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Chairman of CNIL
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The new EU-US Privacy Shield provides a solid framework for transatlantic data transfers

Dear Chairman,

Restoring trust in transatlantic data flows is key for the global digital economy – which is estimated to be worth 22.5% of the world's GDP economy. The potential value of the Digital Single Market to the EU economy, 415 billion euros, also rests on facilitating international transfer of data. Companies need to transfer data everywhere in the world, no matter their size or the geographic area where they operate. The free flow of data between the EU and the US is the most important in the world. We need to preserve a solid transatlantic partnership between the European Union and the United States.

In this context, BUSINESSEUROPE encourages Member States and national Data Protection Authorities to provide a positive assessment to the EU-US Privacy Shield - the new framework for transatlantic data transfers - contributing to restoring legal certainty and trust in transatlantic cooperation.

Since the invalidation of the Safe Harbour framework by the European Court of Justice on 6 October 2015, the ability for companies to transfer data from the EU to the US has been seriously undermined. The judgment has created significant uncertainty for individuals and enterprises to transfer data across borders. The invalidation of Safe Harbor has created uncertainty also for alternative data transfer mechanisms, such as model contract clauses and binding corporate rules, which impact nearly all financial transactions between the two largest economies of the world.

BUSINESSEUROPE has repeatedly called for improvements in the framework of transatlantic data transfers. The new EU-US Privacy Shield finally addresses the concerns raised by the Commission, the Court of Justice and the national Data Protection Authorities and provides a reliable framework for international data transfers.

The Privacy Shield reinforces obligations on companies, for instance with regards to transparency and liability requirements. It strengthens enforcement, establishing a closer cooperation between US Federal Trade Commission, Department of Commerce and European authorities, foreseeing the possibility of sanctions in case of non-respect of the provisions. The Privacy Shield also offers redress possibilities for EU citizens in case of violation of their fundamental rights and provides for an annual joint review mechanism, with the possibility to suspend the system in case of non-compliance.

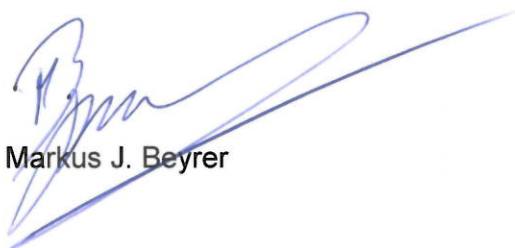
The new framework will be more demanding for companies compared to the previous system. But businesses are ready to do their part and give their positive contribution to the functioning of Privacy Shield. Data Protection Authorities will be a key component in the new architecture for transatlantic data flows, and should now ensure that the new framework can be applied without delay. We need to put an end to uncertainty for transatlantic data flows.

Companies also need clarity from national authorities with regards to the alternative instruments of data transfer, such as standard/contractual clauses and Binding Corporate Rules. We urge the Art. 29 Working Party to confirm that these tools are and will continue to be valid once the Privacy Shield is in place.

National Data Protection Authorities must also ensure a consistent approach in assessing and applying the new Privacy Shield. It is essential to avoid disruptions in the EU digital single market. If national DPAs act without consistency — as it has happened in the last months — the complexity and fragmentation of the process will become unmanageable.

Your assessment on Privacy Shield will have implications on transatlantic relations and on the global economy. You can count on European businesses to support you in making the new Privacy Shield the central piece of a strong framework which protects citizens' personal data and, at the same time, enables free flow of data in the digital economy.

Yours sincerely,



Markus J. Beyrer