



UNITED STATES OF AMERICA  
FEDERAL TRADE COMMISSION  
WASHINGTON, DC 20580

**Prepared Remarks of Chairman Joseph Simons<sup>1</sup>**  
**Second Privacy Shield Annual Review**  
**Brussels, Belgium**  
**October 18, 2018**

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Good morning. I am Joe Simons, the Chairman of the Federal Trade Commission. It is an honor to participate in the second annual review of the Privacy Shield with Secretary Ross, Commissioner Jourová, and European Data Protection Board Chair Jelinek.

The free flow of data – across the Atlantic and around the world – unlocks many of the economic benefits from innovations like the Internet of Things, big data, and artificial intelligence. The success of the Privacy Shield Framework preserves these data flows and provides important privacy protections.

This morning, I would like to speak briefly about what you can expect from the Federal Trade Commission (“FTC” or “Commission”) when it comes to Privacy Shield. The FTC, as you know, is an independent U.S. enforcement agency that plays a leading role in protecting consumer privacy. While the FTC has new Commissioners, our commitment to support the Privacy Shield Framework is unwavering, and we will continue to aggressively enforce and uphold it. We will continue to take action against companies that fail to honor a

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<sup>1</sup> These remarks reflect my own views. They do not necessarily reflect the views of the Commission or any other individual Commissioner.

substantive commitment to the Privacy Shield principles, as well as those that make false claims of participation in the framework.

The Commission brought three actions in 2017,<sup>2</sup> another earlier this year,<sup>3</sup> and four more last month.<sup>4</sup> Together with our 39 actions under the predecessor U.S-EU Safe Harbor Framework,<sup>5</sup> and our four actions related to the Asia-Pacific Economic Cooperative's Cross-Border Privacy Rules system,<sup>6</sup> the FTC has brought 51 actions to protect the privacy of cross-border data transfers.

Our actions support the substantial efforts of the U.S. Department of Commerce to implement and administer the Privacy Shield Framework.<sup>7</sup> In the past, we have brought enforcement actions against companies that, despite claiming to comply, never signed up with the framework or had let their registrations lapse. Over the last year, our actions addressed companies that began the process of signing up for the framework, and held themselves out as

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<sup>2</sup> *Md7, LLC*, No. C-4629 (Nov. 29, 2017), <https://www.ftc.gov/enforcement/cases-proceedings/172-3172/md7-llc>; *Tru Communication, Inc.*, No. C-4628 (Nov. 29, 2017), <https://www.ftc.gov/enforcement/cases-proceedings/172-3171/tru-communication-inc>; *Decusoft, LLC*, No. C-4630 (Nov. 29, 2017), <https://www.ftc.gov/enforcement/cases-proceedings/172-3173/decusoft-llc>.

<sup>3</sup> *ReadyTech Corp.*, File No. 1823100 (July 2, 2018) (proposed consent agreement), <https://www.ftc.gov/enforcement/cases-proceedings/182-3100/readytech-corporation-matter>.

<sup>4</sup> *IDmission LLC*, File No. 1823150 (Sept. 27, 2018) (proposed consent agreement), <https://www.ftc.gov/enforcement/cases-proceedings/182-3150/idmission-llc-matter>; *mResource LLC also d/b/a Loop Works LLC*, File No. 1823143 (Sept. 27, 2018) (proposed consent agreement), <https://www.ftc.gov/enforcement/cases-proceedings/182-3143/mresource-llc-loop-works-llc-matter>; *VenPath, Inc.*, File No. 1823144 (Sept. 27, 2018) (proposed consent agreement), <https://www.ftc.gov/enforcement/cases-proceedings/182-3144/venpath-inc-matter>; *SmartStart Employment Screening, Inc.*, File No. 1823154 (Sept. 27, 2018) (proposed consent agreement), available at <https://www.ftc.gov/enforcement/cases-proceedings/182-3154/smartstart-employment-screening-inc-matter>.

<sup>5</sup> See generally U.S.-EU Safe Harbor Framework, <https://www.ftc.gov/tips-advice/business-center/privacy-and-security/u.s.-eu-safe-harbor-framework>.

