

ANA Privacy Shield Annual Report

August 1, 2022 - July 31, 2023
Reporting Period

- Privacy Shield → Data Privacy Framework
- ANA Privacy Shield Program and now ANA DPF Dispute Resolution
 - Overview: role, purpose, compliance services, outreach and transparency
 - Participating Companies
 - Complaint Overview
 - Renewal Process



**PRIVACY SHIELD
PROGRAM**



**DPF DISPUTE
RESOLUTION**

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Privacy Shield Transitions to Data Privacy Framework



2022
March

EU & U.S. Announce Agreement

President Biden & EC President von der Leyen announce agreement “in principle” to replace EU-U.S. Privacy Shield.

2022
October

Biden Signs EO

“Enhancing Safeguards for U.S. Intelligence Activities” to address security concerns about potential govt. access to data.

2022
December

EC’s Draft Decision on Adequacy

EC published draft decision concluding U.S. provides adequate level of protection for personal data transferred to the U.S.

2023
July

EC’s Final Adequacy Decision for DPF

EC’s adequacy decision for the DPF entered into force, allowing U.S. companies to legally transfer data from the EU.

2023
July

DPF Site Launched

New Data Privacy Framework site launched: dataprivacyframework.gov

Key Components to Join DPF Program



Designate an accountable executive and train appropriate staff



Operationalize and verify compliance with core DPF Principles:

notice, choice, security; onward transfer; data integrity and purpose limitation; access; and recourse, enforcement and liability



If transitioning from Privacy Shield to DPF:

Update your notice with appropriate language and links

ANA staff can review/not certify.



If transitioning from Privacy Shield to DPF:

Update your third-party contracts



Select a third party (ANA) to serve as your Dispute Resolution Provider



Self-certify with U.S. Department of Commerce, annually



Pay initial fee to Arbitration Fund.



Executive Summary

Annual Reporting Period: August 1, 2022 - July 31, 2023

- As the voice of the marketer, ANA's mission is to drive growth for marketing professionals, brands, businesses, and the industry.
- In support of such growth, and advancement of the free flow of data across our borders, the ANA serves as an approved mediator for cross-border data transfers, previously called ANA Privacy Shield Program and now called [ANA DPF Dispute Resolution](#).
- ANA serves such mediation services to interested [member](#) and nonmember companies and data providers. The ANA has not, and does not, provide verification services.
- ANA offered and continues to offer compliance services and education through its [business-facing](#) and [consumer-facing](#) sites; appropriate Committees, Webinars, Conferences and Group calls.
- Depending on the company's membership level, annual mediation fees are either complimentary (included in the membership package) or \$300. Nonmember pricing is available – varies depending on annual company revenue.
- An applicant must provide the ANA: a signed contract, contact sheet, copy of company's privacy notice and annual ANA dispute resolution fee, if appropriate.
- Current Privacy Shield participating companies have until October 10, 2023 to update their notices to be compliant with the appropriate DPF principles, references and links.

Highlights from this Reporting Period:

- The ANA serves 23 participating companies:
 - 20 ANA member companies
 - 3 nonmember companies
- ANA emailed 17 alerts to participating companies to update on news and activity related to cross-border data transfers.
- Received 8 complaints through the former Privacy Shield Complaint process (none of the complaints qualified under the Framework).
 - 1 unknown inquiry from Hong Kong
 - 1 inquiry from Israel involving a data erasure request
 - 6 American consumer inquiries:
 - data erasure
 - “do not show” my information
 - mail removal requests
 - mold issues with a hotel stay in Raleigh, NC – booked through Hopper
 - product inquiry



Key Components of ANA Privacy Shield Program and Now ANA DPF Dispute Resolution

- Serves as a 3rd party, independent dispute resolution provider for unresolved EU, UK, or Swiss data privacy complaints.
- Covers offline and online data issues.
- Issues email alerts to participating companies to update on cross-border data news and activity from: the U.S. Department of Commerce, FTC, Congress, EU, U.K., and Switzerland (issued 17 alerts during reporting period).
- Provides technical assistance; and compliance materials – including a staff review of the company's privacy notice.
- Provides access so that there are no barriers to the filing of a complaint, free to consumers;
- Provides finality for the consumer by reaching an independent determination of the dispute in a fair and timely manner; and
- Provides enforceability of the final conclusions in the determination of the consumer's dispute
- Provides an ANA Mark for Privacy Shield and now for the DPF.
- Does **not** provide verification services.

ANA Privacy Shield and Now DPF Dispute Resolution Outreach & Transparency



To promote clarity, accessibility and transparency, ANA required its participating members to provide in its Privacy Shield and now DPF Notice:

Company contact information.

Appropriate ANA Dispute Resolution contact information/link to site.

ANA Dispute Resolution logo.



ANA has a dedicated email address/process for an EU, UK or Swiss consumer or business to contact us. Here's the updated contact info for the DPF:

dpf@ana.net and [complaint forms](#)



ANA has DPF [compliance resources](#) for businesses and consumers on its website (previously Privacy Shield compliance resources were available).

