

ANA Privacy Shield Annual Report

August 1, 2021 - July 31, 2022
Reporting Period

- Background & Status of Privacy Shield Frameworks
- ANA Privacy Shield Program
 - Overview: role, purpose, compliance services, outreach and transparency
 - Participating Companies
 - Complaint Overview
 - Renewal Process



**PRIVACY SHIELD
PROGRAM**

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Privacy Shield



Background and Status Timeline

2016

July

EU-U.S. Privacy Shield

European Commission approved EU-U.S. Privacy Shield for transferring data from EU to U.S.

2017

January

Swiss-U.S. Privacy Shield

Swiss Government deemed Swiss-U.S. Privacy Shield valid legal mechanism for transferring data from Switzerland to U.S.

2020

July

CJEU: Invalidated EU-U.S. Privacy Shield

EU-U.S. Privacy Shield invalid means for transferring data from EU to U.S. (Schrems II)

2020

September

FDPIC: Swiss-U.S. Privacy Shield Inadequate

Swiss-U.S. Privacy Shield inadequate level of protection for data transfers.

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.

Key Components to Join Shield Frameworks

**ANA continues to serve as a Privacy Shield dispute resolution provider as the U.S. government officials and EU and Swiss counterparts continue their ongoing negotiations to address concerns to ensure the continued flow of data and trade among our countries.*



Designate an accountable executive and train appropriate staff



Operationalize and verify compliance with core Privacy Principles:

notice, choice, security; accountability for 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 accountability for onward transfer principle



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



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

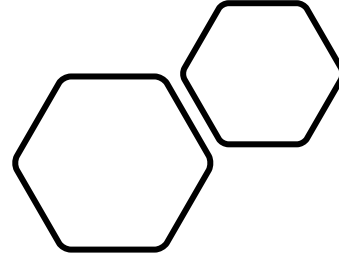


Pay initial fee to Arbitration Fund.



PRIVACY SHIELD PROGRAM

Overview



ANA Privacy Shield Dispute Resolution Services

ANA offers dispute resolution services for Privacy Shield to interested ANA members and nonmembers. 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. Nonmember pricing is available which varies depending on annual company revenue.

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 EU, UK, or Swiss data privacy complaints.
- Covers offline and online data issues.
- Issues Privacy Shield email alerts to participants to update on news and activity related to Privacy Shield from: the U.S. Department of Commerce, FTC, Congress, EU, U.K., and Switzerland (issued 12 alerts during reporting period).
- 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.

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 privacysield@ana.net and [complaint forms](#) for an EU, UK or Swiss consumer or business to contact us regarding a data complaint.



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



[ANA Center for Ethical Marketing](#) has held webinars; attended and hosted conference sessions and industry briefings on the Privacy Shield and GDPR.

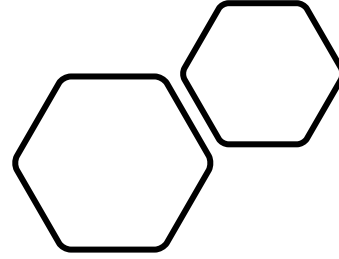


ANA Center for Ethical Marketing reaches out to its participating companies on an on-going basis to share program and enforcement activities, news, and updates.



PRIVACY SHIELD PROGRAM

Participating Companies and Complaint Overview



Participating Companies in the ANA Privacy Shield Program

The ANA Privacy Shield Program serves 28 participating companies

26 ANA member companies

2 nonmember companies

Enrollment is ongoing

During this reporting period

2 ANA participants were acquired

1 had a name change

Overview of Consumer Complaint Handling Process



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



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 the Privacy Shield List.

Organization must respond to complaint within 45 days.



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

privacyshield@ana.net

ana.net/privacyshield

Staff seeks resolution with 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.

Consumer EU-U.S. Privacy Shield Complaint Processed by the ANA during reporting period

On 4/26/22, a complainant from Germany requested to be removed from an ANA Privacy Shield participating company's mailing list. This inquiry triggered our complaint handling process. The matter was resolved within hours. This was an excellent example of the utility of the EU-U.S. Privacy Shield program to address and correct actions upon a consumer's request in a timely and effective manner.

Staff received the complaint via our dedicated email address of privacyshield@ana.net on 4/26/22.

Staff referred the matter to the participating company on 4/26/22.

On 4/26/22, the company responded that it had no record of the complainant contacting them directly, and she wasn't in their data base since the company rented her name/address. The company placed her on its do not mail/suppression file.



American Consumer Complaints

Submitted to the ANA
during the reporting
period

Referencing Privacy
Shield in their inquiries

Did not qualify as
Privacy Shield
complaints.

ANA staff reviewed an additional 11 inquiries –referencing EU-U.S. and/or Swiss-U.S. Privacy Shield frameworks in their inquiries.

Nine inquiries were received from **American** consumers regarding general “data erasure” requests that did not involve specific companies and did not originate in the EU, UK or Switzerland.

