



Trans Atlantic Consumer Dialogue

The Honorable Wilbur L. Ross, Jr.
Secretary
U.S. Department of Commerce
Washington, DC
Via email: WLRoss@doc.gov

Commissioner Didier Reynders
European Commission
Brussels
Via email: cab-reynders-contact@ec.europa.eu

cc: Vice President Vera Jourova
European Commission
Brussels
Via email: cab-jourova-contact@ec.europa.eu

28 July 2020

Dear Commissioner Reynders and Secretary Ross

Re: call to pause negotiations on new data transfers agreement after invalidation of Privacy Shield

We write to you on behalf of leading consumer and digital rights organisations, members of the Transatlantic Consumer Dialogue (TACD), in the United States and Europe, to urge that you do not negotiate further personal data transfer agreements before people in the United States have “essentially equivalent” privacy protections at the federal level to those in the EU; and people in the EU have protections from US mass surveillance that are consistent with their rights enshrined in the EU Charter of Fundamental Rights.

The 16th July verdict of the European Court of Justice is crystal clear, and any further adequacy transfer agreement without full reform of US mass surveillance laws will be deemed equally illegal if challenged. The Court was also clear that transfers under Standard Contractual Clauses are equally not permissible if the company transferring them is subject to US surveillance scrutiny.

At the time of the Privacy Shield adoption, four years ago, TACD has stated that the failure of the U.S. to have a robust comprehensive baseline data protection and privacy law that ensures the privacy of its own citizens and consumers creates a barrier to any serious consideration of adequacy; and it warned that the Privacy Shield will fail under legal scrutiny¹.

Over the last four years the Privacy Shield has not ensured an “essentially equivalent” level of data protection as required under EU law. The U.S. tech companies have continued to gather and exploit vast quantities of personal data, of both U.S. and EU people, without any meaningful legal constraints, as demonstrated by numerous studies and investigations carried out by TACD and its members². Enforcement by FTC has been weak or non-existent³.

¹ [TACD Privacy Shield Resolution 2016](#)

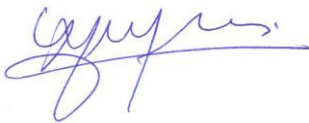
² See for example recent reports by TACD/Heinrich Boll Stiftung, [Privacy in the EU and the US report](#) ; Norway Consumer Council, [Out of Control](#)

³ See [Privacy and Digital Rights Factsheet](#), <https://www.citizen.org/about/coalitions/digitalrights4all/>

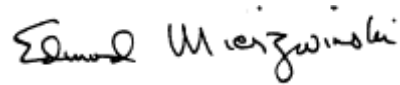
The system is now out of control, and consumer and citizen privacy has continued to be compromised by commercial interests and political pressure. Nobody wants disruptions of data flows, but free flow of data requires privacy and data protection across borders.

We therefore urge you to pause any negotiations for a new data transfer arrangement until a comprehensive legal framework for data protection and privacy is enacted on the U.S. federal level. One that treats all people equally, no matter where they reside. Such legislation should include provisions for an independent data protection authority, strong rights for individuals, as well as protections for all other basic requirements of privacy and data protection as enshrined in international standards and EU law, including robust enforcement and possibilities for redress, before judicial authorities.

Yours sincerely,



Monique Goyens
Director General, European Consumer
Organisation (BEUC)
EU Co-Chair of TACD



Edmund Mierzwinski
Senior-Director, Consumer Programmes,
U.S. PIRG
U.S. Co-Chair, TACD

The Transatlantic Consumer Dialogue (TACD) is a forum of 77 US and EU consumer and citizen rights organisations, <http://tacd.org/about-tacd/member-list/>

Organisations on the TACD Steering Committee: Consumer Federation of America (CFA), Consumer Reports U.S., Danish Consumer Council, European Consumer Organisation BEUC, German Consumer Federation VZBV, Public Citizen U.S., Test Achats Belgium, U.S. PIRG