not described, retention promises contradicted by practice, consent representations the user experience does not honor. Every gap is a ready-made allegation; closing them in order of statutory exposure is the highest-leverage remediation work a privacy team can do.

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Regulator-grade evidence

Every finding is reproducible, timestamped, and jurisdiction-specific — evidence engineered to the standard a regulator applies, not an AI's unverifiable inference. This is the same observation standard Privaini applied in a live UK ICO regulatory response, where findings had to withstand the scrutiny of the regulator that prompted them. The distinction matters everywhere evidence is consumed: a privacy team prioritizing remediation, a board consuming assurance reporting, an underwriter pricing a submission, or counsel responding to a demand letter can all act on findings that can be independently re-verified.

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Continuous, because exposure is

A point-in-time audit describes a website that no longer exists: marketing ships new tags weekly, vendors update SDKs silently, and regulations amend on their own calendars. Privaini re-observes continuously, so posture is a living record rather than an annual snapshot — new exposure surfaces when it appears, remediation is verified when it lands, and the organization holds an auditable timeline of its observable behavior. In enforcement, in litigation, and at renewal, the timeline itself becomes an asset: evidence of a program that monitors and corrects.

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Implementation: the first thirty days

Day zero to steady state

Deployment inverts the usual enterprise-software timeline because there is nothing to deploy. Day zero is a domain name: Privaini begins observing the public estate immediately, and first findings arrive in about thirty minutes. Within the first week, the working team — privacy, legal, and whoever owns the digital properties — reviews a jurisdiction-mapped, severity-ranked findings briefing: what fires before consent and where that is unlawful, which disclosures fail against observed behavior, which properties carry litigation-pattern signals.

Weeks two through four convert findings into a remediation queue sequenced by statutory exposure: per-person statutory-damages patterns first, regulator-penalty categories second, experience and

friction issues third. Because every finding is reproducible, each fix is verified by re-observation rather than by assertion — and the before-and-after record becomes part of the organization's defensibility file.

Steady state is a cadence, not a project: continuous re-observation across the estate, alerting when new exposure appears, and a standing evidence trail that answers — for any date — the question every regulator, plaintiff, and underwriter eventually asks: what did your properties actually do?

RESULTS

Four categories of exposure — found, prioritized, closed.

The audit surfaced findings in four categories, each mapped to the statutes it implicated. First, **policy-practice gaps**: data collection and sharing practices occurring on the publisher's properties that the privacy policy did not adequately describe — the exact fact pattern underlying VPPA and state wiretapping claims, and the most common root of enforcement actions generally. Second, **jurisdictional compliance gaps** across US state privacy laws and the GDPR, where identical site behavior met different legal standards depending on the visitor's location. Third, **AI data-collection signals** from embedded tools that no current privacy documentation disclosed — an exposure category that barely existed when the publisher's disclosures were last rewritten. Fourth, **consent-flow friction**: opt-out mechanisms and consent journeys that did not behave as designed across key user paths.

Because every finding arrived jurisdiction-mapped and severity-ranked, the data ethics team could sequence remediation by statutory exposure rather than by guesswork — closing the gaps that carried per-person statutory damages first, then the regulatory-penalty categories, then the friction issues. Findings were reproducible and timestamped, which meant remediation could be verified rather than merely asserted: the team re-observed each property after fixes landed and holds the before-and-after record.

The lasting change is structural. The publisher converted the audit into an **ongoing outside-in monitoring cadence** — an independent verification layer that continuously confirms the internal program is translating into compliant external behavior, catches new exposure as marketing and product teams ship, and gives the data ethics function evidence-based assurance to carry to leadership. The program question that had been unanswerable for years — *is it working, as experienced from the outside?* — now has a continuously refreshed answer.

By the numbers.

From internal confidence to independent verification — and an ongoing outside-in monitoring cadence.

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Exposure categories surfaced (policy-practice, jurisdictional, AI signals, consent UX)	Signals in the assessment	Questionnaires or IT involvement required	Jurisdictions mapped (144 countries + 20 US states)

> This is something we've wanted for years, but we just couldn't find the right solution until Privaini.

DATA ETHICS EXECUTIVE · LARGE EDUCATION PUBLISHER

WHY IT MATTERS

The publisher's experience reflects a structural reality of modern privacy management: internal tools are essential, but they can only manage what an organization reports to itself. They cannot observe what is visible from the outside — and the outside is where regulators form their theories, where plaintiff's attorneys select their defendants, and where insurers increasingly price their risk. An organization that has never looked at itself from that vantage point is making an uninformed bet that its program works.

For publishers specifically, the stakes compound: advertising technology, embedded video, learner-facing properties, and sprawling digital estates each carry their own statutory exposure, and all of them are evaluated continuously by parties with financial incentives to find failures first. Independent, continuous, outside-in verification is how a mature program closes the loop — converting 'we believe we're compliant' into 'we can demonstrate what our properties do, on any date, in any jurisdiction.'

THE ECONOMICS

The build-vs-buy math

The traditional route to an outside view is manual: outside counsel and consultants reviewing properties jurisdiction by jurisdiction. Market rates for a single-market regulatory assessment routinely run into six figures — organizations have cited internal estimates of **$200,000+ per market** — and the deliverable is a snapshot that begins aging immediately, across an estate that changes weekly. Scaling that model to twenty US states and every international market a company touches is not a budget line; it is a fantasy.

Automated outside-in monitoring changes the unit economics by an order of magnitude: every property, every jurisdiction, continuously, for less than the cost of assessing a single market manually — with findings that are reproducible rather than opinion-based. The comparison to the cost of being wrong is starker still: a single VPPA class action's defense costs alone typically exceed years of monitoring, before any settlement. The honest framing is not whether an organization can afford continuous outside-in verification; it is that the alternative was never actually available at any price.

