



March 23, 2020

Andrew Conrad, CEO
Verily Life Sciences
269 E Grand Avenue
South San Francisco, CA 94080

Sundar Pichai, CEO
Alphabet, Inc.
1600 Amphitheatre Parkway
Mountain View, CA 94043

Re: Privacy Concerns Raised by Verily's Baseline COVID-19 Pilot Program

Dear Dr. Andrew Conrad and Mr. Sundar Pichai:

We are writing to request that Verily, the health subsidiary of Google's parent company, Alphabet, make certain changes to its COVID-19 testing platform to address several privacy issues associated with the initial rollout.

First, we want to express appreciation for the rapid development of Verily's Baseline COVID-19 Pilot Program¹ in response to growing concerns in the United States about the coronavirus. Consumer Reports² appreciates your efforts to meet the high need for effective screening and assessment by developing a site that records individuals' symptoms, connects individuals with testing, and displays the results of those tests. And in moving quickly to develop this platform, it is understandable that mistakes may be made that would not have occurred if there had been more time for consideration.

However, Verily should not force individuals who need care, testing, and treatment to create or sign in to a Google account in order to access this portal. Such a requirement comes across as a cynical effort to bring more signed-in users into Google's sprawling data ecosystem, adding to your market power while putting people's privacy at risk.

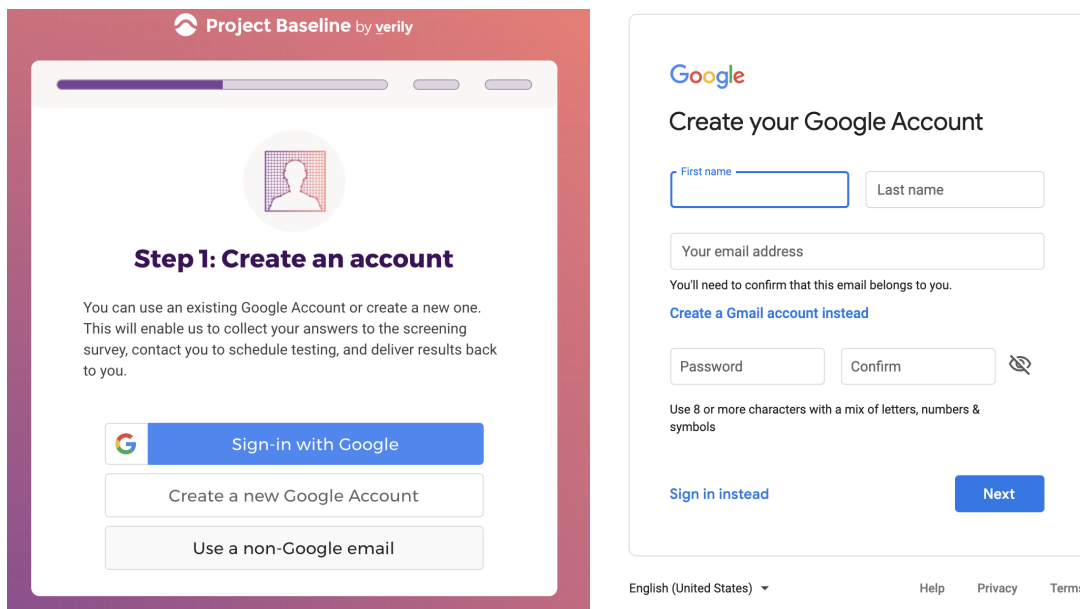
Consumer Reports urges you to immediately alter the sign-in flow on the portal to allow individuals to receive relevant information about COVID-19 testing without also creating or signing in to a Google account. We also urge Verily to prominently disclose to individuals that the

¹ *California COVID-19 risk screening and testing*, VERILY, <https://www.projectbaseline.com/study/covid-19/> (last visited Mar. 20, 2020).

