

# United States Senate

Sundar Pichai  
Chief Executive Officer  
Google LLC  
1600 Amphitheatre Parkway  
Mountain View, CA 94043

Dear Mr. Pichai:

We urge you to ensure that apps on the Google Play Store do not employ data practices that threaten the wellbeing of individuals seeking abortion services. Following the leak of the Supreme Court’s draft opinion overturning *Roe v. Wade*,<sup>1</sup> we are concerned that anti-abortion prosecutors and other actors will attempt to access and leverage personal information—including data regarding location, online activity, health, and biometrics—in ways that threaten the wellbeing of those exercising their right to choose. The Google Play Store should prohibit apps available for download from engaging in data practices that may victimize individuals who seek or have sought abortion services.

Today, apps of all kinds amass troves of personal and sensitive information that may facilitate the targeting of individuals seeking abortion services. Popular apps gather specific information about users’ geolocation,<sup>2</sup> browsing history,<sup>3</sup> financial information,<sup>4</sup> and other types of data. In fact, apps on the Google Play Store collect highly sensitive information related to users’ ovulation and menstruation.<sup>5</sup> As a common practice in the online ecosystem, apps often sell users’ personal information to data brokers, and alarming reports show how this data distribution can facilitate the tracking of individuals seeking reproductive care.<sup>6</sup>

This system of data collection and distribution has the potential to directly threaten individuals who exercise their right to choose. Should the Supreme Court overturn *Roe v. Wade*, anti-

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<sup>1</sup> Josh Gerstein and Alexander Ward, *Supreme Court has voted to overturn abortion rights, draft opinion shows*, Politico (May 2, 2022), <https://www.politico.com/news/2022/05/02/supreme-court-abortion-draft-opinion-00029473>.

<sup>2</sup> Jennifer Valentino-DeVries et al., *Your Apps Know Where You Were Last Night, and They’re Not Keeping It Secret*, N.Y. Times (Dec. 10, 2018), <https://www.nytimes.com/interactive/2018/12/10/business/location-data-privacy-apps.html>.

<sup>3</sup> Jim Martin, *These popular apps collect the most data about you*, Tech Advisor (May 27, 2021), <https://www.techadvisor.com/news/security/apps-collect-personal-data-3805030/>.

<sup>4</sup> Jack Morse, *Payment apps collect and share your data. Here’s how to lock them down*, Mashable (Jun. 9, 2021), <https://mashable.com/article/venmo-cash-app-paypal-data-privacy>.

<sup>5</sup> Google Play, *Flo Ovulation & Period Tracker* (2022), [https://play.google.com/store/apps/details?id=org.iggymedia.periodtracker&hl=en\\_US&gl=US](https://play.google.com/store/apps/details?id=org.iggymedia.periodtracker&hl=en_US&gl=US).

<sup>6</sup> Joseph Cox, *Data Broker Is Selling Location Data of People Who Visit Abortion Clinics*, Motherboard (May 3, 2022), <https://www.vice.com/en/article/m7vzjb/location-data-abortion-clinics-safegraph-planned-parenthood>.

abortion prosecutors<sup>7</sup> and even vigilantes<sup>8</sup> may be able to exploit online mining of data from apps on the Google Play Store to stop individuals from accessing abortion services or to target them retrospectively. Information about app users' fertility, browsing history indicating an interest in contraception, or location information showing that a user visited a gynecologist could become a data trove for actors who are intent on targeting, intimidating, and harming individuals who seek abortions or individuals who simply take steps to promote their reproductive health.

Google Play Store policies must require available apps to prohibit and protect against data practices that threaten individuals seeking abortion services. According to Google's Developer Policy Center, Google has strict policies for apps on the Google Play Store with respect to data use, disclosure of user information, obtaining consent for data sharing, and other privacy practices.<sup>9</sup> The Google Play Store's policies governing the apps it hosts, therefore, can help ensure that those apps are not involved in data practices that threaten the wellbeing of individuals seeking abortion services. We urge you to review and update as necessary the Google Play Store's policies and practices to achieve that objective.

