

Congress of the United States

Washington, DC 20515

July 13, 2022

The Honorable Lina Khan, Chair
Federal Trade Commission
600 Pennsylvania Avenue, N.W.
Washington, D.C. 20580

Dear Chair Khan,

We write to urge you to use your authority to take enforcement actions against the problematic actors in the consumer Virtual Private Network (VPN) industry, focusing particularly on those that engage in deceptive advertising and data collection practices. The VPN industry is extremely opaque, and many VPN providers exploit, mislead, and take advantage of unwitting consumers.

As the recent Supreme Court decision in *Dobbs v. Jackson Women's Health Organization* has amplified concerns about digital reproductive privacy,¹ people seeking abortion are increasingly told that installing a VPN is an important step for protecting themselves when seeking information on abortion in states that have outlawed and criminalized abortion.² This advice has also been applied to general privacy-related concerns³ and has brought VPNs into the mainstream⁴ among American internet users and resulted in a significant market boom.⁵

It's extremely difficult for someone to decipher which VPN service to trust, especially for those in crisis situations. There are hundreds, if not thousands, of VPN services available to download, yet there is a lack of practical tools or independent research to audit VPN providers' security claims.⁶ Interested consumers refer to online recommendations to select which VPN provider to trust, and many of the most frequently visited third-party review sites⁷ and blogs⁸ profit from partnerships with specific providers. Even more troubling, some VPN review websites are owned by companies that also offer VPN services.⁹

Many popular VPN services also spread inaccurate information on their websites. In December 2021, Consumer Reports (CR) found that 75 percent of leading VPN providers misrepresented their products and technology or made hyperbolic claims about the protection they provide users on their websites, such as advertising a 'military-grade encryption' which doesn't exist.¹⁰ Advocacy groups have also found that leading VPN services intentionally misrepresent the functionality of their product and fail to provide adequate security to their users.¹¹ We're highly concerned that this deceptive advertising is giving abortion-seekers a false sense of security when searching for abortion-related care or information, putting them at a higher risk of prosecution.

Leading groups advise women seeking abortions that VPN with 'no-log' policies can be trusted to protect their data.¹² While many popular VPN providers aggressively market their 'no-log' policies which allow users to anonymously surf the web, it's nearly impossible to verify their claims.¹³ In various cases, VPN providers that advertise a strict 'no-log' policy have provided user activity logs to law enforcement.¹⁴ In 2020, a report uncovered that seven VPN providers which claimed not to keep any logs of their users' online activities left 1.2 terabytes of private

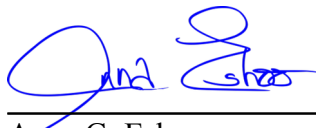
user data exposed, including users' email, home addresses, clear text passwords, IP addresses, and internet activity logs.¹⁵ This is extremely harmful, especially for internet users who are now relying on VPNs to keep their reproductive health information confidential.

VPN services have also been exposed for collecting, and, in some cases, abusing, user data. In 2020 it was revealed that a leading analytics firm used personal data from over 35 million people who had downloaded one of their 20 VPN and ad-blocking apps to power their analytics platform without consent.¹⁶ Notably, the apps didn't reveal their connection to the analytics firm. Another study found that 75 percent of Android VPN apps report personal user data to third-party tracking companies and 82 percent request permissions to access sensitive resources, including user accounts and text messages.¹⁷

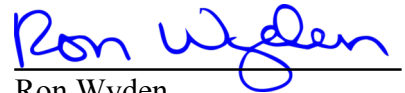
With abortion illegal or soon to be illegal in 13 states and severely restricted in many more, these abusive and exploitative data practices are simply unacceptable. We urge the Federal Trade Commission (FTC) to take immediate action under Section 5 of the FTC Act to curtail abusive and deceptive data practices in companies providing VPN services to protect internet users seeking abortions. We also urge the FTC to develop a brochure for abortion-seekers on how best to protect their data, including a clear outline of the risks and benefits of VPN usage.

Thank you for your attention to this important matter.