<sup>6</sup> *Sentinel Labs, Inc.*, No. C-4608 (Apr. 14, 2017), <https://www.ftc.gov/enforcement/cases-proceedings/162-3250/sentinel-labs-inc>; *Vir2us, Inc.*, No. C-4609 (Apr. 14, 2017), <https://www.ftc.gov/enforcement/cases-proceedings/162-3248/vir2us-inc>; *SpyChatter, Inc.*, No. C-4614 (Apr. 14, 2017), <https://www.ftc.gov/enforcement/cases-proceedings/162-3251/spychatter-inc>; *Very Incognito Technologies, Inc. also d/b/a Vipvape*, No. C-4580 (June 29, 2016), <https://www.ftc.gov/enforcement/cases-proceedings/162-3034/very-incognito-technologies-matter>.

<sup>7</sup> See generally <https://www.privacyshield.gov>.

participants, but never actually finished the Department of Commerce's careful verification process.

Two of our most recent actions include new counts, for violating the requirement that companies leaving the framework affirm to the Department of Commerce that they will continue to apply the Privacy Shield principles to personal information received during the time they participated in the program.<sup>8</sup>

Along with our enforcement, the Commission has also issued business guidance about this aspect of Privacy Shield.<sup>9</sup> In fact, the FTC arranged for the Department of Commerce to share that guidance with the more than 3,700 Privacy Shield participants. The guidance reminds participants leaving Privacy Shield that they must continue to protect the data transferred under the Privacy Shield, consistent with its principles.

The FTC will also continue to investigate in this area. The Commission recently issued administrative subpoenas to obtain materials from certain Privacy Shield participants as part of our agency's ongoing efforts to proactively monitor compliance.

Privacy Shield is part of our larger privacy enforcement program, which remains a top priority under my leadership. The FTC has a longstanding enforcement record, with hundreds of privacy and data security cases. Year after year, privacy and data security top the list of consumer protection priorities at the Federal Trade Commission. These concerns are critical to consumers and businesses alike. Press reports about privacy concerns and data breaches are

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<sup>8</sup> See *VenPath*, *supra* n.4; *SmartStart Employment Screening*, *supra* n.4.

<sup>9</sup> FTC Business Blog, *Is the EU-U.S. Privacy Shield Framework in your Compliance Picture?*, Sept. 27, 2018, <https://www.ftc.gov/news-events/blogs/business-blog/2018/09/eu-us-privacy-shield-framework-your-compliance-picture>.

increasingly common—such as the reports about Facebook and Equifax, to name two high-profile examples. While our investigations are non-public, I can confirm that both of these companies are currently the subject of FTC investigations. And we take these cases – as with all others – very seriously.

You also can expect further FTC privacy enforcement. Just this week, for example, the Commission announced a complaint and \$3 million settlement against a company called RealPage for violating the Fair Credit Reporting Act.<sup>10</sup> We alleged that the company failed to take reasonable steps to ensure the accuracy of tenant screening information provided to landlords and property managers, causing potential renters to be falsely associated with criminal records.

In support of our vigorous enforcement agenda, the Federal Trade Commission has for many years engaged in substantial efforts to stay informed of market developments, shape our policy agenda, and identify opportunities to develop the law, consistent with our enforcement authority.

As part of that process, the FTC recently kicked off a series of public hearings – both in Washington, D.C. and in other cities around the country – to consider whether broad-based changes in the economy, business practices, technologies, and international developments warrant adjustments to our competition and consumer protection laws, enforcement priorities, and policies.<sup>11</sup>

The hearings will include multiple sessions on data security, high tech platforms, big data, artificial intelligence, and other cutting-edge topics that challenge all of us to reexamine our regulatory approaches.

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<sup>10</sup> *FTC v. RealPage, Inc.*, No. 3:18-cv-02737-N (N.D. Tex. Oct. 16, 2018), <https://www.ftc.gov/enforcement/cases-proceedings/152-3059/realpage-inc>.

<sup>11</sup> See generally *Hearings on Competition & Consumer Protection in the 21<sup>st</sup> Century*, <https://www.ftc.gov/policy/hearings-competition-consumer-protection>.

We invite our colleagues in Europe to comment on and participate in these hearings. We want to learn from experiences across the globe.

In conclusion, I am here today to help ensure that the Privacy Shield Framework remains a robust mechanism for protecting privacy and enabling transatlantic data flows. We continue our strong commitment to the framework. Three of our FTC staff, including the head of our privacy enforcement division, are here today and will further discuss the FTC's work on this critical program.

Thank you.