



ANA Privacy Shield Annual Report

August 1, 2019 - July 31, 2020

Report Summary:

- Background of Privacy Shield Frameworks
- About the ANA Privacy Shield Program
 - Participating Companies
 - Complaint Overview
 - Renewal Process
 - Outreach & Resources

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Legal Means for Transferring Data from Europe* to U.S.

*Switzerland modelled its Privacy Shield Framework after the EU-U.S. Privacy Shield Framework – same privacy principles apply

What are the Privacy Shield Frameworks?

EU legislators put restrictions on transfers of personal data outside of the EU, specifying that such data could only be exported if “adequate protection” is provided.

The European Commission (EC) is responsible for assessing whether a country outside the EU has a legal framework that provides sufficient protection for it to issue an “adequacy finding” to that country.

The U.S. not found adequate by the EC – no national comprehensive data privacy law – patchwork of self regulation; state and federal laws. This means that U.S. companies can only receive personal data from the EU if they:

Join [EU-U.S. Privacy Shield](#)* and/or Swiss-U.S. Privacy Shield, or

Provide appropriate safeguards (e.g. [contractual clauses](#), [binding corporate rules](#)).

Key Components to Join Shield Frameworks



Designate an accountable executive and train appropriate staff



Operationalize and verify compliance with core Privacy Principles:

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



Update your Privacy Shield Notice – ANA staff can review/not certify.



Update your third-party contracts to comply with onward transfer principle



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.

ANA Privacy Shield Program Overview



ANA Privacy Shield Dispute Resolution Services

ANA offers dispute resolution services for Privacy Shield to interested ANA members. As the voice of the marketer, ANA's mission is to drive growth for marketing professionals, for brands and businesses, and for the industry.

Depending on the company's membership level, its annual fee will be either complimentary (included in its membership package) or \$300.

Companies interested in selecting the ANA Privacy Shield Dispute Program must [submit an application](#) which includes: signed contract, contact sheet, copy of the Privacy Shield policy statement, and annual Privacy Shield fee, if appropriate.

- **General ANA Membership Questions?**
- **ANA Privacy Shield Program Questions?**



Key Components of ANA Privacy Shield Program

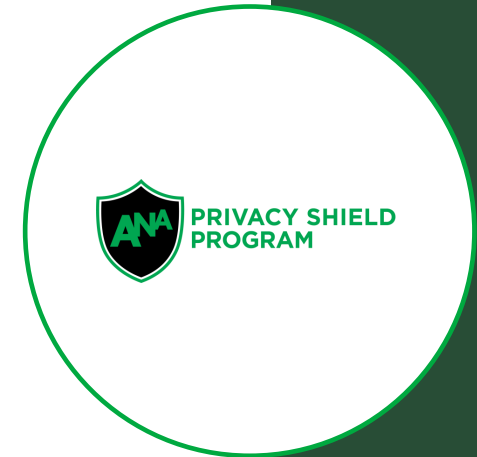
- Serves as a 3rd party, independent dispute resolution provider for unresolved European/Swiss data privacy complaints.
- Covers offline and online data issues.
- Provides technical assistance; and compliance materials – including a staff review of the company’s Privacy Shield privacy policy statement.
- 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 Privacy Shield Mark.
- Does not provide verification services.

Participating Companies and Complaint Overview

The ANA Privacy Shield Program Executive Summary - 2020

This reporting period covers activity: August 1st, 2019 – July 31, 2020

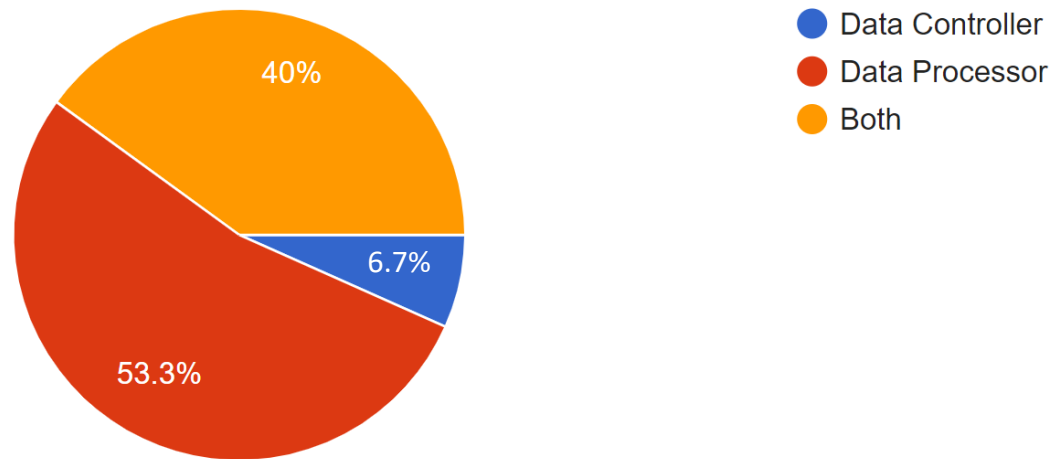
- The ANA Privacy Shield Program serves 42 participating member companies. Enrollment is ongoing.
- 8 ANA participants did not renew with ANA during this period.
- 2 new participants joined the ANA Privacy Shield Program.
- During this reporting period, ANA did not receive any eligible complaints under the ANA Privacy Shield Program.



