

## Reproductive Rights and Data Privacy

**WHEREAS:** Following revocation of the constitutional right to an abortion in June 2022, policymakers are concerned about the use of personal digital data for the enforcement of state laws that ban or limit abortion access.

Law enforcement frequently relies on digital consumer data. While Walmart does not report figures on law enforcement requests, Alphabet and Meta collectively received about 110,000 requests in the second half of 2021. Each complied with about 80 percent of those requests. In 2022, Meta satisfied a Nebraska warrant for private Facebook messages from a mother facing felony charges for allegedly helping her daughter terminate a pregnancy, receiving significant negative press.

Walmart has sensitive personal data on consumers' health, geolocation, internet activity, and purchases. This data could be accessed without consumer consent by states that criminalize abortion. The Company's privacy policy fails to disclose whether Walmart voluntarily satisfies law enforcement requests.<sup>1</sup> Its privacy notice governing personal health information ("PHI") permits disclosure of that data when "responding to legitimate law enforcement inquiries," which could include criminalized abortion investigations.

Based on public information, investors are unable to ascertain whether Walmart's PHI privacy notice contravenes federal HIPAA guidelines prohibiting PHI disclosures unless a mandate enforceable in a court of law accompanies the request. Law enforcement data requests may also seek evidence of consumer acts that are inappropriate for Walmart to voluntarily share – for example, consumer financial activities that were legal in the state where they occurred, but illegal in the consumer's state of residence, such as purchasing abortifacients.

Walmart is susceptible to abortion-related law enforcement requests that may create significant reputational, financial, and legal risks. Walmart already complies with "deletion rights" under California law, wherein consumers may request the Company delete personal data it is not legally required to retain. There is a strong brand benefit to meeting the privacy expectations of most consumers.

**RESOLVED:** Shareholders request the Board issue a public report detailing known and potential risks and costs to the Company of fulfilling information requests relating to Walmart customers for the enforcement of state laws criminalizing abortion access, and setting forth any strategies beyond legal compliance the Company may deploy to minimize or mitigate these risks. The report should be produced at reasonable expense, exclude proprietary or privileged information, and be published within one year of the annual meeting.

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<sup>1</sup> <https://corporate.walmart.com/privacy-security/walmart-privacy-policy>

**SUPPORTING STATEMENT:** Shareholders recommend, at board discretion, input from reproductive rights and civil liberties organizations be solicited and reflected in the report, and the report contain, regarding reproductive related issues:

- (1) An assessment of the feasibility of a nationwide or regionally based data privacy policy wherein consumers would have “deletion rights”;
- (2) An evaluation of the benefits of notifying consumers about law enforcement information requests regarding their data prior to complying with any such request to allow sufficient time for consumer response; and,
- (3) A description of how the Company is reconciling its PHI privacy notice to reflect federal HIPAA guidelines.