



BBB EU SAFE HARBOR

2012 Procedure Report

About the US-EU Safe Harbor Frameworks

The European Data Privacy Directive prohibits transfers of personal data from the European Union (EU) countries and Switzerland to destinations, including the United States, that do not meet the European “adequacy” standard for privacy protection. The Safe Harbor Privacy Frameworks were created in 2000 and 2009 to allow US businesses a streamlined means to continue receiving personal data from Europe. Companies participating in the Safe Harbor Frameworks must self-certify their adherence to seven Safe Harbor Privacy Principles for personal data they receive from the EU and Switzerland. Participating companies are required to provide an independent dispute resolution option for privacy complaints from EU and Swiss citizens whose personal data they process.

About the BBB EU SAFE HARBOR Dispute Resolution Program

The Council of Better Business Bureaus’ BBB EU SAFE HARBOR dispute resolution program provides a secure, independent online mechanism for handling privacy complaints by European consumers and data subjects against more than 400 participating businesses. The objectives of this self-regulatory program are to ensure that privacy concerns of individual complainants are addressed expeditiously and fairly, and to promote privacy accountability among companies participating in the program. The service is provided free of charge to individuals, who can readily access the BBB online complaint form through a link placed in the website privacy policy of each participating company. The program’s consumer-facing Web pages also provide a mailing address for complainants who prefer to communicate by regular mail.

As provided in the Procedure Rules¹, BBB staff process incoming complaints by first obtaining sufficient information to determine complaint eligibility. Staff then will work with the complainant and the participating business to facilitate a resolution of the complaint. This conciliation step is voluntary, and the complainant may choose to proceed to a hearing before an independent panelist on the program’s Data Privacy Board at any point. Participating companies that fail to comply with this process, or to take agreed upon or mandated corrective action, may be referred to the appropriate Federal government agency. In such cases, the annual Procedure Report will include a summary of the facts of the case and the Procedure action in the matter, and will include the name of the participating company.

2012 BBB EU Safe Harbor Casework

During the review period of this Report, staff received, reviewed and analyzed **121** complaints from consumers specifically directed to BBB EU SAFE HARBOR via mail and the dedicated online complaints intake system at <http://www.bbb.org/us/european-dispute-resolution/consumer/>.

Note that this statistic does not reflect the total number of EU-related complaints received by the BBB system as a whole. This Report does not address product quality, customer service or other complaints unrelated to privacy received from consumers in the EU and Switzerland by the Better Business Bureau Online Complaint System against participating companies during the review period; nor does it include privacy complaints by EU and Swiss consumers against

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non-participants, or by U.S. consumers against BBB EU SAFE HARBOR participants that may have been handled by that System during the period.²

Of the 121 complaints reviewed:

2 complaints contained insufficient information to enable the Procedure to act on the complaint. One omitted information required for the Procedure to confirm that the complainant was a citizen or resident of the EU or Switzerland; the other omitted information about the complainant's attempt to contact the business directly. In each case, the Procedure responded with a request for the additional information needed to proceed with the complaint. Neither complainant responded or otherwise pursued the matter further through the Procedure.

111 complaints were determined to be outside the program's jurisdiction.

- In **103** instances, the consumer's complaint either did not concern a BBB EU SAFE HARBOR participating business, or the consumer was not an EU or Swiss citizen or resident, or both.
- In **7** instances, the complaint was unrelated to privacy.

In each of these cases, where an ineligible complaint concerned a U.S. business, the Procedure directed the complainant to the Better Business Bureau Online Complaint System as a possible avenue for resolution of the complaint.

- In **1** instance, the complaint was found ineligible because the consumer had not contacted the company. The consumer was advised that the Procedure Rules require a good faith effort by the consumer to resolve the matter directly with the company as a condition of eligibility; and that the complaint could be re-filed as needed following that action.

8 cases were found eligible for resolution by the Procedure.

- In **7** instances the case was resolved by settlement following conciliation by Procedure staff, and satisfactory performance of the settlement was verified with the consumer.
- **1** eligible case remained pending at the end of the calendar year.

¹ Found at <http://www.bbb.org/us/european-dispute-resolution/rules/>

² The Better Business Bureau Online Complaint System hosted on the BBB national website at <https://www.bbb.org/consumer-complaints/file-a-complaint/get-started> receives over 1 million complaints annually against U.S. businesses from consumers in the United States and worldwide. During the review period, the System received over 1,400 customer service complaints, including privacy complaints, from consumers in the EU and Switzerland. Unless identified as EU Safe Harbor privacy complaints against participating businesses, these complaints were routed directly to the appropriate local BBB for handling and are not reported in the "ineligible" numbers for the Procedure.