In light of the concerns raised above, we respectfully request written responses to the following questions by June 17, 2022:

1. Will you commit to conducting a comprehensive review of the Google Play Store's policies and enforcement procedures to ensure that available apps cannot engage in data practices that threaten the wellbeing of individuals seeking abortion services? If not, why not?
2. Will you commit to requiring all apps available on the Google Play Store to provide users with prompt and clear pre-compliance notice of any government request for their data, unless a court order prohibits such notice? If not, why not?
3. When a court order prohibits an app available on the Google Play Store from providing users with pre-compliance notice of any government request for their data, will you commit to requiring the app to notify to the user of the request as soon as the order expires or is revoked? If not, why not?
4. Will you commit to making any necessary adjustments to the Google Play Store's policies and enforcement procedures to ensure that all available apps do not collect or share users' location data, health data, or biometric data — including information related to ovulation and menstruation — without their consent? If not, why not?
5. Will you commit to prohibiting all Google Play Store apps from conditioning use on a user's consent to the sale of their location data, health data, or biometric data? If not, why not?
6. Will you commit to making any necessary technical updates to ensure that when a user denies or revokes consent for location data, health data, or biometric data collection on a

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<sup>7</sup> Kade Crockford and Nathan Freed Wessler, *Impending Threat of Abortion Criminalization Brings New Urgency to the Fight for Digital Privacy*, American Civil Liberties Union (May 17, 2022), <https://www.aclu.org/news/privacy-technology/impending-threat-of-abortion-criminalization-brings-new-urgency-to-the-fight-for-digital-privacy>.

<sup>8</sup> Maryclaire Dale et al., *With Roe v. Wade in jeopardy, some fear tech surveillance of pregnancy*, Fortune (May 18, 2022), <https://fortune.com/2022/05/18/tech-surveillance-pregnancy-abortion-data-privacy/>.

<sup>9</sup> Google, Privacy, Deception and Device Abuse (2022), [https://support.google.com/googleplay/android-developer/answer/10144311?hl=en&ref\\_topic=9877467](https://support.google.com/googleplay/android-developer/answer/10144311?hl=en&ref_topic=9877467).

Google Play Store app, the app will be unable to collect the user's location data or biometric characteristics? If not, why not?

7. Will you commit to making any necessary technical updates to ensure that when a user provides consent for location data, health data, or biometric data collection only when a Google Play Store app is in use, the app will be unable to collect the user's location data, health data, or biometric data when the app is not in use? If not, why not?

Thank you for your attention to these important matters.

Sincerely,



Edward J. Markey  
United States Senator



Elizabeth Warren  
United States Senator



Ron Wyden  
United States Senator



Bernard Sanders  
United States Senator



Cory A. Booker  
United States Senator

# United States Senate

Tim Cook  
CEO  
Apple Inc.  
1 Infinite Loop  
Cupertino, CA 95014

Dear Mr. Cook:

We urge you to ensure that apps on the App Store do not employ data practices that threaten the wellbeing of individuals seeking abortion services. Following the leak of the Supreme Court’s draft opinion overturning *Roe v. Wade*,<sup>1</sup> we are concerned that anti-abortion prosecutors and other actors will attempt to access and leverage personal information—including data regarding location, online activity, health, and biometrics—in ways that threaten the wellbeing of those exercising their right to choose. The App Store should prohibit apps available for download from engaging in data practices that may victimize individuals who seek or have sought abortion services.

Today, apps of all kinds amass troves of personal and sensitive information that may facilitate the targeting of individuals seeking abortion services. Popular apps gather specific information about users’ geolocation,<sup>2</sup> browsing history,<sup>3</sup> financial information,<sup>4</sup> and other types of data. In fact, apps on the App Store collect highly sensitive information related to users’ ovulation and menstruation.<sup>5</sup> As a common practice in the online ecosystem, apps often sell users’ personal information to data brokers, and alarming reports show how this data distribution can facilitate the tracking of individuals seeking reproductive care.<sup>6</sup>

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<sup>5</sup> App Store Preview, *Flo Period Tracker & Calendar* (2022), <https://apps.apple.com/us/app/flo-period-tracker-calendar/id1038369065>.

