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3 August 2022

The Honorable Lori Trahan
United States House of Representatives
2439 Rayburn House Office Building
Washington, DC 20515

The Honorable David N. Cicilline
United States House of Representatives
2233 Rayburn House Office Building
Washington, DC 20515

The Honorable Yvette D. Clarke
United States House of Representatives
2058 Rayburn House Office Building
Washington, DC 20515

The Honorable Debbie Dingell
United States House of Representatives
116 Cannon House Office Building
Washington, DC 20515

The Honorable Adam Schiff
United States House of Representatives
2309 Rayburn House Office Building
Washington, DC 20515

The Honorable Sean Casten
United States House of Representatives
2440 Rayburn House Office Building
Washington, DC 20515

Dear Representative Trahan:

We appreciate the opportunity to provide a response to your 20 July 2022 letter regarding Oracle's treatment of location data related to individuals exercising reproductive rights. We understand and share your concerns regarding the sensitivity of location data and welcome Congressional action on consumer data privacy.

You express concern about data brokers transacting in precise geolocation information which may be used to identify "individuals who have visited abortion clinics or have left the state to seek care." Yet the companies that originate, "harvest," and monetize the *vast majority* of mobile phone location data are not data brokers, but first-party data collectors like Google,[1] Apple,[2] Facebook,[3] or even Tim Hortons.[4] Compared to the billions of mobile phones globally that are engineered to divulge an

[1] Ryan Nakashima, Associated Press, *AP Exclusive: Google tracks your movements, like it or not* (Aug. 13, 2018), https://apnews.com/article/north-america-science-technology-business-ap-top-news-828aefab64d4411bac257a07c1af0ecb; Alfred Ng, Politico, *'A uniquely dangerous tool': How Google's data can help states track abortions* (July 18, 2022), https://www.politico.com/news/2022/07/18/google-data-states-track-abortions-00045906.

[2] Brian X. Chen, Wired, *Why and How Apple Is Collecting Your iPhone Location Data* (Apr. 21, 2011), https://www.wired.com/2011/04/apple-iphone-tracking/; Kollnig et al., *Goodbye Tracking? Impact of iOS App Tracking Transparency and Privacy Labels* (April 2022), https://arxiv.org/pdf/2204.03556.pdf (finding that "Apple's location services[] even collected the IP address and port that we used for proxying the network traffic . . . We did not observe any other domains that had access to this information, underlining Apple's privileged data access.").

[3] David Nielo, Wired, *All the Ways Facebook Tracks You—and How to Limit It* (Jan. 12, 2020), https://www.wired.com/story/ways-facebook-tracks-you-limit-it/ ("Even with location tracking turned off, Facebook still makes note of the approximate location that you access the web from via your IP address.").

[4] Office of the Privacy Commissioner of Canada, *Tim Hortons app violated privacy laws in collection of 'vast amounts' of sensitive location data* (June 1, 2022), https://www.priv.gc.ca/en/opc-news/news-and-announcements/2022/nr-c_220601/.

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individual's precise geolocation—synthesized across multiple sensor types, from second to second—the scale, type, and granularity of the location data Oracle and our customers engage with is nearly negligible.

Oracle is a leading enterprise software company and cloud service provider. Oracle Advertising ("OA," formerly known as Oracle Data Cloud) is a small line of business for Oracle and a rounding error for any other Big Tech company. OA does not permit customers to create datasets that are considered sensitive, which includes pregnancy or the termination thereof. Our service does not function as a standalone marketplace for raw feeds of individuals' location data, nor does it trade in data about individuals' reproductive choices. The size of OA's business pales in comparison to the hundreds of billions of dollars in revenue generated by Big Tech advertising companies, whose business models depend entirely on the monetization of consumer information, including precise geolocation data.

The OA Privacy Policy provides consumers with an overview of our sensitive data policies and is regularly updated to reflect changes in the market. Oracle will shortly update OA's Privacy Policy to make explicit our longstanding policy, which includes prohibitions on data pertaining to pregnancy, such as pregnancy choices, pregnancy termination, reproductive rights, and traveling to exercise reproductive rights. We are also renewing our privacy impact assessment with a particular focus on the topics detailed in your letter.

Furthermore, the OA Privacy Policy prohibits OA customers or partners from using data provided to them by Oracle to make decisions related to an individual's eligibility for employment, credit, healthcare, or insurance purposes. OA customers or partners are also barred from making decisions solely by automatic means where the decision has a significant effect on the individual, or in any way that may or does discriminate against any person or promote bigotry, racism, or harm.

Oracle's customers' and consumers' data must remain secure. We have implemented appropriate technical, physical, and organizational measures designed to protect personal information against accidental or unlawful destruction or accidental loss, damage, alteration, unauthorized disclosure or access, as well as all other forms of unlawful processing. These measures include role-based access controls for OA employees who can access personal data, as well as review and approval processes of requests to access such data.

What Congress Could Do

Although your letter is focused on the intersection of consumer location data and reproductive rights, this topic is a symptom of a greater disease. Consumers *should* have more rights in and control over their data, yet our individual rights may be jeopardized by unclear protections around the data we generate as part of modern life. This is an area where Congress can act by passing legislation to ensure consumers can control their data. For example:

- Congress could deem precise geolocation data sensitive, designating it as personally identifiable information and subject to heightened protections.

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- Congress could require consumers opt-in to data collection, and protect consumers with non-discrimination provisions.
- Congress could establish a data portability right for consumers, empowering consumers to choose where to direct the streams of their data generated from daily life.
- Congress could protect impressionable teens from online targeted advertising by raising the age for compliance for the FTC's Children's Online Privacy Protection Rule (COPPA) to 18 and to expand protections to data collected offline.
- Congress could require Big Tech advertising companies, profiting off the monetization of consumer data, to equally protect both first- and third-party data.
- Congress could protect all Americans by establishing a right to delete their location data, including that which allegedly has been "anonymized".
- Congress could recognize that Big Tech advertising companies, which monetize their first-party data, also act as data brokers and should be regulated as such.
- Congress could insist on truth in advertising and recognize they are "data collection" policies, not "privacy" policies.

We share your concerns regarding the sensitive nature of precise geolocation data. Consumers should control the collection and storage of location data. Location data is particularly ripe for legislation because it *cannot* be anonymized – as researchers have long recognized,[5] and as you note in your letter. We encourage Congressional action to ensure consumer control over their data and welcome the opportunity discuss our proposals.

Sincerely,

Kenneth Glueck
Executive Vice President
Oracle

[5] *See, e.g.*, H. Zang & J. Bolot, *Anonymization of Location Data Does Not Work: A Large-Scale Measurement Study* (September 2011), https://citeseerx.ist.psu.edu/viewdoc/download?doi=10.1.1.651.44&rep=rep1&type=pdf; A. Farzanefar & F. Houssiau, IAPP, *Getting lost in the crowd: The limits of privacy in location data* (March 25, 2021), https://iapp.org/news/a/getting-lost-in-the-crowd-the-limits-of-privacy-in-location-data-2/.