

An open letter to the EU Institutions

Quo Vadis Europe?

We must become and lead the change we want to see in others - It is time to restore consumer trust in EU-U.S. commercial data flows! Europe's industry calls upon the EU and the U.S. Government to restore user trust in transatlantic commercial data flows and to enable European trade and growth by concluding an improved Safe Harbor Agreement. Failing to reach an agreement and suspend data transfer mechanisms will not only victimize commercial companies but moreover deprive citizens from a redress they rightfully deserve.

The EU and the U.S. Government have since late 2013 negotiated on a review of the existing framework for transfers of European commercial data to the U.S as the possibility for Safe Harbor to provide adequate protection for EU citizens was put in question.

The EU examination of Safe Harbor has served a useful purpose and we agree that a third review of the Safe Harbor programme, the first formal review in almost 10 years, was long overdue. Restoring trust in EU-US transfers cannot take place without strengthening the safeguards provided by the Safe Harbor. We have followed and participated with interested in the ongoing negotiations and noted considerable progress.

Over 3,000 European and U.S. companies rely on the [EU-U.S. Safe Harbor Agreement](#) to comply with EU data protection rules when conducting business in the U.S.

Many Safe Harbor participants are actually U.S. subsidiaries or divisions of European organisations. For example, Alcatel-Lucent (France), AstraZeneca Pharmaceuticals (UK), BAE Systems (UK), Bayer (Germany), Bertelsmann (Germany), Bull (France), Dassault Systèmes (France), Ericsson (Sweden), Nokia (Finland), Reed Elsevier Technology Services (UK), Telefonica (Spain), Vodafone (UK), Adidas (Germany), and Siemens (Germany) are all participants in Safe Harbor. Safe Harbor moreover enables U.S. organisations to process human resources related-data required to employ EU citizens.

Small or Medium-sized Enterprises, which constitute 60% of Safe Harbor participants, all benefit from Safe Harbor's streamlined and cost-effective compliance requirements.

The Agreement is crucial for facilitating trade and brings significant economic benefits to the EU economy. A recent report found that disruption of services trade and cross-border data flows could reduce EU GDP by up to 1.3%, and EU services exports to the U.S. could drop 6.7% due to loss of competitiveness¹.

The Agreement has helped the EU to sensitise the US side with respect to the need for

¹ European Centre for International Political Economy (ECIPE), "The Economic Importance of Getting Data Protection Right: Protecting Privacy, Transmitting Data, Moving Commerce", March 2013.

respecting its data protection standards by insisting U.S. companies adhere to the same rules and compliance costs as European companies.

The U.S. Federal Trade Commission (FTC) has started to actively enforce the rules. Recent cases include action against Myspace, Facebook, Inc., and Google, Inc.

The number of organisations that adhere to its privacy principles is far greater than the 3,000 participating organisations. Many Safe Harbor participants serve as multipliers with contracts binding other organisations to provide at least the same level of privacy protection as required by the relevant Safe Harbor Privacy Principles.

It is time to conclude the negotiations

The European Commission has outlined [13 areas](#), such as better transparency and enforcement, where the Safe Harbor Agreement can be improved “to rebuild trust in EU-US data flows.” The most important stumbling block is the lack of judicial redress for Europeans who do not live in the U.S. in cases of wrongful disclosure of personal data when transferred to the U.S. for law enforcement purposes. Attorney General Holder recently [pledged support](#) for such an amendment to the U.S. Privacy Act - a step which was immediately welcomed by the [European Commission](#)

We, European industry, call on the European Commission and the Obama Administration to take immediate action to secure a final agreement on an improved EU-U.S. Safe Harbor Framework. With these reforms well underway, as well as continued vigilance by regulators and compliance bodies, the Safe Harbor can be effective in safeguarding citizens’ privacy rights. A successful agreement would send a strong signal that it is possible to promote European data protection standards while boosting Europe’s trade and economic growth.

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