

June 10, 2021

President Joseph R. Biden
The White House
1600 Pennsylvania Ave. NW
Washington, DC 20500

Dear Mr. President:

We, the undersigned civil rights, civil liberties, privacy, government accountability, and consumer rights organizations, urge your Administration to ensure that any new transatlantic data transfer deal is coupled with the enactment of U.S. laws that reform government surveillance practices and provide comprehensive privacy protections. The United States' failure to ensure meaningful privacy protections for personal data is the reason that a growing number of countries are concerned about trans-border data flows. Until the United States addresses this problem, concerns about data transfers to the United States will remain, and data flow agreements are likely to be invalidated.

Recent history demonstrates that any transatlantic data transfer agreement will be subject to litigation to determine whether it provides adequate protection for personal data. In 2015, the Court of Justice of the European Union invalidated the U.S.-EU Safe Harbor agreement. And in July 2020, the successor agreement, Privacy Shield, was also invalidated by the same court. Without reform of U.S. surveillance and privacy laws, any new transatlantic data transfer deal will likely face a similar fate. The only way to fully address these issues and enter into a lasting transatlantic agreement is to harmonize data protection standards between the European Union and the United States.

There have been calls for the United States to strengthen and modernize its privacy laws since long before the European Union's General Data Protection Regulation came into effect in 2018. The modern concept of the right to privacy was invented in the United States – but now we lag behind many other nations on privacy protections. It is long past time for the United States to update its privacy laws and regain its position as a leader on these issues, which have broad bipartisan support. The ongoing failure to modernize our privacy law imposes enormous costs on individuals, communities, and American businesses alike.

This is not simply a matter of trade policy. It is a matter of fundamental rights, civil rights, and safeguards against unchecked corporate power.

The Biden Administration should pause negotiations on a new transatlantic data transfer agreement until Congress passes comprehensive privacy legislation and reforms U.S. surveillance laws. The White House should urge Congress to do so without delay so that America can regain global leadership on privacy.

Sincerely,

BEUC, The European Consumer Organisation

Campaign for a Commercial-Free Childhood

Center for Digital Democracy

Center for Economic Justice

Constitutional Alliance

Consumer Action

Consumer Association the Quality of Life - EKPIZO (Greece)

Consumer Federation of America

Defending Rights & Dissent

Electronic Frontier Foundation (EFF)

Electronic Frontier Norway

Electronic Privacy Information Center (EPIC)

Government Information Watch

The Greenlining Institute

Homo Digitalis

KEPKA - Consumers Protection Centre (Greece)

noyb

Parent Coalition for Student Privacy

Public Citizen

Public Knowledge

Ranking Digital Rights

Restore the Fourth

Trans Atlantic Consumer Dialogue (TACD)

U.S. PIRG

CC: Ambassador Katherine Tai, Office of the United States Trade Representative
Secretary Gina Raimondo, Department of Commerce