THE ROAD AHEAD

The direction of travel: enforcement is compounding

Every structural indicator points the same way. California's dedicated privacy regulator has moved from rulemaking to active enforcement sweeps, and state attorneys general from Texas to Connecticut have opened privacy dockets of their own. The FTC has revived decades-old authorities to police tracking and children's data, with per-violation penalties that turn systematic conduct into existential math. European regulators continue to publish enforcement decisions grounded in direct observation of live properties, and the first wave of AI-specific enforcement — data collection for model training, undisclosed AI features processing user content — has already produced multimillion-euro outcomes.

Each new regime adds statutes; none retires the old ones. The organizations that navigate this decade well will not be those with the thickest policy binders — they will be those that can answer, quickly and with evidence, the only question every enforcement theory shares: *what do your properties actually do?* That question does not get easier with time. The estate grows, the tooling multiplies, and the scanners on the other side never stop running.

EVALUATION CRITERIA

What to demand from privacy risk intelligence

For organizations evaluating this category — whether as an enterprise verifying its own program, an insurer pricing a book, or an advisor preparing clients — five criteria separate intelligence from noise. **Independence:** findings must derive from outside observation, not self-reported inputs, or they inherit the blind spots they exist to eliminate. **Evidence standard:** every finding should be reproducible, timestamped, and specific enough to hand to counsel — an unverifiable score is an opinion, not intelligence. **Jurisdictional mapping:** raw detections only become decisions when tied to the statutes they implicate, in every market that matters. **Continuity:** a snapshot describes a website that no longer exists; only a cadence describes a company. **Zero operational burden:** any methodology requiring questionnaires, integrations, or the target's cooperation cannot scale — and quietly reintroduces self-reporting through the side door.

These criteria are not abstractions; they are the difference between intelligence that survives contact with a regulator, a courtroom, or an underwriting committee — and intelligence that doesn't. They are also, not coincidentally, a description of how Privaini was engineered.

FAQ

Frequently asked questions

How is this different from a security rating? Security ratings model breach likelihood — patching, exposed services, credential hygiene. Privaini models privacy liability: what your properties observably collect, share, and disclose, mapped to the statutes that turn those behaviors into claims. The two signals are orthogonal; strong security scores routinely coexist with severe privacy exposure.

Do you need access to our systems? No. The assessment is built entirely from publicly observable signals — the same evidence available to a regulator or plaintiff's attorney. No questionnaires, no agents, no integrations, no internal data.

How current are the findings? Continuous. Properties are re-observed on an ongoing cadence, so new trackers, tags, and consent changes surface as they ship — not at the next annual audit.

Are the findings legal advice? No — they are evidence. Privaini produces reproducible, timestamped, jurisdiction-mapped observations of what your properties do. Your counsel decides what the law requires; Privaini shows what the facts are.

Will the findings hold up with regulators, courts, and underwriters? They are engineered to. Every finding can be independently re-verified, carries its observation timestamp, and cites the jurisdictional rule it implicates — the same evidentiary standard applied in a live UK ICO regulatory response.

How fast is the first assessment? From a company name and domain to first findings in about thirty minutes. A full jurisdiction-mapped briefing follows within days, not quarters.

Can findings be shared with third parties — regulators, insurers, acquirers, clients? Yes, and that is much of their value. Because findings are observations rather than privileged analysis, organizations routinely share them with underwriters at submission, with counsel during a regulatory response, with boards for assurance reporting, and with acquirers during diligence. The reproducibility is what makes them portable: any recipient can verify any finding independently.

What happens after remediation? Verification, then vigilance. Fixed findings are confirmed by re-observation and recorded, producing a defensibility file that documents both the exposure and its cure. Monitoring then continues on cadence — because the next marketing tag, vendor update, or acquired microsite is always coming, and posture is only as good as its most recent observation.

A PRACTICAL STARTING POINT

What would a regulator see on your properties today?

Twelve questions any organization can ask about its observable posture this quarter — each answerable from the outside, without a single internal meeting:

1. Which trackers fire on our properties *before* a user interacts with the consent banner — and in which jurisdictions is that sequence unlawful?

2. Does any embedded video player transmit viewer identity alongside video titles to an advertising or analytics endpoint?
3. Are session-replay, chatbot, or heat-mapping tools capturing user interactions — and do our consent flows disclose them by name and purpose?
4. Does our privacy policy disclose every third party that observably receives data from our pages?
5. Do our properties honor the Global Privacy Control and state opt-out signals, verifiably?
6. What does our consent experience look like to a user in London? In São Paulo? In Sacramento?
7. Which of our subdomains and microsites carry tags our privacy team has never reviewed?
8. Are AI or model-training data flows present on our properties that no current disclosure describes?
9. Could we produce timestamped evidence of our consent behavior for any date in the past year?
10. If a demand letter cited CIPA tomorrow, could we show exactly what our chat and replay tools transmit?
11. Does any property serving minors or students carry advertising or analytics tracking?
12. When did we last verify any of the above — and would the answer survive a regulator doing the same check today?

ABOUT PRIVAINI

Privaini is the privacy risk intelligence platform for enterprises, insurers, and risk advisors. From a company name and domain, Privaini builds a regulator-grade, outside-in view of privacy posture — 100+ signals mapped across 144 countries and 20 US states — and monitors it continuously. Two of the top three global cyber brokers and leading cyber insurers use Privaini to see privacy risk before it becomes loss. From your domain name to findings in 30 minutes: **privaini.com**.

Your exposure is already visible. See it before they do.

No questionnaires · No installation · Domain name only · Results in 30 min

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