



Modernising Safe Harbour to Ensure Continued Growth in the Digital Economy

Today, IAB U.S. and IAB Europe¹ call for a more integrated transatlantic market for data flows in order to accelerate the growth of the digital economy.

The digital advertising sector represents a significant share of this economy. This representativeness gives IAB U.S. and IAB Europe a privileged view into the business impact of on-going talks related to transatlantic data flows, whether those data flows are governed by consensual mechanisms negotiated between States, by standard data transfer agreements, or by binding corporate rules adopted by companies.

Following revelations in 2013 of the extent of U.S. intelligence-gathering programmes, the EU and U.S. digital business ecosystems expressed strong concern about the knock-on effects for companies in terms of consumer and enterprise loss of confidence in their ability to protect users' personal data. An EU-U.S. technical expert working group on data protection was set up, and in November 2013 presented its conclusions. The working group notably highlighted the main disparities between the EU and U.S. with respect to their respective approaches to privacy².

The European Commission subsequently issued 13 recommendations to enhance and safeguard the business privacy standards laid down in the 'Safe Harbour' arrangement, which so far has relied on companies self-certifying their compliance, backed up with monitoring by the U.S. FTC. Those recommendations aimed at modifying the existing arrangements governing U.S. data collection in the framework of law enforcement and national security, in order to ensure a higher level of protection for European citizens. Four priorities were highlighted: transparency; redress; enforcement; and better information to users about when companies apply exceptions to the Safe Harbour principles to meet national security requirements.

Since the issuing of those recommendations, U.S. and EU authorities have been in discussions about how they might be accommodated in an updated Safe Harbour regime. This ongoing review, now in its final stages, will impact significantly the 3246 self-certified companies that have subscribed to the Safe Harbour framework, and the users³.

In this context, IAB Europe and IAB U.S. underline the importance to ensure the effective application of the Safe Harbour principles by all companies taking part in the scheme. Any modification of the regime should contribute to:

- A business environment conducive to innovation and economic growth in the EU and U.S.;
- a balanced approach ensuring the protection of citizens' personal data while encouraging the growth of digital businesses and the high value-add jobs they support;
- legal certainty for companies, meaning a reliable and predictable transatlantic legal framework; and
- coherence with EU and U.S. legislation.

¹ Representing national IABs at EU level

² http://europa.eu/rapid/press-release_MEMO-13-1059_en.htm

³ Figures published at the end of 2013, representing an eight-fold increase from 400 in 2004.

Considering the advanced stage of the negotiations⁴, an urgent commitment by both sides to an outcome that achieves these objectives is imperative. Companies' ability to continue to provide value-added online services and transfer data for commercial purposes should not be held hostage to the resolution of transatlantic differences on rules governing the collection of personal data for law enforcement and national security purposes. Each issue should be dealt with in a separate legislative process.

The digital advertising industry is a major sector of the Internet economy. It contributes significantly and disproportionately to growth on both sides of the Atlantic. IAB U.S. and IAB Europe are committed to restoring trust in EU-U.S. data flows by promoting the Safe Harbour's principles.

As the TTIP negotiation is under way between the EU and the U.S. authorities, IAB U.S. and IAB Europe would like to seize this opportunity to promote the implementation of business friendly principles for the renegotiation of the Safe Harbour agreement and include this topic in what will be the legal framework between the EU and the U.S. for the years to come. If implemented, companies processing data across the Atlantic would benefit from a unified framework which would increase the level of legal certainty.

About IAB Europe

IAB Europe's mission is to protect, prove, promote and professionalise Europe's online advertising, media, research and analytics industries. Together with its members – companies and national trade associations – IAB Europe represents over 5,500 organisations. The power of IAB Europe comes from its extensive membership at both country and corporate levels. Our national membership of 27 countries spans the entire continent - not only the mature markets of Western Europe, but also rapidly evolving markets including Slovenia, Russia and Slovakia. Our corporate membership includes advertisers, major media groups, publishers and portals, agencies, research companies and technology and service providers.

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About IAB U.S.

The Interactive Advertising Bureau empowers the media and marketing industries to thrive in the digital economy. It is comprised of more than 650 leading media and technology companies that are responsible for selling, distributing and optimizing digital advertising and marketing. Together, they account for 86 percent of online advertising in the United States. Working with its member companies, the IAB evaluates and recommends standards and practices and fields critical research on interactive advertising. The organization is committed to professional development, elevating the knowledge, skills, and expertise of individuals across the digital marketing industry. The IAB also educates marketers, agencies, media companies and the wider business community about the value of interactive advertising. Founded in 1996, the IAB is headquartered in New York City.

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⁴ The European Commission and the U.S. authorities are finalizing their discussions on privacy, transparency and implementation