

## **EU and U.S. Consumer Organizations Support European Court Decision designed to protect privacy rights**

### **Transatlantic Consumer Dialogue (TACD) organization calls on US to enact privacy legislation to ensure fundamental rights**

Today, the Judges of the European Court of Justice have found that the special status of the United States companies permitted to transfer personal information of their EU users through the so-called 'Safe Harbor' system is illegal under the EU data protection and fundamental rights laws, and therefore will be suspended. It also said it is the duty of national Data Protection Authorities to investigate complaints relating to personal data transfers to the US under Safe Harbor, and enforce their national data protection laws

EU and US consumer organisations on both sides of the Atlantic, represented by the TACD, strongly welcome this decision of the Court. We, and our members, have repeatedly pointed out that the Safe Harbour agreement is not an effective way to protect the privacy and rights of Europeans. Safe Harbor, agreed between the US and the EU in 2000, is a poorly enforced voluntary system based on companies' self-certification to the U.S. Department of Commerce that they protect EU consumer data. But the program has been widely criticized by experts and advocates across the Atlantic.

Companies enrolled in Safe Harbor, such as Facebook, can transfer their EU user personal information to servers in the US, where it can be subjected to unwarranted mass surveillance by government. Companies fail to notify users that their information is not private or secure, and consumers in turn do not have any rights of recourse if their data is misused or stolen.

We believe that information on the Internet should flow freely around the world, but this important freedom requires adequate data protection; Safe Harbor fails to provide this essential safeguard. A global framework of effective data protection rules is needed. **To this end, TACD calls on the US to ratify the Council of Europe Convention for the Protection of Individuals with regard to Automatic Processing of Personal Data (Convention 108) which forms a ready basis for such a framework.**

**It is also more than high time for the United States to enact a comprehensive set of data protection rules, to bring it in line with 100 plus other countries round the world.** In the absence of legislation, the US cannot offer the EU any assurance that there will be adequate protection for the personal data stored or used by US companies.

From the European consumers' perspective, any framework must conform 100 per cent with the EU data protection rules and needs; be 100 per cent enforceable, which means that national Data Protection Authorities must challenge data transfers to the United States whenever there are complaints; and prohibit transfer of data by companies to authorities for mass surveillance purposes.

Jeffrey Chester, US Chair of the TACD Information Society Policy Committee and Executive Director of the US NGO Center for Digital Democracy said:

“Safe Harbor was designed to enable US data companies to engage in pervasive commercial surveillance in the EU. The US authorities do not investigate or have the enforcement resources or legal tools to protect Europeans' data. The end of the current Safe Harbor regime will be a major global victory for privacy.”

Finn Myrstad, EU Chair of the TACD Information Society Policy Committee and Digital Rights Director at the Norway Consumer Council said:

“This case, and multiple others, has shown the privacy and fundamental rights of European citizens are not respected. We need a much better framework that engenders trust and promotes privacy and security of personal information. Only then can we have a digital economy to the benefit of consumers on both sides of the Atlantic”.

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- For more information and background on the decision of the European Court of Justice in the Max Schrems vs Facebook case please refer to the readily accessible factsheets and analysis on the EuropevsFacebook pages: <http://europe-v-facebook.org/EN/en.html>