Since these inquiries did not involve specific participating companies or involve EU, UK or Swiss data transfers to the U.S., they did not qualify under either the EU-U.S. or Swiss-U.S. Privacy Shield frameworks.

One inquiry involved an **American** consumer with concerns about data handling from companies that did not select ANA as their EU-U.S. Privacy Shield dispute resolution provider.

Complaint did not qualify under the EU-U.S. or Swiss-U.S. Privacy Shield framework.

One inquiry involved an **American** consumer with data security concerns which did not involve a specific company.

Complaint did not qualify under the EU-U.S. or Swiss-U.S. Privacy Shield frameworks.

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](#).

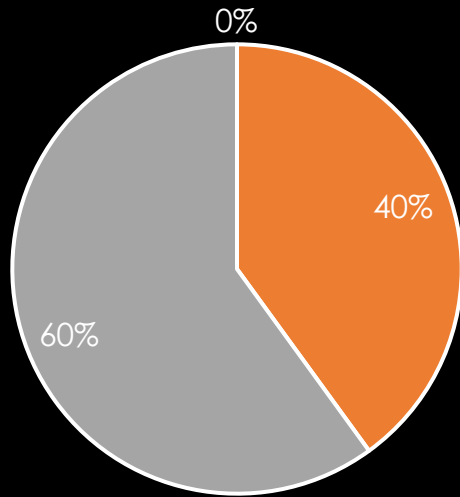
CONTACT THE APPROPRIATE U.S. ENFORCEMENT AUTHORITY

- 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

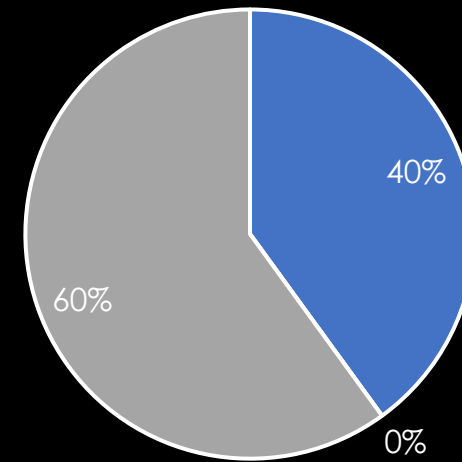
ANA polled its Privacy Shield participating companies in August 2022 to ascertain additional information regarding the role of their company as a data controller or data processor during this reporting period. Of those that responded: 60% self-identified as both a data processor and controller of information, and 60% 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

Selected mechanisms for data transfer during reporting period*

Privacy Shield and Standard Contractual Clauses: 60%

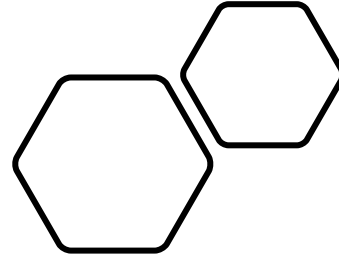
Privacy Shield: 40%

** Based on responses received.*



**PRIVACY SHIELD
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Renewal Process and Fees



— Renewal Process in Three Steps

ANA Privacy Shield

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

Must renew annually with the U.S. Department of Commerce for company to continue to participate in the Privacy Shield program(s). Annual fee with Commerce applies.

Arbitral Fund

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

Annual ANA Dispute Resolution Privacy Shield Fees

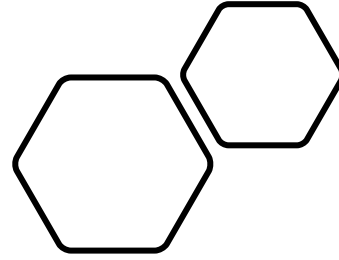
<p>ANA Client-Side Marketers or ANA Marketing Solutions Providers at the Gold or Platinum Level</p> <p><i>For single or both frameworks/year</i></p>	<p>ANA Marketing Solution Providers at the Silver Level</p> <p><i>For single or both frameworks/year</i></p>
<p>Complimentary <i>(value-added member benefit)</i></p>	<p>\$300</p>

Contact ANA for nonmember pricing.



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Annual ANA Dispute Resolution Fees



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

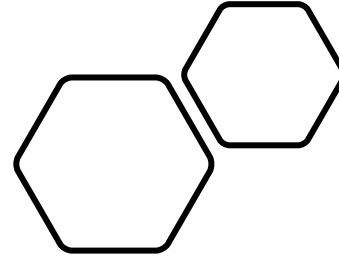
Participating organization annual revenue	Required contribution
\$0 to \$5 million	\$250
Over \$5 to \$25 million	\$500
Over \$25 to \$500 million	\$1,000
Over \$500 to \$5 billion	\$5,000
Over \$5 billion	\$10,000

Commerce Annual Certification Fees

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



PRIVACY SHIELD PROGRAM



Questions? More information:

- Privacy Shield privacysield@ana.net
- ANA Privacy Shield Administrator [Lisa Brown Shosteck](#)
- Senior Vice President, ANA [Xenia “Senny” Boone, Esq.](#)
- [Online Resources for Businesses and Consumers](#)