

FOR IMMEDIATE RELEASE

EuroCommerce and NRF release white paper supporting Transatlantic Data Framework

Brussels, 12 April 2023 – Ahead of next week’s expected European Parliament resolution on an EU-U.S. agreement covering transatlantic data transfers, EuroCommerce and the National Retail Federation today released a [white paper on the issue](#) and urged institutions on both sides of the Atlantic to swiftly adopt and implement the framework.

“The new EU-U.S. Data Privacy Framework would represent a clear improvement over the former Privacy Shield program,” said Christel Delberghe, Director General at EuroCommerce – the association representing retailers and wholesalers in Europe. “Following more than two years of uncertainty and disruption, it will facilitate responsible data transfers for both retailers and wholesalers.”

“U.S. retailers support a reliable and legally valid transfer mechanism that allows them to serve their customers in the EU while maintaining the highest data protection standards,” NRF President and CEO Matthew Shay said. “This analysis shows that the new framework would ensure legal certainty and provide a durable, long-term mechanism for safeguarding consumers’ data while benefiting consumers and businesses alike.”

In December 2022, the European Commission launched the process of approving the EU-U.S. Data Privacy Framework by issuing a [draft adequacy decision](#) concluding that the agreement provides adequate safeguards comparable to those in the EU. The European Parliament is currently preparing a resolution for publication next week.

The white paper prepared by EuroCommerce and NRF delivers a detailed legal analysis, particularly with respect to the establishment of a new Data Protection Review Court under U.S. law. The analysis shows that the new framework would address cumbersome and costly-to-implement Standard Contractual Clauses, currently required for personal data transfers between the EU and U.S. and would introduce improvements regarding the necessity and proportionality of government access in line with requirements of the European Court of Justice. That, in turn, would free up resources of retailers and wholesalers to further protect the privacy and security of consumers’ personal data by fortifying online system defences, investing in advance personnel training and monitoring, and assessing privacy and security risks from service providers.

In addition, the white paper dives into the role of the Data Protection Review Court established by the United States for handling complaints of EU individuals implicating matters of U.S. national security. It confirms that the U.S. legal system authorises the creation of administrative tribunals, like the DPRC, and that it would be comprised of qualified judges with independent authority to issue final and binding decisions directing remedial measures to be undertaken by U.S. intelligence agencies. EuroCommerce and NRF believe this mechanism meets the Court of Justice’s requirements for providing adequate and effective redress to EU individuals.

EuroCommerce and the NRF encourage the European Commission to take the views of the European Council, the European Parliament and the European Data Protection Board into account and look forward to the timely adoption of a final adequacy decision and implementation of the Data Privacy Framework.

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Note to editors

NRF and EuroCommerce have worked together on EU data privacy rules since 2016, holding annual joint meetings with EU officials with the goal of developing approaches to safeguard consumers while fostering regulatory certainty for transatlantic retailers. The previous Privacy Shield was struck down by the Court of Justice of the European Union, the EU's highest court, in its July 2020 ruling in the Schrems II case. That ruling came only four years after the Shield replaced an earlier U.S.-EU Safe Harbor Agreement on transatlantic data flows rejected by the same court in 2015 in the original Schrems decision. Since 2020, standard contractual clauses approved by the European Commission have served as an alternative for businesses transferring data between the United States and the EU. Nonetheless, conditions set by the court on their use and supplementary measures recommended by the EDPB have made it more challenging and less predictable for retailers to rely on the clauses after Schrems II.

About EuroCommerce

[EuroCommerce](#) is the principal European organization representing the retail and wholesale sector. It embraces national associations in 27 countries and 5 million companies, including leading global players and many small businesses. Over a billion times a day, retailers and wholesalers distribute goods and provide an essential service to millions of business and individual customers. The sector generates one in seven jobs, offering a varied career to 26 million Europeans, many of them young people. It also supports millions of further jobs throughout the supply chain, from small local suppliers to international businesses. EuroCommerce is the recognised European social partner for the retail and wholesale sector.

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About NRF

The [National Retail Federation](#), the world's largest retail trade association, passionately advocates for the people, brands, policies and ideas that help retail succeed. From its headquarters in Washington, D.C., NRF empowers the industry that powers the economy. Retail is the nation's largest private-sector employer, contributing \$3.9 trillion to annual GDP and supporting one in four U.S. jobs – 52 million working Americans. For over a century, NRF has been a voice for every retailer and every retail job, educating, inspiring and communicating the powerful impact retail has on local communities and global economies.

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