

Congress of the United States

Washington, DC 20510

January 17, 2020

The Honorable Joseph J. Simons
Chairman
Federal Trade Commission
600 Pennsylvania Ave NW
Washington, DC 20580

Dear Chairman Simons:

We write to urge the Federal Trade Commission (FTC) to investigate Envestnet Inc. (Envestnet) to determine whether the company's sale of sensitive financial transaction data from tens of millions of Americans violates the FTC Act.

Envestnet operates Yodlee, the largest consumer financial data aggregator in the United States. Financial technology apps, banks, and other companies use Yodlee and other financial data aggregators to access, collect, and analyze transaction data from a consumers' bank, credit card, and other financial accounts with the consumer's consent. According to Envestnet, Yodlee is used by more than 1,200 companies, including 15 of the top 20 largest U.S. banks, to offer online personal-finance tools to their consumers.

Envestnet also sells access to consumer data. According to its website, Envestnet can "deliver data from over 21,000 global data sources, so [companies] can easily get the bank, credit card, investment, loans, rewards, and financial account data that [they] need." The company's database includes credit and debit card transactions from tens of millions of consumers, which Envestnet sells to data brokers, who in turn sell that data to hedge funds and other investors that trade based on market trends they observe.

The consumer data that Envestnet collects and sells is highly sensitive. Consumers' credit and debit card transactions can reveal information about their health, sexuality, religion, political views, and many other personal details. And the more often that consumers' personal information is bought and sold, the greater the risk that it could be the subject of a data breach, like the recent breaches at Equifax and Capital One. Envestnet claims that consumers' privacy is protected because it anonymizes their personal financial data. But for years researchers have been able to re-identify the individuals to whom the purportedly anonymized data belongs with just three or four pieces of information.

Consumers generally have no idea of the risks to their privacy that Envestnet is imposing on them. Envestnet does not inform consumers that it is collecting and selling their personal financial data. Instead, Envestnet only asks its partners, such as banks, to disclose this information to consumers in their terms and conditions or privacy policy. That is not sufficient protection for users. Envestnet does not appear to take any steps to ensure that its partners actually provide consumers with such notice. And even if they did, Envestnet should not put the

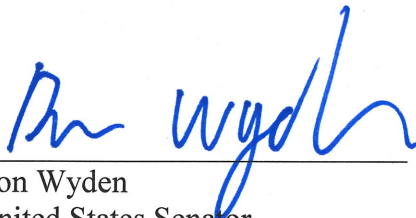
burden on consumers to locate a notice buried in small print in a bank's or apps' terms and conditions or privacy policy, and then find a way to opt out—if that is even possible—in order protect their privacy.

The FTC has made it clear that companies may not hide important facts about how consumer data is collected or shared in the small print of a privacy policy. This is particularly true when companies have made broad public statements, as Envestnet has done, promising that they will protect consumer privacy. As the FTC noted in its complaint against Sears Holdings in 2009, companies have an obligation to disclose “facts [that] would be material to consumers in deciding to install the software. Sears Holding’s failure to disclose these facts, in light of the representations made, was, and is, a deceptive practice.”

Though privacy protections should be much stronger, the FTC already has the authority under Section 6(b) of the FTC Act to conduct broad industry reviews. It should do so here in order to determine whether Envestnet’s sale of consumers’ personal data to third parties without their knowledge or consent is an unfair, deceptive, or abusive act or practice. We also urge the FTC to investigate whether Envestnet and the companies to which it has sold consumer data have the required technical controls in place to protect Americans’ sensitive financial data from re-identification, unauthorized disclosure to hackers or foreign spies, or other abusive data practices.

Thank you for your attention to this important matter.

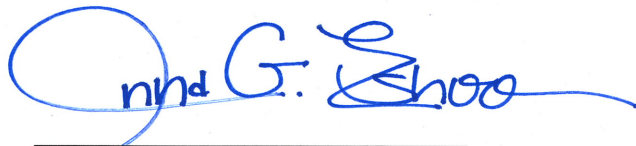
Sincerely,



Ron Wyden
United States Senator



Sherrod Brown
United States Senator



Anna G. Eshoo
Member of Congress