



ANA Privacy Shield Annual Report

August 1, 2020 - July 31, 2021 Reporting Period

Report Summary:

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

Lisa Brown Shosteck

ANA Privacy Shield Administrator

lshosteck@ana.net | privacyshield@ana.net

Legal* Means for Transferring Data from Europe, UK, or Switzerland to the U.S.

**July 16, 2020: [CJEU decision struck down EU-U.S. Privacy Shield.](#)*

**September 8, 2020: [FDPIC of Switzerland issued an opinion that Swiss-U.S. Privacy Shield is not adequate.](#)*

Privacy Shield: Background & Status

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 U.S. not found adequate by the European or Swiss Commissions (who modelled its data transfer policy after the EU Privacy Shield) – no national comprehensive data privacy law – patchwork of self regulation, state, and federal laws.

In 2020, the EU and Switzerland ruled the Privacy Shield Frameworks as inadequate* under its current structure due to concerns about potential U.S. government surveillance of EU and Swiss data.

- U.S. companies can only receive personal data from the EU, UK, or Switzerland if they:
 - Join the [Privacy Shield Frameworks](#)* or
 - Provide appropriate safeguards (i.e. [standard contractual clauses](#), [binding corporate rules](#)).

- ANA continues to serve as a Privacy Shield dispute resolution provider as the U.S. government officials and EU & Swiss counterparts continue their ongoing negotiations to address concerns to ensure the continued flow of data and trade among our countries.
- The U.S. Department of Commerce and Federal Trade Commission continue to accept new applications, process renewals and enforce Privacy Shield.

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



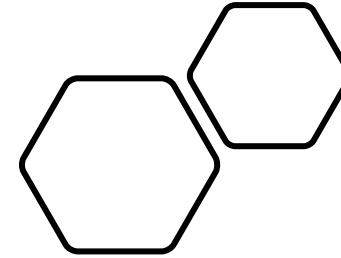
Select a third party (ANA) to serve as your Dispute Resolution Provider



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



Pay initial fee to Arbitration Fund.



ANA Privacy Shield Program Overview

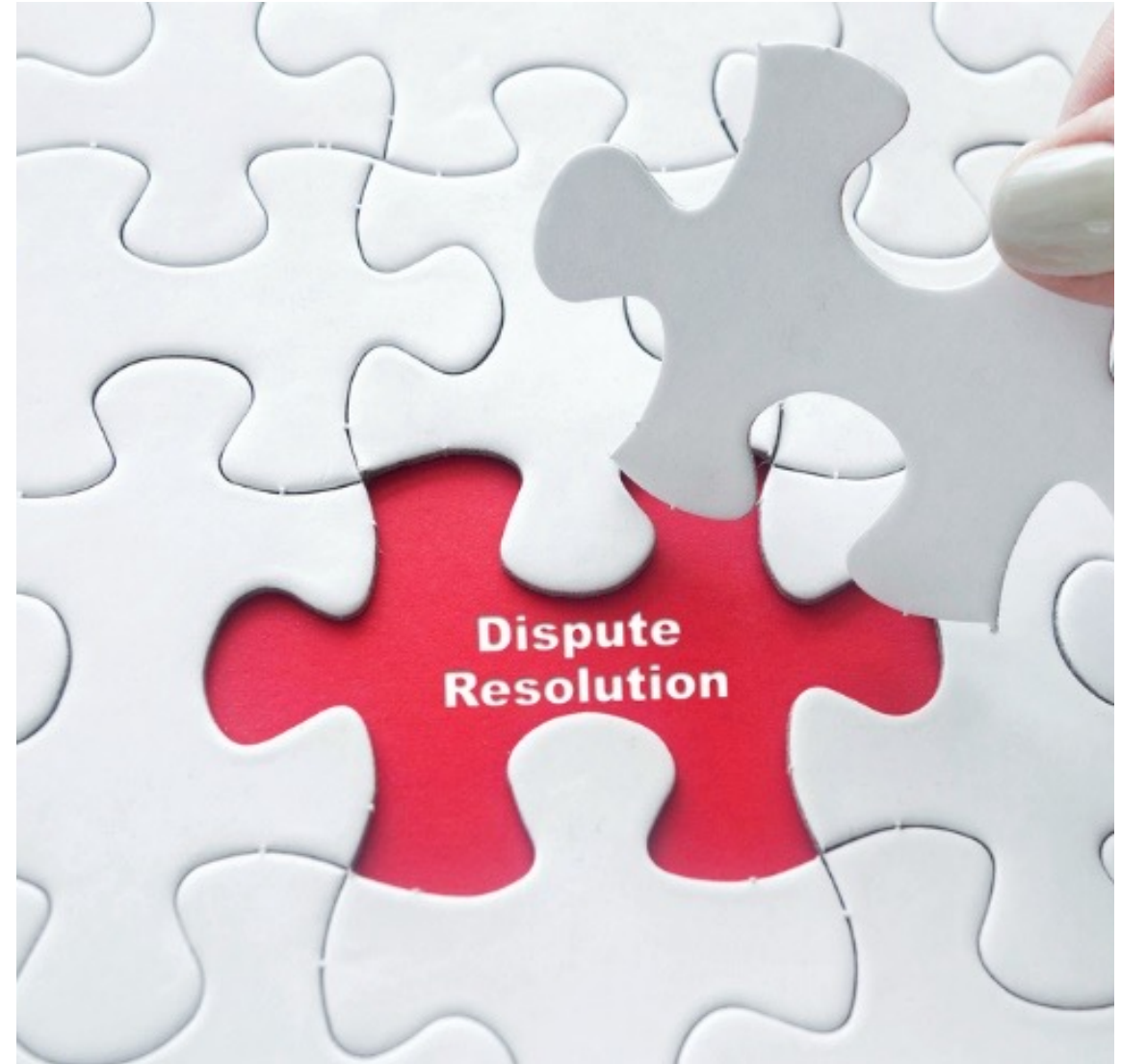
ANA Privacy Shield Dispute Resolution Services

