

# United States Senate

WASHINGTON, DC 20510

August 28, 2020

The Honorable Joseph J. Simons  
Chairman  
Federal Trade Commission  
600 Pennsylvania Ave NW  
Washington, DC 20580

Dear Chairman Simons:

We write to express our serious concerns regarding recent reports about the data collection and sharing practices of the mobile application (“app”) Premom and to request information on the steps that the Federal Trade Commission (FTC) plans to take to address this issue.

Premom is a mobile app that helps users track their fertility cycles to determine the best time to get pregnant.<sup>[1]</sup> As of November 2019, the app has been downloaded over half a million times, and it is one of the top search results among fertility apps in the leading app stores.<sup>[2]</sup> To use Premom, users provide the app extensive personal and private health information.

A recent investigation from the International Digital Accountability Council (IDAC) indicated that Premom may have engaged in deceptive consumer data collection and processing, and that there may be material differences between Premom’s stated privacy policies and its actual data-sharing practices. Most troubling, the investigation found that Premom shared its users’ data without their consent.<sup>[3]</sup> IDAC sent a letter to the FTC on August 6, 2020, to describe these undisclosed data transmissions along with other concerning allegations including conflicting privacy policies and questionable representations related to their collection of installed apps for functionality purposes.

While Premom claimed to only share “nonidentifiable” information in its privacy policy, the IDAC report found that Premom collected and shared—with three third-party advertising companies based in China including Jiguang, UMSNS, and Umeng—non-resettable unique user device identifiers that can be used to build profiles of consumer behavior. Additionally, users of the Premom app were not given the option to opt out of sharing their personal data with these advertising companies, and reports also allege that one of the companies that received user data

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<sup>[1]</sup> Premom: About Us. (Accessed August 27, 2020). Retrieved from: <https://premom.com/pages/about-us>

<sup>[2]</sup> Riley, Tonya. (August 20, 2020). *A popular fertility app shared data without user consent, researchers say*. The Washington Post. Retrieved from: [https://www.washingtonpost.com/technology/2020/08/20/popular-fertility-app-shared-data-without-user-consent-researchers-say/?hpid=hp\\_national1-8-12\\_premom-745am%3Ahomepage%2Fstory-ans](https://www.washingtonpost.com/technology/2020/08/20/popular-fertility-app-shared-data-without-user-consent-researchers-say/?hpid=hp_national1-8-12_premom-745am%3Ahomepage%2Fstory-ans)

<sup>[3]</sup> Letter to Federal Trade Commission Re: Premom’s Deceptive Privacy Practices Places Vulnerable Users’ Data at Risk. (August 6, 2020). International Digital Accountability Commission. Retrieved from: <https://digitalwatchdog.org/wp-content/uploads/2020/08/IDAC-Federal-Trade-Commission-Letter.pdf>

from Premom concealed the data being transferred—which privacy experts say is an uncommon practice for apps that is used primarily to conceal their data collection practices.<sup>[4]</sup>

While we understand that Premom has taken steps to update its app to halt the sharing of its users' information with these companies, it is concerning that Premom may have engaged in these deceptive practices and shared users' personal data without their consent. Additionally, there may still be users who have not yet updated the Premom app, which could still be sharing their personal data—without their knowledge or consent.

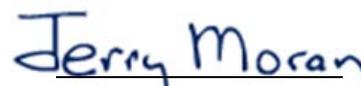
In light of these concerning reports, and given the critical role that the FTC plays in enforcing federal laws that protect consumer privacy and data under Section 5 of the *Federal Trade Commission Act* and other sector specific laws, we respectfully ask that you respond to the following questions:

1. Does the FTC treat persistent identifiers, such as the non-resettable device hardware identifiers discussed in the IDAC report, as personally identifiable information in relation to its general consumer data security and privacy enforcement authorities under Section 5 of the *FTC Act*?
2. Is the FTC currently investigating or does it plan to investigate Premom's consumer data collection, transmission, and processing conduct described in the IDAC report to determine if the company has engaged in deceptive practices?
3. Does the FTC plan to take any steps to educate users of the Premom app that the app may still be sharing their personal data without their permission if they have not updated the app? If not, does the FTC plan to require Premom to conduct such outreach?
4. Please describe any unique or practically uncommon uses of encryption by the involved third-party companies receiving information from Premom that could be functionally interpreted to obfuscate oversight of the involved data transmissions.
5. How can the FTC use its Section 5 authority to ensure that mobile apps are not deceiving consumers about their data collection and sharing practices and to preempt future potentially deceptive practices like those Premom may have engaged in?

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

Sincerely,

  
Amy Klobuchar  
United States Senator

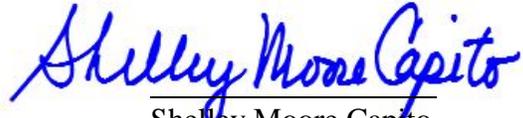
  
Jerry Moran  
United States Senator

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<sup>[4]</sup> Letter to Federal Trade Commission Re: Premom's Deceptive Privacy Practices Places Vulnerable Users' Data at Risk. (August 6, 2020). International Digital Accountability Commission.



Maria Cantwell  
United States Senator



Shelley Moore Capito  
United States Senator



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