<sup>6</sup> Joseph Cox, *Data Broker Is Selling Location Data of People Who Visit Abortion Clinics*, Motherboard (May 3, 2022), <https://www.vice.com/en/article/m7vzjb/location-data-abortion-clinics-safegraph-planned-parenthood>.

abortion prosecutors<sup>7</sup> and even vigilantes<sup>8</sup> may be able to exploit online mining of data from apps on the App Store to stop individuals from accessing abortion services or to target them retrospectively. Information about app users' fertility, browsing history indicating an interest in contraception, or location information showing that a user visited a gynecologist could become a data trove for actors who are intent on targeting, intimidating, and harming individuals who seek abortions or individuals who simply take steps to promote their reproductive health.

App Store policies must require available apps to prohibit and protect against data practices that threaten individuals seeking abortion services. According to Apple's App Store Review Guidelines, Apple has strict policies for apps on the App Store with respect to data use, disclosure of user information, obtaining consent for data sharing, and other privacy practices.<sup>9</sup> The App Store's policies governing the apps it hosts, therefore, can help ensure that those apps are not involved in data practices that threaten the wellbeing of individuals seeking abortion services. We urge you to review and update as necessary the App Store's policies and practices to achieve that objective.

In light of the concerns raised above, we respectfully request written responses to the following questions by June 17, 2022:

1. Will you commit to conducting a comprehensive review of the App Store's policies and enforcement procedures to ensure that available apps cannot engage in data practices that threaten the wellbeing of individuals seeking abortion services? If not, why not?
2. Will you commit to requiring all apps available on the App Store to provide users with prompt and clear pre-compliance notice of any government request for their data, unless a court order prohibits such notice? If not, why not?
3. When a court order prohibits an app available on the App Store from providing users with pre-compliance notice of any government request for their data, will you commit to requiring the app to notify to the user of the request as soon as the order expires or is revoked? If not, why not?
4. Will you commit to making any necessary adjustments to the App Store's policies and enforcement procedures to ensure that all available apps do not collect or share users' location data, health data, or biometric data — including information related to ovulation and menstruation — without their consent? If not, why not?
5. Will you commit to prohibiting all App Store apps from conditioning use on a user's consent to the sale of their location data, health data, or biometric data? If not, why not?
6. Will you commit to making any necessary technical updates to ensure that when a user denies or revokes consent for location data, health data, or biometric data collection on an App Store app, the app will be unable to collect the user's location data, health data, or biometric data? If not, why not?

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<sup>7</sup> Kade Crockford and Nathan Freed Wessler, *Impending Threat of Abortion Criminalization Brings New Urgency to the Fight for Digital Privacy*, American Civil Liberties Union (May 17, 2022), <https://www.aclu.org/news/privacy-technology/impending-threat-of-abortion-criminalization-brings-new-urgency-to-the-fight-for-digital-privacy>.

<sup>8</sup> Maryclaire Dale et al., *With Roe v. Wade in jeopardy, some fear tech surveillance of pregnancy*, Fortune (May 18, 2022), <https://fortune.com/2022/05/18/tech-surveillance-pregnancy-abortion-data-privacy/>.

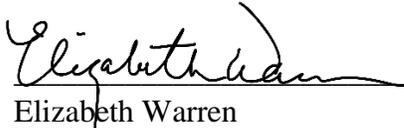
<sup>9</sup> Apple, App Store Review Guidelines (2022), <https://developer.apple.com/app-store/review/guidelines/>.

7. Will you commit to making any necessary technical updates to ensure that when a user provides consent for location data, health data, or biometric data collection only when an App Store app is in use, the app will be unable to collect the user's location data, health data, or biometric data when the app is not in use? If not, why not?

Thank you for your attention to these important matters.

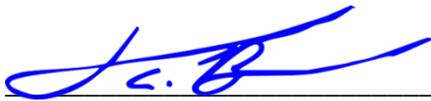
Sincerely,

  
Edward J. Markey  
United States Senator

  
Elizabeth Warren  
United States Senator

  
Ron Wyden  
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Bernard Sanders  
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Cory A. Booker  
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