ANA offers dispute resolution services for Privacy Shield to interested ANA members and new this reporting period to 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.

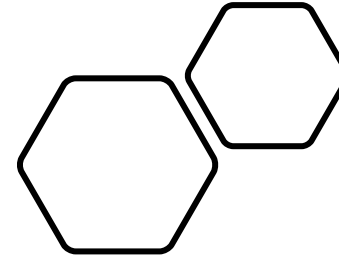
- **General ANA Membership Questions?**
- **ANA Privacy Shield Program Questions?**





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 17 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.



Participating Companies and Complaint Overview

The ANA Privacy Shield Program Executive Summary - 2021



PRIVACY SHIELD PROGRAM

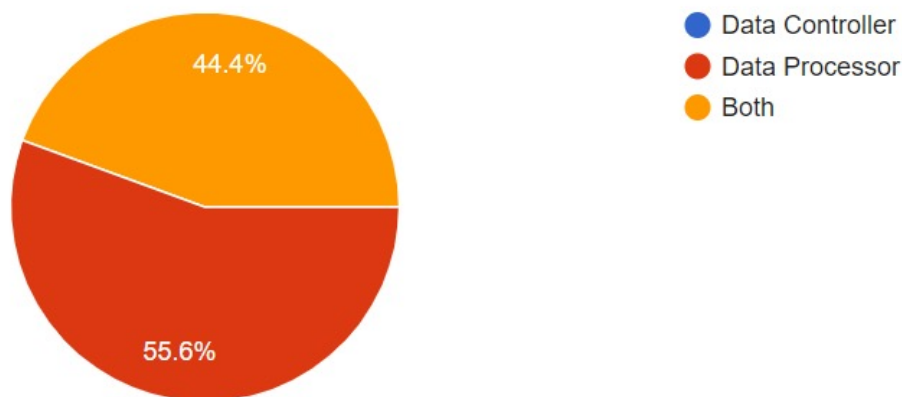
This reporting period covers activity:
August 1st, 2020 – July 31, 2021

- The ANA Privacy Shield Program serves 30 participating member companies (29 ANA member companies and 1 nonmember company). Enrollment is ongoing.
- 10 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.

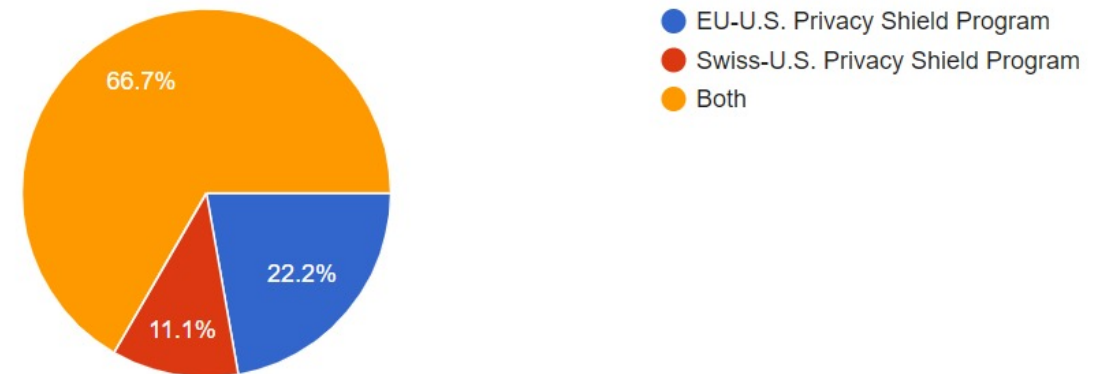
The ANA Privacy Shield Participant Survey

ANA polled its Privacy Shield participating companies in August 2021 to ascertain additional information regarding their Shield status during this reporting period: 55.6% self-identified as a data processor of information, and 66.7% are participants in both the EU and Swiss frameworks.

