



Office of the Chairman

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

March 31, 2025

VIA ELECTRONIC MAIL

Jerry Jensen, Acting U.S. Trustee
Paul A. Randolph, Assistant U.S. Trustee
Carole J. Ryczek, Trial Attorney
Joseph Schlotzhauer, Trial Attorney
Office of the U.S. Trustee
Region 13
South 10th Street, Suite 6.353
St. Louis, MO 63102

Re: *In re 23andMe Holding Co., et al.*, Case No. 25-40976, United States Bankruptcy Court
for the Eastern District of Missouri (Eastern Division)

Dear Counsel,

It is my understanding that 23andMe user data may be an asset that is sold as part of the above-referenced bankruptcy proceedings involving 23andMe Holding Company.¹ As Chairman of the Federal Trade Commission, I write to express the FTC's interests and concerns relating to the potential sale or transfer of millions of American consumers' sensitive personal information.

As you may know, 23andMe collects and holds sensitive, immutable, identifiable personal information about millions of American consumers who have used the Company's genetic testing and telehealth services. This includes genetic information, biological DNA samples, health information, ancestry and genealogy information, personal contact information, payment and billing information, and other information, such as messages that genetic relatives can send each other through the platform.

23andMe recognizes the unique sensitivity of the information it collects and maintains and has made direct representations to its users about how it uses, discloses, and protects their personal information, including how personal information will be safeguarded in the event of bankruptcy. The Company has promised, and continues to promise, that user privacy and choice are at the forefront of its business model. 23andMe tells its users that "privacy comes first," and that, "since day one, we've committed ourselves to protecting your privacy."² Further, the Company commits to its users that they are in control of their data, and that users can decide how their information is used and for what purposes—including honoring the right of users to delete their personal information at any time.

¹ For purposes of this letter, 23andMe is defined to include all subsidiaries of 23andMe Holding Company, including 23andMe, Inc., which offers genetic testing services, and Lemonaid Health, which offers telehealth services.

² <https://www.23andme.com/privacy/>.

In its Privacy Statement,³ 23andMe has represented that it does not share personal information with insurance companies, employers, public databases, or law enforcement, absent a valid court order, subpoena, or search warrant. The Company also tells users that it restricts the use and sharing of personal information to what is necessary to provide its services, and that it shares personal information with a limited number of service providers who are contractually bound to protect the confidentiality and security of user personal information.

Moreover, 23andMe’s Medical Record Privacy Notice⁴ promises that “unless we have received your specific authorization, we will not disclose any of your genetic information as part of your Medical Record Information to third parties,” and that the Company discloses such information only if a user directs the Company to do so or with explicit consent. Lemonaid Health, 23andMe’s telehealth service, has also promised users the same continuous protections through its privacy policy—which applies to personal information (including personal contact information and billing/payment information, health information, and users browsing information).⁵

Importantly, 23andMe promises users that these protections (and its entire Privacy Statement) shall apply continuously to their personal information, even if the data is sold or transferred in a bankruptcy proceeding:

If we are involved in a bankruptcy, merger, acquisition, reorganization, or sale of assets, your Personal Information may be accessed, sold or transferred as part of that transaction and this Privacy Statement will apply to your Personal Information as transferred to the new entity.⁶

The Company’s former CEO and current board member Anne Wojcicki recently reaffirmed that the Company is committed to its users’ privacy and has pledged to keep the commitments made in 23andMe’s privacy policy.⁷ I am also pleased to see that the Company’s public statements since the bankruptcy filing indicate that it will continue to prioritize honoring 23andMe’s privacy representations in the process of securing a purchaser.⁸

The FTC believes that, consistent with Section 363(b)(1) of the Bankruptcy Code, these types of promises to consumers must be kept. This means that any bankruptcy-related sale or

³ <https://www.23andme.com/legal/privacy/full-version/>.

⁴ <https://www.23andme.com/legal/medical-record-privacy-notice/>.

⁵ See Lemonaid Health’s Privacy Policy (“We may disclose your Personal Information with other business entities in connection with the sale, assignment, merger or other transfer of all or a portion of Lemonaid’s business to such business entity. This Privacy Policy will apply to your Personal Information as transferred to the new entity.”), available at <https://www.lemonaidhealth.com/legals/privacy-policy>.

⁶ <https://www.23andme.com/legal/privacy/full-version/>.

⁷ See, e.g., 23andMe Holding Co. SEC Form 13-D, Sept. 30, 2024, in which Wojcicki states, “I remain committed to our customers’ privacy and pledge to maintain [23andMe’s] current privacy policy in effect for the foreseeable future, including following completion of the acquisition I am currently pursuing.”, available at <https://investors.23andme.com/node/9961/html>.

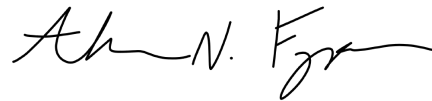
⁸ See Questions Related to 23andMe’s Chapter 11 Filing, available at: <https://customer.care.23andme.com/hc/en-us/articles/30805135934615-Questions-related-to-23andMe-s-Chapter-11-Filing>.

transfer involving 23andMe users' personal information and biological samples will be subject to the representations the Company has made to users about both privacy and data security, and which users relied upon in providing their sensitive data to the Company. Moreover, as promised by 23andMe, any purchaser should expressly agree to be bound by and adhere to the terms of 23andMe's privacy policies and applicable law, including as to any changes it subsequently makes to those policies.

These conditions would help protect users' interests by ensuring that their data and personal information will be used consistent with 23andMe's promises.

Thank you for this opportunity to express these concerns on behalf of American consumers.

Sincerely,

A handwritten signature in black ink, appearing to read "Andrew N. Ferguson". The signature is fluid and cursive, with a long horizontal stroke at the end.

Andrew N. Ferguson
Chairman, Federal Trade Commission