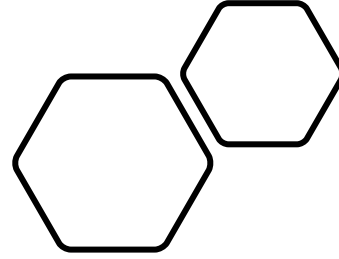


ANA Center for Ethical Marketing has held webinars; attended and hosted conference sessions; industry briefings; and provided alerts on the cross-border data transfer programs (GDPR, Privacy Shield, DPF).



ANA Center for Ethical Marketing reaches out to its participating companies on an on-going basis to share program and enforcement activities, news, and updates.

Renewal Process and Fees



Renewal Process in Three Steps

Commerce Annual Certification Fees:

Organization’s Annual Revenue:	Single Framework/Both Frameworks:
\$0 to \$5 million	\$250/\$375
Over \$5 million to \$25 million	\$650/\$975
Over \$25 million to \$500 million	\$1,000/\$1,500
Over \$500 million to \$5 billion	\$2,500/\$3,750
Over \$5 billion	\$3,250/\$4,875

Selecting ANA as the dispute resolution mechanism

Participating company renews annually with the ANA for ANA to continue to serve as its mediator. Depending on membership type and level, fees are complimentary, \$300, or appropriate nonmember pricing is available.

U.S. Department of Commerce

Company renews its self-certification annually with the U.S. Department of Commerce to participate in the DPF program. *Annual fee applies – see chart.*

Arbitral Fund

Company must initially (*not annually*) contribute to an Arbitration Fund.



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Participating Companies and Complaint Overview

Companies Selecting ANA as Their Approved Dispute Resolution Provider

The ANA serves 23 participating companies:

20 ANA member companies
3 nonmember companies

During this reporting period:

1 new company joined
2 companies merged
5 companies withdrew from Privacy Shield

Enrollment is ongoing

Processing Complaints Under ANA Dispute Resolution -- Previously Privacy Shield and Now DPF



Complainant contacts the participating ANA company directly with the European, UK, or Swiss data privacy concern.

Contact information can be found in company's privacy policy or via previously the Privacy Shield and now the DPF List.

Organization must respond to complaint within 45 days.



Companies must sign contract to agree to abide by the decisions of the ANA Dispute Resolution (previously Privacy Shield and now DPF)



If complainant is not satisfied with the company's handling of the complaint, then the complainant contacts ANA for mediation via complaint forms and dedicated email.

dpf@ana.net

[ANA DPF Dispute Resolution — Consumers Services](#)

Staff seeks resolution with the company.



Escalation: referred to the ANA Ethics Review Committee.

The Committee hears both sides of a dispute and provides final determination.



Committee takes steps to finalize resolution including:

Correction/deletion of inaccurate information, correction of actions found not to be in compliance, publicity, and/or referral to FTC/DOC.

In previous reporting periods, staff has addressed complaints within 30 days – our standard resolution occurring within 5-7 business days. To access previous reports, [contact ANA staff](#).

Consumer Complaints Received Through the Privacy Shield Complaint Process



Received 8 complaints through the former Privacy Shield Complaint process during this reporting period.



None of the complaints qualified under the Framework.



Complaints received and processed:

- 1 unknown inquiry from Hong Kong
- 1 inquiry from Israel involving a data erasure request
- 6 American consumer inquiries involving:
 - data erasure
 - “do not show” my information
 - mail removal requests
 - mold issue
 - product inquiry

Additional Avenues for Resolving Consumer Complaints

CONTACT YOUR DATA PROTECTION AUTHORITY

- Complaints can be submitted directly to:
 - [EU National Data Protection Authorities \(DPAs\)](#)
 - [UK Information Commissioner's Office \(ICO\)](#)
 - The [Swiss Federal Data Protection and Information Commissioner](#)
- EU/EEA DPA, UK ICO, or the Swiss Commissioner may refer the complaints directly to the U.S. Department of Commerce for handling.
- The U.S. Department of Commerce's Privacy Shield Team will work with the organization and complainant to seek to resolve the concern.

INVOKE BINDING ARBITRATION

- If the complaint is not resolved after following the steps above, the complainant may invoke [binding arbitration](#).

CONTACT THE APPROPRIATE U.S. ENFORCEMENT AUTHORITY

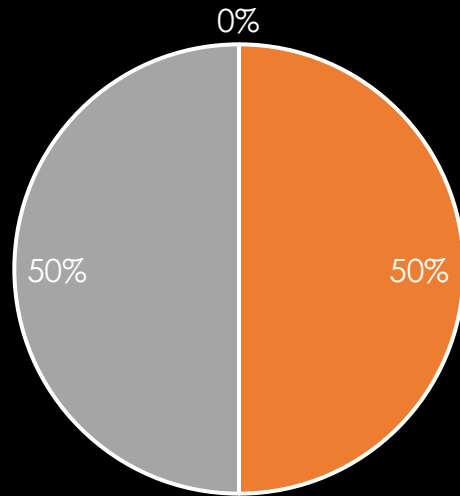
- In most instances, the relevant U.S. enforcement authority is [the Federal Trade Commission \(FTC\)](#). To submit a complaint to the FTC, click [here](#). The FTC uses complaints in its database, accessible by other law enforcement agencies, to identify trends, determine priorities, and identify potential investigative targets. Please note that the FTC does not resolve or mediate individual complaints, so complainants are encouraged to use the other complaint resolution mechanisms noted above as well.

