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United States Senate

COMMITTEE ON HEALTH, EDUCATION,
LABOR, AND PENSIONS

WASHINGTON, DC 20510-6300

AMANDA LINCOLN, MAJORITY STAFF DIRECTOR
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April 8, 2025

Joseph Selsavage
Interim Chief Executive Officer
23andMe
870 Market Street, Room 415
San Francisco, CA 94102

Matt Kvarda
Managing Director
Alvarez & Marsal
6060 Center Drive
Los Angeles, CA 90045

Dear Mr. Selsavage and Mr. Kvarda:

Safeguarding sensitive consumer information is essential to ensuring that consumers know how companies collect and share data. 23andMe's recent bankruptcy filing puts that information at risk by placing the information of its approximately 15 million customers for sale to the highest bidder. This risk is even more pronounced now that the company has received court approval to sell its customer database, including customers' DNA.¹ While the company has stated that its bankruptcy filing "does not change how we store, manage, or protect consumer data," troubling questions remain about how 23andMe will protect consumers' privacy while auctioning off their most personal data.²

A number of entities have already announced interest in purchasing 23andMe's assets, including its customers' DNA and other databases.³ 23andMe has publicly committed to "look to secure a partner who shares in its commitment to customer data privacy," but has simultaneously rejected calls to appoint a neutral party to evaluate any sale of customer data.⁴ Instead, 23andMe has relied on its own privacy policy to avoid third party participation that would help ensure 23andMe remains committed to consumer privacy.⁵

¹ Kate Murphy, *DNA testing company 23andMe wins court approval to sell data after it filed for bankruptcy. What does that mean for your privacy?*, Yahoo! News (Mar. 27, 2025), <https://www.yahoo.com/news/dna-testing-company-23andme-wins-court-approval-to-sell-data-after-it-filed-for-bankruptcy-what-does-that-mean-for-your-privacy-200551978.html>; *An Open Letter to 23andMe customers*, 23andMe (Mar. 26, 2025), <https://blog.23andme.com/articles/open-letter>.

² *An Open Letter to 23andMe customers*, 23andMe (Mar. 26, 2025), <https://blog.23andme.com/articles/open-letter>.

³ Lila Maclellan, *These are the people who want to buy 23andMe*, Fortune (Apr. 1, 2025), <https://fortune.com/2025/04/01/23andme-for-sale-interested-buyers-nucleus-sei-foundation/>.

⁴ Ben Zigterman, *23andMe Says Ch. 11 Privacy Ombudsman Not Required*, Law360 (Mar. 26, 2025), <https://www.law360.com/articles/2316118/23andme-says-ch-11-privacy-ombudsman-not-required>.

⁵ *Id.*

In light of 23andMe’s previous struggles to protect customer data, including a data breach in 2023 that impacted approximately 6.9 million customers,⁶ it is unclear how the company will commit to safeguarding data going forward. Despite the company’s policy to delete consumers’ data at their request, many of those customers report that 23andMe has failed to confirm their data is being deleted or have reported outages when attempting to submit a deletion request.⁷

Given the quantity and high level of sensitivity of the information 23andMe holds, and its previous failures to protect this information, it is important that Congress more clearly understand how 23andMe will protect consumers’ data before profiting from its sale. Therefore, I ask that you answer the following questions on a question-by-question basis by **April 23, 2025**:

1. 23andMe has committed to “look to secure a partner who shares in its commitment to customer data privacy” as part of any sale process of the company or its customer database.⁸
 - a. Did 23andMe enter into any “stalking horse” agreement prior to its bankruptcy filing to sell its customer database?
 - b. How does 23andMe intend to vet potential partners to ensure customer data is maintained, including any changes to its existing privacy policy?
 - c. Will customers receive any advance notice of an agreement to sell their data?
 - d. Will there be any mechanism for customers to opt out of the sale of their data to a third party to which they did not voluntarily give their data?
2. 23andMe has thus far opposed the appointment of a consumer privacy ombudsman to supervise the sale of any customer data, pointing to its privacy policy that permits the company to sell its database as part of bankruptcy proceedings.⁹
 - a. Has 23andMe appointed any other type of party to supervise its potential sale of consumers’ personal data to date?
 - b. If so, what steps will 23andMe take to ensure this sale is conducted in a privacy-conscious manner?
 - c. If not, does 23andMe intend to subsequently appoint any third party to supervise this process?
3. While 23andMe has stated that customers will still have the ability to delete their data, reports have indicated customers have struggled to complete the request or have not received written confirmation that their data has been deleted.¹⁰ What steps is 23andMe

⁶ *Addressing Data Security Concerns – Action Plan*, 23andMe (Oct. 6, 2023), <https://blog.23andme.com/articles/addressing-data-security-concerns>.

⁷ Alicia McElhaney, *23andMe Site Went Down as Customers Struggled to Delete Data*, The Wall Street Journal (Mar. 25, 2025), <https://www.wsj.com/business/23andme-delete-data-bankruptcy-5778341f>.

⁸ *An Open Letter to 23andMe customers*, 23andMe (Mar. 26, 2025), <https://blog.23andme.com/articles/open-letter>.

⁹ *Supra* note 4.

¹⁰ Alicia McElhaney, *23andMe Site Went Down as Customers Struggled to Delete Data*, The Wall Street Journal (Mar. 25, 2025), <https://www.wsj.com/business/23andme-delete-data-bankruptcy-5778341f>.

taking to ensure all deletion requests are processed and satisfied prior to any sale of customer data?

4. As part of remedial steps after the data breach impacting approximately 6.9 million customer accounts, 23andMe announced several measures to improve its security safeguards.¹¹ How is 23andMe continuing to monitor and improve its cybersecurity infrastructure as the company proceeds through bankruptcy?

Sincerely,

Bill Cassidy, M.D.

Bill Cassidy, M.D.
Chairman
U.S. Senate Committee on Health,
Education, Labor, and Pensions

¹¹ *Supra note 6.*