



Office of Commissioner
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UNITED STATES OF AMERICA
Federal Trade Commission
WASHINGTON, D.C. 20580

**STATEMENT OF COMMISSIONER REBECCA KELLY SLAUGHTER
REGARDING COMMISSION'S POLICY STATEMENT ON PRIVACY BREACHES
BY CONNECTED HEALTH APPS**

Health apps have been gaining a foothold in the market for years, but they have exploded in popularity during the course of the pandemic, offering services ranging from diet and fitness to mindfulness and sleep.¹ These apps collect and track sensitive personal information often across multiple aspects of our lives. Mental health apps have been one area of particular growth during the pandemic.² One UK digital provider reported a 7,500% increase in searches for health-apps related to the prevention of self-harm, a 176% increase for apps dedicated to the management of depression, and an 86% increase in searches for mental health apps for the treatment of anxiety.³ While digital mental health tools can be promising if they connect users with evidence-based resources, they also present high risks, because users seeking mental health resources are often sharing information that is particularly sensitive and personal. The same can be said for other health apps helping people grapple with deeply personal health concerns, like fertility, weightloss, and cancer treatment, to name just a few.

In this changing landscape, it is critical that the FTC do all it can to ensure that people entrusting their personal information to digital health apps can do so safely and securely. Accordingly, I strongly support the Commission issuing the Policy Statement on Privacy Breaches by Connected Health Apps. The Policy Statement sends a clear signal to providers of digital health technologies that they must fully comply with their legal obligations, including the Health Breach Notification Rule. The Health Breach Notification Rule requires vendors of unsecured health information, including mobile health apps, to notify users and the FTC if there has been an unauthorized disclosure of user information, including improper sharing of covered information without valid user consent.

In the FTC's enforcement action earlier this year against Flo, a fertility tracker, I made the

¹ Lis Evenstad, Covid-19 Has Led To A 25% Increase In Health App Downloads, Research Shows, ComputerWeekly.com (Jan. 12, 2021), <https://www.computerweekly.com/news/252494669/Covid-19-has-led-to-a-25-increase-in-health-app-downloads-research-shows>.

² *Id.* See also, Sorkin D, Janio E, Eikey E, Schneider M, Davis K, Schueller S, Stadnick N, Zheng K, Neary M, Safani D, Mukamel D, Rise in Use of Digital Mental Health Tools and Technologies in the United States During the COVID-19 Pandemic: Survey Study, J Med Internet Res 2021;23(4):e26994, <https://www.jmir.org/2021/4/e26994>.

³ Mental health in Covid-19: What the data says, Vala (Feb. 12, 2021), <https://valahealth.com/posts/2021/02/12/mental-health-in-covid-19-what-the-data-says/>.

point that the FTC must more effectively deploy the Health Breach Notification Rule against providers of digital health tools.⁴ I am gratified to see a majority of the Commission echo this message to providers now. If you are offering digital health services, the FTC will hold you accountable for accurate, evidence-based claims and fully compliant data privacy practices.

While this Policy Statement is a welcome step, the Commission's efforts to protect consumers' data from misuse and abuse must continue. I look forward to the Commission taking more action to limit the unfair collection and use of data, especially through rulemaking. Rules like the Health Breach Notification Rule are helpful in incentivizing companies to take better care of the data they collect—but we all know that too many digital services collect more data than they need, keep it way too long, share it far too widely and use it in problematic ways. The FTC must lead a market shift towards data minimalism.

⁴ Joint Statement of Commissioner Rohit Chopra and Commissioner Rebecca Kelly Slaughter Concurring in Part, Dissenting in Part, In the Matter of Flo Health, Inc., Fed. Trade Comm'n (Jan. 13, 2021), https://www.ftc.gov/system/files/documents/public_statements/1586018/20210112_final_joint_rcrks_statement_on_flo.pdf.