² Consumer Reports is the world's largest independent product-testing organization. It conducts its advocacy work in the areas of privacy, telecommunications, financial services, food and product safety, health care, among other areas. Using its dozens of labs, auto test center, and survey research department, the nonprofit organization rates thousands of products and services annually. Founded in 1936, Consumer Reports has over 6 million members and publishes its magazine, website, and other publications.

personal health information they share with your company is not protected by the Health Insurance Portability and Accountability Act (HIPAA).

Currently, Verily's Project Baseline COVID-19 Screening Portal requires individuals to (1) sign in with an existing Google account, (2) create a Gmail account, or (3) create a Google account using their existing email account in order to access critical screening protocols that will help connect the person with testing and treatment. The difference between the second and third log-in options is that the second also creates a new Gmail account while the third does not create a new email account, but rather just a new Google account. The two screenshots below demonstrate the account-creation flow for the third log-in option:



There is no need for Verily to require people to create or sign in to a Google account in order to access critical health resources. And indeed, it is inappropriate to do so during this public health crisis.

We, like Senators Menendez, Brown, Blumenthal, Harris, and Booker³ and Representatives Porter and Malinowski,⁴ are concerned about the privacy of this information, especially since Verily is requiring users to connect their existing Google or Gmail accounts or create a new Google account in order to obtain critical screening and testing information. In response to these inquiries from our elected representatives and members of the press, your recent blog post on this issue stated:

³ Letter to Mr. Sundar Pichai from Senators Menendez, Brown, Blumenthal, & Harris regarding the COVID-19 Screening Portal, SENATOR BOB MENENDEZ (Mar. 18, 2020), <https://www.menendez.senate.gov/news-and-events/press/menendez-colleagues-warn-trump-admin-google-of-privacy-concerns-in-covid-19-screening-website>.

⁴ Representative Malinowski Seeks Clarity on Data Privacy Protections for Verily's COVID-19 Website, CONGRESSMAN TOM MALINOWSKI (Mar. 18, 2020), <https://malinowski.house.gov/media/press-releases/representative-malinowski-seeks-clarity-data-privacy-protections-verily-s-covid>.

We're asking you to either link to an existing Google Account or Create a new Google Account (which can be done with any email address) for authentication purposes, and to contact during the screening and testing process, or to put you on a waitlist so that we can contact you when more appointments become available.⁵

None of these stated aims (authentication, follow-up contact, or placement on a waitlist) requires the creation of a Google account. Verily can simply request an email address or cell phone number with which to communicate with individuals who use the COVID-19 portal. Requiring visitors who are seeking potentially life-saving testing to create or sign into a Google account smacks of a cynical effort to bring more signed-in users into Google's sprawling data ecosystem.

Our concerns are especially acute given Google's history of privacy violations and merging and repurposing user accounts—sometimes in violation of explicit promises and reassurances Google had made. Google launched its abortive social network “Buzz” by shunting users through dark pattern interfaces and automatically enrolling Gmail users regardless of their response.⁶ For years, Google assured users that its massive ad tracking apparatus around the web and in apps was “anonymous,” only to backtrack and associate this data with Google Accounts in 2015.⁷ And even in response to the European Union's sweeping new privacy law, Google has resisted reforming its data practices, instead forcing publishers to obtain consent to share data with Google, and using deceptive interfaces to purportedly obtain consent for tracking from its own user base.⁸

In addition to the privacy concerns, forcing users to create unnecessary Google accounts leaves Americans vulnerable to a future breach or unauthorized access to this highly personal information at a time when individuals, companies, and the public are already grappling with an unprecedented public health crisis. In 2018, Google shut down its Google+ social network (which was tied to Gmail accounts) after discovering that a bug exposed half a million users' data for around three years.⁹ However, a month after this news broke, Google informed the public that another software issue exposed user data from 52.5 million accounts.¹⁰ This second bug allowed personal

⁵ *The Project Baseline COVID-19 Program: Responding to a Health Crisis*, VERILY BLOG (Mar. 18, 2020), <https://blog.verily.com/2020/03/the-project-baseline-covid-19-program.html>.