Role of Company



Privacy Shield Program(s) Selected

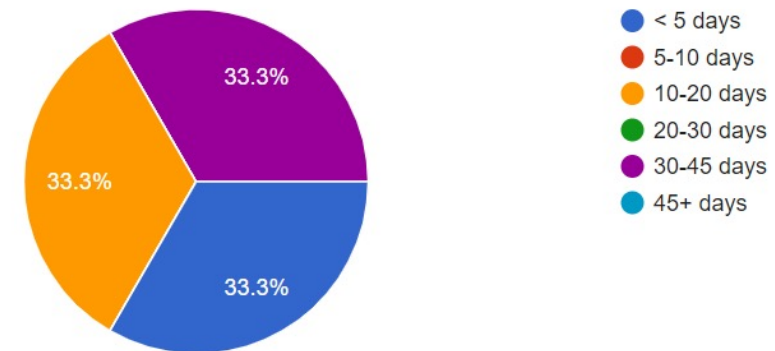


The ANA Privacy Shield Participant Survey: Continued

Types of complaints involved:

- Mail removal
- Email removal
- Do not share contact information
- Source of data
- Correction of data

Average length of time (business days) to resolve inquiries:



Processing Complaints Under 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.



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



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
<https://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.



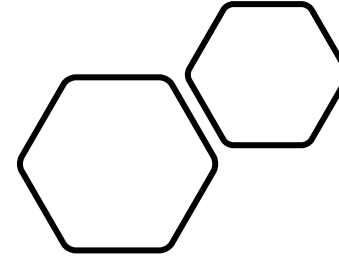
Committee takes steps to finalize resolution including:

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

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**
 - 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.



ANA Privacy Shield Renewal Process & Fees

Renewal Process in 3 Steps:

ANA Privacy Shield: participating company renews annually with 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: <https://privacyshield.gov>

Arbitral Fund: initially must contribute to an Arbitration Fund (not annual).

ANA Privacy Shield Program Renewal Process

- Staff ask companies to provide ANA with any updated Privacy Shield notices for staff review and filing.
- Staff review privacy shield notices and provide recommended edits as needed.
- Staff reaches out to the U.S. Department of Commerce as needed and appropriate upon request of participants – for status updates on self-certification renewals and new applications.
- The ANA offers its Privacy Shield service as a member benefit – either complimentary or \$300, depending on membership level.
- The ANA offers its Privacy Shield service to nonmembers for an applicable fee. Prices vary depending on the company’s annual revenue.
- There’s a separate application and staff review process.
- More information regarding the ANA Privacy Shield:
<https://ana.net/privacysield> or privacysield@ana.net



**PRIVACY SHIELD
PROGRAM**

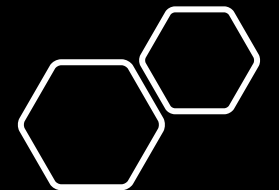


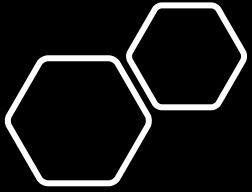
PRIVACY SHIELD PROGRAM

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

[Contact ANA](#) for nonmember pricing.

Annual ANA Dispute Resolution Privacy Shield Fees





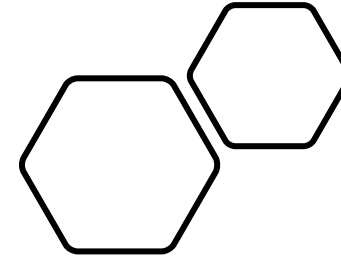
Additional Privacy Shield Fees

- **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 <i>Approved by the U.S. Department of Commerce on September 5, 2017</i>	
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



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 and [complaint forms](#) 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.

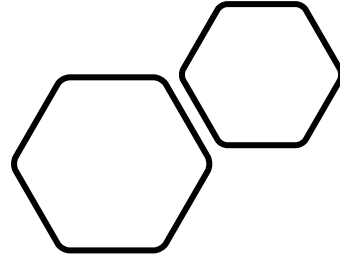


ANA Accountability has held webinars; attended and hosted conferences and industry briefings on the Privacy Shield and GDPR.



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

ANA 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](#)