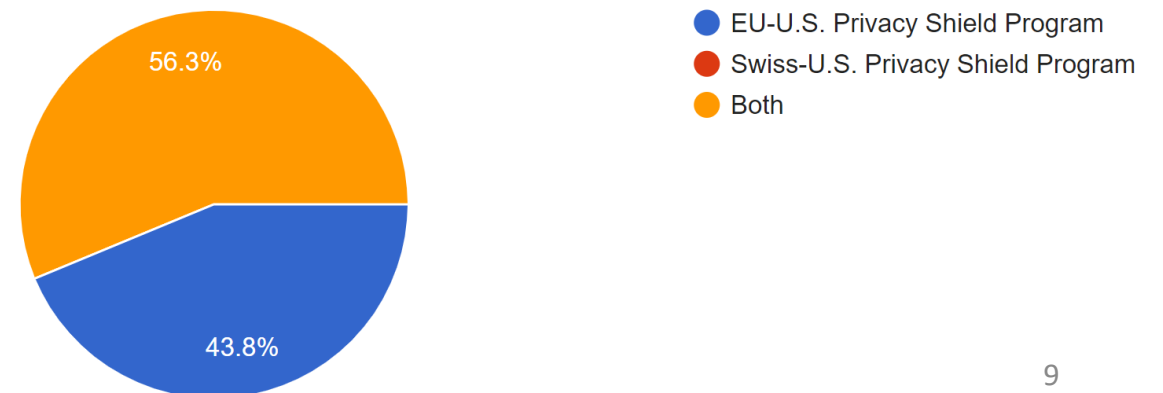
The ANA Privacy Shield Participant Survey

ANA polled its Privacy Shield participating companies in August 2020 to ascertain additional information regarding their Shield status during this reporting period: 53% self-identified as a data processor of information, and 56% are participants in both the EU and Swiss frameworks.

Type of Company



Participant of Privacy Shield Programs



Processing Complaints Under ANA Privacy Shield Program



Contact company or organization directly with European or Swiss data privacy concern.

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

Organization must respond to your complaint within 45 days.



Companies must sign contract to agree to abide by the decisions of the ANA Privacy Shield Program.



Process handled staff-to-staff level. Complaint forms and dedicated email address created:

privacysield@ana.net

<http://www.ana.net/content/show/id/self-regulation-privacy-shield>



Escalation: referred to ANA Privacy Shield 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](#).

Additional Avenues for Handling Complaints

- **CONTACT YOUR DATA PROTECTION AUTHORITY (EU/EEA DPA)**

- You can always submit a complaint directly to your local [EU/EEA DPA](#) or the [Swiss Federal Data Protection and Information Commissioner](#). Your EU/EEA DPA or the Swiss Commissioner may refer your complaint directly to the U.S. Department of Commerce on your behalf.
- 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 your complaint is not resolved after following the steps above, you may have the ability to 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 you are encouraged to use the other complaint resolution mechanisms noted above as well.

ANA Privacy Shield Renewal Process & Fees

ANA Privacy Shield Program Renewal Process

- Staff provided regular updates to participants during the reporting period with pertinent organizational and program information, including the [recent CJEU decision to invalidate EU-U.S. Privacy Shield](#) and other enforcement announcements and activities from FTC and U.S. Department of Commerce.
- Staff provided ANA Privacy Shield participants with updated contact information and logo for them to post in their Privacy Shield notices.
- Staff asked companies to provide ANA with any updated Privacy Shield notices for staff review and filing.
- Staff reviewed privacy shield notices and provided recommended edits as needed.
- Staff reached out to U.S. Department of Commerce as needed and appropriate upon request of participants – for status updates on self-certification renewals and new applications.
- ANA members either do not pay for this service or it's \$300, annually, depending on member dues level. There's still a separate application and staff review process.



ANA Annual Dispute Resolution Fees: ANA & ASM Membership



ANA Client-Side Marketers (CSM) or Marketing Solutions Providers (MSP) at the Gold or Platinum Level: For single or both frameworks/year	ANA MSP Silver Members: for single or both frameworks/year
Complimentary: value-added member benefit	\$300

Additional Privacy Shield Fees

- **Contribution to Arbitral Fund (not annual)** – if inquiry is not resolved to complainant’s satisfaction by company or dispute resolution provider – may refer the matter to binding arbitration as set forth in Annex I of the Privacy Shield frameworks.
- **U.S. Department of Commerce Annual Self Certification Fee**

Privacy Shield Arbitral Fund Fee Schedule
Approved by the U.S. Department of Commerce on September 5, 2017

Participating Organization Annual Revenue	Required Contribution
\$0 to \$5 million	\$250
Over \$5 million to \$25 Million	\$500
Over \$25 million to \$500 million	\$1,000
Over \$500 million to \$5 billion	\$5,000
Over \$5 billion	\$10,000

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

Renewal Process



ANA Privacy Shield participating company renews annually with ANA that they would still like ANA to serve as their mediator. ANA membership is required to participate in the ANA Privacy Shield program. Depending on ANA membership level, fees are either complimentary or \$300.



Must renew annually with the U.S. Department of Commerce that they still want to participate in the Privacy Shield program(s). Annually fee with Commerce as well: <https://privacyshield.gov>



Initially must contribute to an Arbitration Fund (not annual).

ANA Privacy Shield Education & Resources

ANA Privacy Shield Outreach & Transparency



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

- Company contact information,
- Appropriate ANA Privacy Shield contact information
- ANA Privacy Shield logo



ANA has a dedicated email address at privacyshield.ana.net for an EU, UK or Swiss consumer or business to contact us regarding a data privacy complaint.



ANA has privacy shield [compliance resources](#) for businesses and consumers on its website.



ANA Accountability has held webinars; attended and hosted conferences and industry briefings on Privacy Shield and GDPR.



ANA Accountability reaches out to its participants on an on-going basis to share program and enforcement activities and updates.



ANA Privacy Shield Program

Questions? More information:

- Privacy Shield: privacysield@ana.net
- ANA Privacy Shield Administrator: [Lisa Brown Shosteck](#)
- [Online Resources for Businesses and Consumers](#)