⁶ *FTC Charges Deceptive Privacy Practices in Googles Rollout of Its Buzz Social Network*, FED. TRADE COMM'N (Mar. 30, 2011), <https://www.ftc.gov/news-events/press-releases/2011/03/ftc-charges-deceptive-privacy-practices-googles-rollout-its-buzz>.

⁷ Julia Angwin, *Google Has Quietly Dropped Ban on Personally Identifiable Web Tracking*, PROPUBLICA (Oct. 21, 2016), <https://www.propublica.org/article/google-has-quietly-dropped-ban-on-personally-identifiable-web-tracking>.

⁸ *Deceived by Design: How Tech Companies Use Dark Patterns to Discourage Us from Exercising Our Rights to Privacy*, NORWEGIAN CONSUMER COUNCIL (June 27, 2018), <https://fil.forbrukerradet.no/wp-content/uploads/2018/06/2018-06-27-deceived-by-design-final.pdf>.

⁹ Douglas MacMillan & Robert McMillan, *Google Exposed User Data, Feared Repercussions of Disclosing to Public*, WALL ST. J. (Oct. 8, 2018), <https://www.wsj.com/articles/google-exposed-user-data-feared-repercussions-of-disclosing-to-public>.

¹⁰ Lily Hay Newman, *A New Google+ Blunder Exposed Data from 52.5 Million Users*, WIRED (Dec. 10, 2018), <https://www.wired.com/story/google-plus-bug-52-million-users-data-exposed/>.

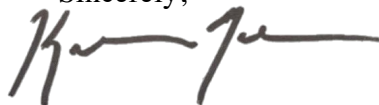
information that a user had not made public, like name, occupation, email address, to be accessible to third parties and app developers.¹¹ By forcing all individuals who use this critical portal in order to get access to essential information during a pandemic, Verily and Google are making people and their personal health records more vulnerable to future glitches like these.

Accordingly, we ask that you alter the account creation process to allow individuals to create an account on the Baseline COVID-19 Pilot Program without also creating a Google account in order to better protect individuals and their highly personal health information. Although this change should come immediately for the test site for California’s Santa Clara and San Mateo counties, we are especially concerned about any nationwide expansion of this screening portal without a correction to the account creation flow and urge Verily to not use the same protocols if they expand the applicability of this service.

Although we understand that this pandemic is forcing us all to adapt quickly to a changing environment, there are other models Google and Verily should look to in modifying their portal for the better. For instance, Canada’s Alberta Health Services uses a screening portal that does not require a login or personal information.¹² When combined with drive-thru testing efforts, “Verily’s portal may constitute the largest acquisition of U.S. health data by private companies to date.”¹³ Therefore, it is paramount that Verily acts *now* to protect Americans’ private health information.

We appreciate that Verily is iterating in real time and has already made some changes to its portal in order to address privacy concerns—such as by clarifying that testing-related data will not be combined with information in a Google account without express permission. Of course, this highlights that the creation of such an account is wholly unnecessary to provide critical health information to individuals. We hope you will continue to make other privacy improvements to the portal, such as prominently disclosing that data collected by Verily is not subject to the protections of the HIPAA. But at the very least Verily must stop requiring the creation of Google accounts to access its COVID-19 testing portal.

Sincerely,



Katie McNinnis
Policy Counsel

¹¹ *Id.*

¹² See *COVID-19 Self-Assessment*, ALBERTA HEALTH SERVICES, <https://myhealth.alberta.ca/Journey/COVID-19/Pages/COVID-Self-Assessment.aspx> (last visited Mar. 19, 2020).

¹³ Mason Marks, *You Shouldn’t Have to Give Google Your Data to Access a COVID-19 Test*, SLATE (Mar. 17, 2020), <https://slate.com/technology/2020/03/covid19-coronavirus-testing-google-walmart-target-privacy.html>.

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