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RULES AND ADMINISTRATION

United States Senate  
WASHINGTON, DC 20510

December 11, 2020

The Honorable Alex Azar  
Secretary  
U.S. Department of Health and Human Services  
200 Independence Avenue, SW  
Washington, DC 20201

Dear Secretary Azar:

We write to express our serious concerns regarding recent reports on the data collection practices of Amazon's health-tracking bracelet (Halo) and to request information on the actions the U.S. Department of Health and Human Services' is taking to ensure users' health data is secure.

The Halo is a fitness tracker that users wear on their wrists. The tracker's smartphone application (app) provides users with a wide-ranging analysis of their health by tracking a range of biological metrics including heartbeat patterns, exercise habits, sleep patterns, and skin temperature.<sup>1</sup> The fitness tracker also enters into uncharted territory by collecting body photos and voice recordings and transmitting this data for analysis.<sup>2</sup> To calculate the user's body fat percentage, the Halo requires users to take scans of their body using a smartphone app. These photos are then temporarily sent to Amazon's servers for analysis while the app returns a three-dimensional image of the user's body, allowing the user to adjust the image to see what they would look like with different percentages of body fat.<sup>3</sup> The Halo also offers a tone analysis feature that examines the nuances of a user's voice to indicate how the user sounds to others. To accomplish this task, the device has built-in microphones that listen and records a user's voice by taking periodic samples of speech throughout the day if users opt-in to the feature.<sup>4</sup>

Recent reports have raised concerns about the Halo's access to this extensive personal and private health information.<sup>5</sup> Among publicly available consumer health devices, the Halo appears to collect an unprecedented level of personal information.<sup>6</sup> This raises questions about the extent

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<sup>1</sup> Bohn, D. (2020, August 27). *Amazon Announces Halo, a Fitness Band and App That Scans Your Body and Voice*. The Verge. <https://www.theverge.com/2020/8/27/21402493/amazon-halo-band-health-fitness-body-scan-tone-emotion-activity-sleep>.

<sup>2</sup> Fowler, G. and Kelly, H. (2020, December 10). *Amazon's new health band is the most invasive tech we've ever tested*. The Washington Post. <https://www.washingtonpost.com/technology/2020/12/10/amazon-halo-band-review/>.

<sup>3</sup> Bohn, D. (2020, August 27). *Amazon Announces Halo, a Fitness Band and App That Scans Your Body and Voice*. The Verge. <https://www.theverge.com/2020/8/27/21402493/amazon-halo-band-health-fitness-body-scan-tone-emotion-activity-sleep>.

<sup>4</sup> Stein, S. and Orellana, V.H. (2020, September 13). *Amazon Halo fitness tracker sounds awesome, but also like a Black Mirror episode*. CNET. <https://www.cnet.com/news/amazon-halo-new-health-app-fitness-tracker-metrics-include-body-fat-tone-of-voice/>.

<sup>5</sup> Fowler, G. and Kelly, H. (2020, December 10). *Amazon's new health band is the most invasive tech we've ever tested*. The Washington Post. <https://www.washingtonpost.com/technology/2020/12/10/amazon-halo-band-review/>.

<sup>6</sup> Fowler, G. and Kelly, H. (2020, December 10). *Amazon's new health band is the most invasive tech we've ever tested*. The Washington Post. <https://www.washingtonpost.com/technology/2020/12/10/amazon-halo-band-review/>.

to which the tracker’s transmission of biological data may reveal private information regarding the user’s health conditions and how this information can be used. Last year, a study by BMJ (formerly the British Medical Journal) found that 79 percent of health apps studied by researchers were found to share user data in a manner that failed to provide transparency about the data being shared.<sup>7</sup> The study concluded that health app developers routinely share consumer data with third-parties and that little transparency exists around such data sharing.

While new wearable fitness devices make it easier for people to monitor their own health, these devices give companies unprecedented access to personal and private data with limited oversight. The Halo enters the consumer market at a time where there are very few federal regulations in place to require privacy and security protections for consumer’s personal health data collected by these wearable fitness devices. This lack of federal guidance persists despite the fact that nearly one in five Americans use a smart watch or fitness tracker.<sup>8</sup> Concerns over health data privacy became particularly relevant last year when Google bought Fitbit—a health tracking device company—and data privacy experts cautioned that current laws and regulations do little to hold Google and other companies accountable to adhere to basic privacy standards, notwithstanding these companies’ public claims that they safeguard users’ “privacy” and “security” and promises to never sell private health information to others.<sup>9</sup> More must be done to ensure the privacy and security of health-related consumer devices.

In light of these concerning reports about the significant amount of sensitive health and personal data the Halo collects—and given the critical role that HHS has in protecting the privacy and security of health information—we respectfully ask that you respond to the following questions:

1. What actions is HHS taking to ensure that fitness trackers like Halo safeguard users’ private health information?
2. What authority does HHS have to ensure the security and privacy of consumer data collected and analyzed by health tracking devices like Amazon’s Halo?
3. Are additional regulations required to help strengthen privacy and security protections for consumers’ personal health data given the rise of health tracking devices? Why or why not?
4. Please describe in detail what additional authority or resources that the HHS could use to help ensure the security and protection of consumer health data obtained through health tracking devices like the Halo.

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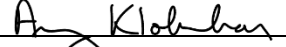
<sup>7</sup> Davis, J. (2019, March 21). *Majority of Health Apps Share User Data, Without Transparency*. Health Security. <https://healthitsecurity.com/news/majority-of-health-apps-share-user-data-without-transparency>.

<sup>8</sup> Vogels, E. (2020, January 9). *About one-in-five Americans use a smart watch or fitness tracker*. Pew Research Center. <https://www.pewresearch.org/fact-tank/2020/01/09/about-one-in-five-americans-use-a-smart-watch-or-fitness-tracker/>.

<sup>9</sup> Frazee, G. (2019, November 1). *Google bought Fitbit. What does that mean for your data privacy?* PBS News Hour. <https://www.pbs.org/newshour/economy/making-sense/google-bought-fitbit-what-does-that-mean-for-your-data-privacy>.

Thank you for your time and attention to this important matter. We look forward to working with you to improve health data privacy protections for all Americans.

Sincerely,

  
~~Amy~~ Klobuchar  
United States Senator