The ANA Privacy Shield Participant Survey

ANA polled its Privacy Shield participating companies in August 2023 to ascertain additional information regarding the role of their company as a data controller or data processor during this reporting period. Of those that responded:

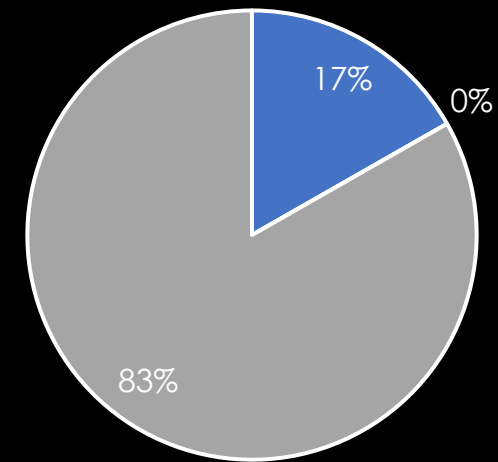
- 50% identified as being both a data processor and controller of information, and 50% as a data processor.
- 83% are participants in both the EU and Swiss frameworks.

Role of Company



■ Data Controller
 ■ Data Processor
 ■ Both

Privacy Shield Program(s) Selected

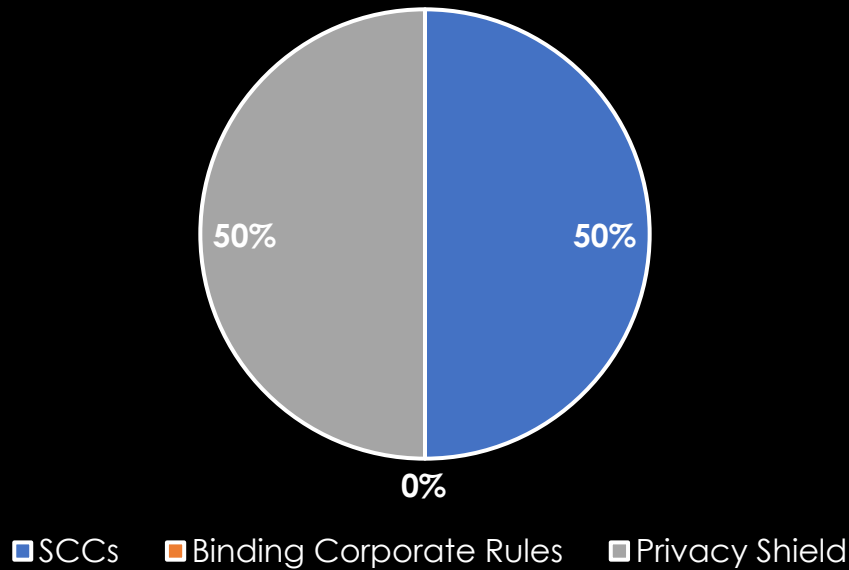


■ EU/U.S. Privacy Shield Program
 ■ Swiss/U.S. Privacy Shield Program
 ■ Both

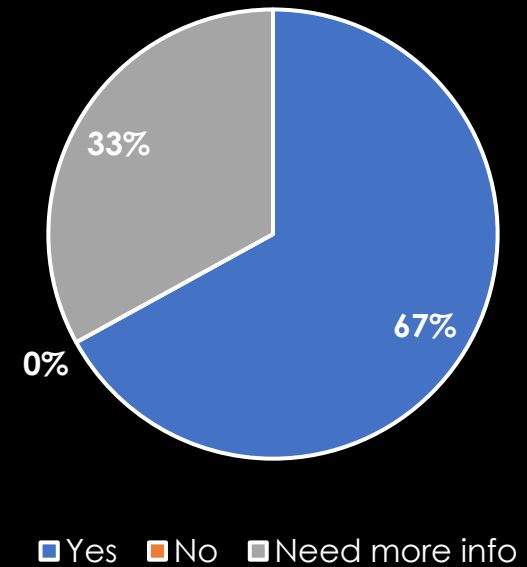
The ANA Privacy Shield Participant Survey Continued

- 50% used standard contractual clauses in addition to Privacy Shield.
- 67% plan to renew under the DPF and 33% need additional information.

Selected Mechanism for Data Transfers*



Plans to Participate in DPF*



* Based on responses received.

Questions? More information:

- ANA DPF Dispute Resolution: dpf@ana.net
- ANA DPF Dispute Resolution Administrator:
[Lisa Brown Shosteck](#)
- Senior Vice President, ANA Center for
Ethical Marketing:
[Xenia “Senny” Boone, Esq.](#)
- [Online Resources for Businesses](#)
- [Online Resources for Consumers](#)

