

DATA PROTECTION PANEL

(related to FAQs 5 and 9 issued by the US Department of Commerce, and annexed to Commission Decision 2000/520/EC on the adequacy of the 'safe harbor' privacy principles)

On-line version, June 2005

STANDARD COMPLAINT FORM

ALLEGING FAILURE TO COMPLY WITH "US SAFE HARBOR PRIVACY PRINCIPLES" ANNEXED TO COMMISSION DECISION 2000/520<sup>1</sup>

When using this form, please fill in capital print letters. You may send your complaint to any of the Data protection authorities (DPA) in the Member States, or to the following address:
Data protection panel secretariat – rue de Luxembourg 46 (01/126), B-1000 Brussels, BELGIUM.
This complaint form, as well as the national DPA contact addresses, are available on the Data protection panel public web site on http://forum.europa.eu.int/Public/irc/secureida/Home/main, as well as at any national Data protection authority. Please note that you are not obliged to use this form; you may submit a complaint by ordinary letter, but use of the complaint form may enable your complaint to be processed more quickly. In any case, it is in your interest to include as much relevant information as clearly as possible.
To be admissible, your complaint must relate to a US organisation that has certified to the US Department of Commerce its participation in the "Safe Harbor" (list available on http://www.export.gov/safeharbor/, or from your DPA, or from the panel secretariat) and to a breach of one of the "Safe harbor privacy principles" issued by the US Department of Commerce (copies available from the secretariat or via the above websites).
Before using this complaint form or using another means of making a complaint, individuals are encouraged to avail themselves of the consumer/user complaints services or contact points offered by the organisation which they consider has breached the "Safe Harbor privacy principles".
Information included in this form will be used for the purpose of processing your complaint. We collect and store your contact details (i.e. name, address, Tel, e-mail) to be able to provide you with information on your complaint. Subsequently, we may use some of the information gathered but anonymised, to establish statistics. We do not intend to disclose, sell or transfer your information to any third party that is not related in some way to the handling of your complaint without your consent<sup>2</sup>. We will take all reasonable precautions to protect information from loss, misuse, unauthorised access, disclosure, alteration and destruction.

I. INFORMATION ABOUT THE COMPLAINANT

- 1 a) Surname: .....
1 b) Forename: .....
1 c) Where appropriate, represented by: .....
1 d) Address where correspondence should be send:
.....
telephone.....
fax.....e-mail.....

<sup>1</sup> OJ, L-215, 25 August 2000, page 7.
<sup>2</sup> Unless access is requested by national law.

**1 e) EU Member State from which subject data was exported (tick box):**

- 1.  Austria
- 2.  Belgium
- 3.  Cyprus
- 4.  Czech Republic
- 5.  Denmark
- 6.  Estonia
- 7.  Finland
- 8.  France
- 9.  Germany
- 10.  Greece
- 11.  Hungary
- 12.  Ireland
- 13.  Italy
- 14.  Latvia
- 15.  Lithuania
- 16.  Luxembourg
- 17.  Malta
- 18.  Poland
- 19.  Portugal
- 20.  Slovakia
- 21.  Slovenia
- 22.  Spain
- 23.  Sweden
- 24.  The Netherlands
- 25.  United Kingdom
- 26.  Iceland
- 27.  Liechtenstein
- 28.  Norway
- 29.  Export country unknown to subject

**II. CONFIDENTIALITY (tick box)**

2  "I authorise the Data protection panel/Data protection authority (DPA) to disclose my identity in its contacts with US organisation(s) against which the complaint is made."<sup>3</sup>

**III. INFORMATION ABOUT ORGANISATION AND SUBJECT MATTER OF THE COMPLAINT**

3 a) Name and mailing address of the organisation against which you are complaining:

.....  
.....  
.....  
.....