Sincerely,



Anna G. Eshoo
Member of Congress



Ron Wyden
United States Senator

- ¹ Margaret Harding McGill and Ashley Gold, “The future of privacy rights in a post-Roe world,” (Axios, June 29, 2022), <https://www.axios.com/2022/06/29/privacy-right-roe-v-wade-dobbs-v-jackson-online-data.>; Tiffany Li, “In post-Roe America, your cell phone is now a reproductive privacy risk,” (MSNBC.com, June 26, 2022), <https://www.msnbc.com/opinion/msnbc-opinion/states-abortion-bans-can-weaponize-your-own-data-against-you-n1296591>.
- ² Heather Kelly et al., “Seeking an abortion? Here’s how to avoid leaving a digital trail.” (Washington Post, June 26, 2022), <https://www.washingtonpost.com/technology/2022/06/26/abortion-online-privacy/>; “Attorney General James Provides Guidance to Protect the Digital Privacy of People Seeking Abortion Care,” (New York Attorney General, May 13, 2022), <https://ag.ny.gov/press-release/2022/consumer-alert-attorney-general-james-provides-guidance-protect-digital-privacy>.
- ³Maile McCann, “9 Reasons Why Everyone Should Use a VPN. Yes, Even Non-Techies.,” (Forbes Magazine, January 25, 2022), <https://www.forbes.com/advisor/business/software/why-use-a-vpn.>; Rae Hodge, “You Really Should Be Using a VPN on Your Phone. Here's How to Set It up in under 10 Minutes,” CNET (CNET, December 20, 2021), <https://www.cnet.com/tech/services-and-software/you-really-should-be-using-a-vpn-on-your-phone-heres-how-to-set-it-up-in-under-10-minutes/>.
- ⁴“VPN Consumer Usage, Adoption, and Shopping Study: 2021,” Security.org, December 19, 2021, <https://www.security.org/resources/vpn-consumer-report-annual/>.
- ⁵ “Virtual Private Network (VPN) Market Trends & Industry Analysis - 2027,” Allied Market Research, accessed February 2, 2022, <https://www.alliedmarketresearch.com/virtual-private-network-market>.
- ⁶ Yael Grauer, “Should You Use a VPN?,” Consumer Reports, December 7, 2021, <https://www.consumerreports.org/vpn-services/should-you-use-a-vpn-a5562069524/>.
- ⁷ “An Empirical Analysis of the Commercial VPN ... - DL.acm.org,” <https://dl.acm.org/doi/pdf/10.1145/3278532.3278570?download=true>.
- ⁸ “4 High-Paying VPN Affiliate Programs to Join for Bloggers,” Geekflare, November 9, 2021, <https://geekflare.com/best-vpn-affiliate-programs/>.
- ⁹ Sven Taylor et al., “These VPN ‘Review’ Websites Are Actually Owned by Vpns,” RestorePrivacy, November 5, 2021, <https://restoreprivacy.com/vpn-review-websites-owned-by-vpns/>.
- ¹⁰ Yael Grauer, “VPN Testing Reveals Poor Privacy and Security Practices, Hyperbolic Claims,” Consumer Reports, December 7, 2021, <https://www.consumerreports.org/vpn-services/vpn-testing-poor-privacy-security-hyperbolic-claims-a1103787639/>.
- ¹¹ “Complaint, Request for Investigation, Injunction, and Other Relief Submitted by the Center for Democracy & Technology (CDT),” <https://cdt.org/wp-content/uploads/2017/08/FTC-CDT-VPN-complaint-8-7-17.pdf>.
- ¹² AJ Dellinger, “How to Hide Your Abortion,” (MIC, June 28, 2022), <https://www.mic.com/impact/how-to-hide-your-abortion>. “Keep your Abortion Private and Secure,” (Digital Defense Fund), <https://digitaldefensefund.org/ddf-guides/abortion-privacy.>
- ¹³ Rae Hodge, “Why You Should Be Skeptical about a VPN's No-Logs Claims,” CNET, <https://www.cnet.com/tech/services-and-software/why-you-should-be-skeptical-about-a-vpns-no-logs-claims/>.
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- ¹⁷ “An Analysis of the Privacy and Security ... - CSIRO Research,” <https://research.csiro.au/isp/wp-content/uploads/sites/106/2016/08/paper-1.pdf>.