

May 17, 2022

President Joe Biden  
The White House  
1600 Pennsylvania Avenue, Northwest  
Washington, District of Columbia 20500

Dear Mr. President,

ACT | The App Association (the App Association) congratulates the Administration on the recent announcement of the agreement between the United States and European Commission on the new Trans-Atlantic Data Privacy Framework (the Framework). The Privacy Shield program plays a crucial role in ensuring the continued flow and protection of data between the two regions, which constitutes a major hub of international trade for many of our member companies and is vital to the global economy writ large. We recognize the challenging nature of the negotiations following the decision in *Schrems II* and commend both the Administration and Department of Commerce (the Department) for their diligence and determination in finding a solution.

The App Association represents thousands of small business software application development companies and technology firms located across the United States and European Union. Our members develop innovative applications and products that meet the demands of the rapid adoption of mobile technology and improve workplace productivity, accelerate academic achievement, monitor health, and support the global digital economy. Our members play a critical role in developing new products across consumer and enterprise use cases, enabling the rise of the internet of things (IoT). Today, the App Association represents an ecosystem valued at approximately \$1.7 trillion and is responsible for 5.9 million American jobs.

The seamless flow of data between economies and across political borders is essential to the functioning of the global economy in general and the app economy in particular. To this point, small and medium-sized businesses, including many of our members, comprised 70 percent of the companies using Privacy Shield. For many of our members, participating in Privacy Shield allowed them access to a streamlined and less expensive means to comply with European Union (EU) data protection laws compared to the Standard Contractual Clauses, binding corporate rules, or other mechanisms. It allowed them to avoid complex contract negotiations with potential EU business partners that they would otherwise face, while clarifying their commitment to data security and privacy. Following the Court of Justice of the European Union's decision in *Schrems II*, the deficiencies of those alternatives, especially for small businesses without sophisticated legal departments, has become even more apparent. For our members, it was of paramount importance that the EU and the U.S. government negotiate a successor to the Privacy Shield as quickly as possible to restore legal certainty.

We applaud the Administration's announcement of the new Framework which will restore the trust mechanism struck down in *Schrems II*, and that American small businesses will once again be able to self-certify their participation in Privacy Shield through the Department's website, and, in some cases, resume the transfers that were paused in the interim. The agreement also importantly signals the shared interest among the United States and European Union in protecting consumer data, upholding civil liberties, and providing the appropriate avenues of recourse as necessary. As the digital economy continues to evolve in ever more sophisticated ways, creating new opportunities for market growth and job creation for both U.S.- and EU-based startups and small businesses, it is crucial that the two regions work together to maintain trust in digital services to fully recognize their benefits to society.

We recognize that much work remains to finalize the finer points of the agreement and to implement them into legal text. We eagerly await the next steps and stand ready to assist in any way we can.

Sincerely,

A handwritten signature in black ink that reads "Morgan Reed". The signature is written in a cursive, flowing style.

Morgan Reed  
President

ACT | The App Association  
1401 K St NW (Ste 501)  
Washington, DC 20005

CC: The Honorable Gina Raimondo, Secretary, United States Department of Commerce  
Christopher Hoff, Deputy Assistant Secretary for Services, International Trade  
Administration, United States Department of Commerce  
The Honorable Katherine C. Tai, United States Trade Representative, Office of the  
United States Trade Representative