



Members of the European Parliament
European Parliament
Rue Wiertz 60
BE-1047 Brussels
BELGIUM

3 April 2017

Re: LIBE motion for a Resolution on the EU-US Privacy Shield

Dear Member of the European Parliament,

As you may know, the Civil Liberties, Justice and Home Affairs Committee (LIBE) has recently adopted their position on the adequacy of protection afforded by the EU-US Privacy Shield. While BusinessEurope takes the balancing of individuals' rights and abilities of businesses to carry out digital trade seriously, we do not believe the LIBE resolution correctly reflects the achievements of the current Privacy Shield.

This resolution presupposes shortcomings and weaknesses as a fact before the wider inclusive annual review has taken place. It is this review that should ensure the robustness of the Privacy Shield through full stakeholder consultation. In this context, **we urge you to vote against this resolution in order to revisit and fully acknowledge the improvements of the Privacy Shield, not only for businesses but also for European citizens.**

Thousands of businesses on either side of the Atlantic have voluntarily self-certified their use of the Privacy Shield and many continue to do so, demonstrating its success among the business community. Furthermore, this is just one mechanism available to demonstrate adequacy of EU-US privacy protection.

BusinessEurope believes the success of the Privacy Shield and demonstrable improvement on its predecessor (the Safe Harbour agreement) is based around eight basic principles:

1. It sets a new high standard for the protection of Europeans' personal data due to US assurances regarding access for national security concerns.
2. It demonstrates clear commitments from US authorities to closely monitor compliance of US organisations and sanction those against its principles.
3. It tightens controls regarding onward data transfers by 3rd parties through stipulating they inform primary certified companies if they no longer reach adequate protection. Appropriate measures can then be taken.



4. It clarified existing data retention obligations so businesses only retain personal data as long as it serves the purpose it was collected for.
5. It enables EU oversight through enabling Data Protection Authorities to sanction, suspend or ban data transfers against EU citizens' rights.
6. It enables EU citizens low-cost redress mechanisms through introducing an independent ombudsman who assures businesses reply to concerns within 45 days. The arbitration mechanism can grant enforceable decisions as a last resort.
7. It ensures full transparency through obliging businesses to publish privacy policies on their websites to confirm principles are complied with.
8. An annual review process will ensure high standards of data protection remain robust. On this basis, adjustments can be made between the EU and US. Full transparency of this assessment is assured through public reports to Parliament and Council.

We believe the Privacy Shield sets a new high standard for the protection of Europeans' personal data. It has become an intrinsic part of transatlantic trade. We believe the Parliament should send a positive signal of confidence in view of the upcoming annual review. It is vital that a good dialogue is forged with the new US administration on these matters.

The current resolution fails to acknowledge the safeguards of the Privacy Shield despite Parliament's consensus on this in May 2016. The principles underpinning it have not altered since. Neither has any EU/US authority or court undermined it.

BusinessEurope supports an effective, efficient and robust Privacy Shield and will remain an active stakeholder throughout the upcoming review. However, we believe this resolution, if agreed at plenary, will prematurely damage confidence of businesses on either side of the Atlantic and erect new barriers to trade. This is not in the aspirations of EU businesses or citizens.

We stand ready to discuss these matters further with you.

Yours sincerely,

Markus J. Beyrer