3 b) If your complaint concerns one or more of the issues below, please tick the appropriate box(es):

- 1.  You were not informed or not sufficiently informed (delete as appropriate) about the uses being made of your data.
- 2.  You were not informed or not sufficiently informed (delete as appropriate) about the parties your data would be shared with.
- 3.  You were not offered the opportunity to opt out when your data were used for new purposes.
- 4.  You were not offered the opportunity to opt out when your data were passed to third parties.
- 5.  You conveyed your wish to opt out and this choice was not respected.
- 6.  Your consent was not sought for the processing of sensitive data (medical, race, religion etc).
- 7.  Your data were not kept securely (e.g. subject to loss, unauthorised access, alteration or destruction).
- 8.  Data held about you were not accurate/complete/ up to date (delete as appropriate).
- 9.  The organisation did not give you access to the data it holds about you.
- 10.  The organisation transferred data to a third party without your consent and without ensuring that the recipient observed equivalent data protection standards.
- 11.  The organisation offered no independent dispute resolution mechanism.
- 12.  The organisation did not observe the ruling of the designated independent dispute resolution mechanism.

<sup>3</sup> If you choose not to tick this box, we understand that you refuse to have your identity disclosed. We will do our best to respect that choice during the proceedings, unless it is contradictory to national law.

13.  Other (please specify).....

3 c) Fullest possible account of facts giving rise to complaint:<sup>4</sup>

.....  
.....  
.....

3 d) Any damage, harm or prejudice resulting from the facts giving rise to the complaint:

.....  
.....  
.....

3 e) Specify any documents or evidence which may be submitted in support of the complaint:

.....  
.....  
.....

3 f) Other relevant information:

.....  
.....  
.....

**IV. OTHER EFFORTS MADE TO RESOLVE THE MATTER**

4 a) Contacts made with US organisation against which the complaint is being made:

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.....  
.....

4 b) Applications already made to your home country authorities, including to a national or local Privacy/Data Protection Commissioner<sup>5</sup>:

.....  
.....  
.....

4 c) Submission to national courts:

.....  
.....  
.....

4 d) Other relevant information:

.....  
.....  
.....

<sup>4</sup> You may add extra pages, if necessary

<sup>5</sup> Please attach copies of relevant correspondence and case reference

SIGNATURE of complainant or representative.....
NAME IN CAPITAL LETTERS AND IN FULL (if a representative): .....
PLACE:.....DATE:.....

**EXPLANATORY NOTE**

The Data protection panel is an informal arrangement between the US and the EU Data protection authorities (DPA), providing a framework for delivering advice to US organisations that are participating in the "Safe harbor" principles, recognised by the EU to provide for an adequate level of protection for the transfer of personal data. Each US organisation that publicly declares to abide by these principles is responsible to comply with them. Should they fail to comply with the principles, the individual in the EU has the right to introduce a complaint to the Data protection panel if the US organisation in question has accepted to co-operate with the national data protection authorities. (This information is visible in the list of organisations that have joined the "Safe harbor", kept by the US Department of Commerce at [http://www.export.gov/safeharbor/.](http://www.export.gov/safeharbor/))

- (a) Any complaint found admissible will be assigned a reference number. An acknowledgement bearing the reference number, which should be quoted in any correspondence, will be sent to the complainant.
- (b) The panel will endeavour to give advice on the substance within 90 days of registration of the complaint with its secretariat.
- (c) The panel secretariat will keep the complainant informed of the course of his complaint.
- (d) The complainant will be notified in advance by the officer handling the case if it plans to propose that the Data protection panel closes the case.

**HANDLING OF COMPLAINTS**

To know what procedures will be followed by the Data protection panel during the handling of the complaint, please refer to the following document : *internal operating procedures of the "panel" foreseen in FAQs 5 and 9 of the US "Safe harbor"*, posted in the library section of the panel's public web site at <http://forum.europa.eu.int/Public/irc/secureida/Home/main>.

(BOX RESERVED TO DPA / PANEL ONLY)
- Handling authority:.....
- Receipt date:.....
- Case reference/fiche n°:.....
- Deadline for follow-up:.....
- Observations:.....
.....
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