

2023-2024

Procedure Report

**Compliance Activities &
Casework Conducted by
BBB National Programs**
from July 17, 2023
through July 16, 2024

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Executive Summary

The period covered by this report, July 17, 2023 through July 16, 2024, constituted the first year of BBB National Programs Data Privacy Framework Services (DPF Services) operations. Through its DPF Services, BBB National Programs supports the U.S. Department of Commerce's Data Privacy Framework (DPF) Program as an Independent Recourse Mechanism.

BBB National Programs' DPF Services builds upon the experience of its predecessor - BBB EU Privacy Shield - to continue providing both independent dispute resolution and compliance assistance to participating businesses.

Key program activities during this reporting period included:

- ◆ Launch of new BBB National Programs DPF Services webpages following the approval of the EU-U.S. Data Privacy Framework
- ◆ Assisting existing participants and new applicants in aligning their privacy policies and self-certifications with the requirements of the DPF Program
- ◆ Educating participants on the transition to the new program and the launch of the UK Extension to the EU-U.S. DPF via resources, timely alerts, and guidance
- ◆ Handling eligible complaints received by BBB National Programs under the DPF Program

Year in Review

Participation

On July 10, 2023, the European Commission officially adopted its [adequacy decision](#) for the EU-U.S. Data Privacy Framework (EU-U.S. DPF), formally replacing the EU-U.S. Privacy Shield, and the U.S. Department of Commerce launched the Data Privacy Framework Program. In conjunction with these events, BBB National Programs launched its DPF Services, seamlessly transitioning all BBB EU Privacy Shield participants to the new program.

Nearly 700 U.S. businesses have maintained their enrollment in the independent dispute resolution services provided by our DPF Services and continued their commitment to uphold the standards of the DPF Program by self-certifying during the reporting period.

Outreach

BBB National Programs publishes periodic participant newsletters and online compliance guidance for program applicants and participating businesses. Our experts also speak and write routinely on privacy topics, including the DPF Program and the Global Cross-Border Privacy Rules (CBPR) System. BBB National Programs also produces podcasts for those in the business audience who prefer to receive compliance guidance in audio form.

Though DPF Services does not provide individualized compliance assistance beyond our DPF Services offerings, the program is making ongoing efforts to provide our applicants and participants with accurate information about the changes in EU privacy law brought about by the EU GDPR and the UK GDPR. We post updated guidance at bbbprograms.org/Privacy along with links to external resources, and we continue to discuss GDPR and other privacy topics in ongoing blog posts and in our periodical newsletter.

Compliance Activities

BBB National Programs' DPF Services continues to provide all program applicants with privacy policy guidance and assists as needed with self-certification and recertification. The program also monitors participants' online privacy policies and DPF Program self-certifications on an ongoing basis for changes that may affect compliance and provides automatic reminders to businesses before their self-certifications are due for renewal.

Complaint Handling

701

self-certified participants
as of July 16, 2024

216

complaints received from
individuals worldwide

141

complaints received
from individuals in the
EU, UK, and Switzerland

2

potentially
eligible complaints
addressed

About the Data Privacy Framework Program

On July 11, 2023, the U.S. Department of Commerce and the European Commission announced the launch of the EU-U.S. Data Privacy Framework for transatlantic data flows to replace the EU-U.S. Privacy Shield, which had been invalidated by a decision of the European Court of Justice in July 2020. While retaining many elements of Privacy Shield, the DPF includes enhanced consumer privacy protections for EU, UK, and Swiss individuals, greater transparency around data collection, use, and sharing, and support for U.S. businesses demonstrating that their privacy practices meet EU data protection requirements.

This co-regulatory program ensures that participating U.S. businesses embrace accountable data protection practices and that EU, UK, & Swiss consumers receive expeditious and fair recourse for their privacy concerns.

Businesses participating in the DPF Program must submit a self-certification application to the U.S. Department of Commerce stating their adherence to the DPF Principles for personal data they receive from the EU, UK, or Switzerland. Participating businesses are required to maintain a current self-certification on the official DPF participant list maintained by the U.S. Department of Commerce.

Each participating business must also contribute to the Arbitral Fund, which supports the operation of the Annex I arbitration mechanism for residual complaints that remain unresolved by multiple redress mechanisms. Participants must also verify on an annual basis that their public attestations regarding their DPF privacy practices are accurate through self-assessment or outside compliance reviews.

Participating businesses are required to designate an independent dispute resolution option—also called an Independent Recourse Mechanism or IRM—to handle privacy complaints from EU, UK, and Swiss individuals whose personal data they process. Provided at no cost to the complainant, IRMs investigate any inquiries about a participating business' alleged non-compliance with the DPF Principles and aim to reach a satisfactory resolution between both parties.

“The DPF Program can provide a company with a strong basis for building a privacy compliance program because a lot of the things you commit to do under the DPF Program will also help you comply with other privacy obligations.

.....
Alex Greenstein, Director, Data Privacy Framework, U.S. Department of Commerce

About BBB National Programs' DPF Services

In its first full year of operating under the EU-U.S. DPF, BBB National Programs provided services to more than 700 businesses and 200 consumers through its DPF Services program.

BBB National Programs' DPF Services was established in 2023 as a successor program to the BBB EU Privacy Shield Program that had operated as an IRM since 2016. The program provides compliance assistance for U.S. businesses preparing for self-certification under the EU-U.S. DPF, the UK Extension to the EU-U.S. DPF, and the Swiss-U.S. DPF, as well as ongoing review of the DPF privacy statements and certifications of the program's participating businesses and up-to-date guidance on privacy compliance. At its core, DPF Services operates as an independent third-party dispute resolution mechanism enabling individuals in the EU, UK, and Switzerland to resolve DPF Program complaints against participating businesses. The objectives of this co-regulatory program are to ensure that privacy concerns of individual complainants are addressed expeditiously and fairly and to promote privacy accountability among participating businesses.

One of the things that sets BBB National Programs apart is our robust conciliation process. In working impartially between the business and the consumer, DPF Services provides a second chance to resolve the customer's issue first instead of sending a complaint straight to arbitration, which could result in a binding decision.

During its first full year of operation, DPF Services provided its services to more than 700 businesses. This annual report summarizes the ongoing compliance activities and casework of the DPF Services program spanning July 17, 2023 through July 16, 2024.

DPF Services Core Requirements

Each U.S. business that applies to join DPF Services provides a draft copy of the consumer-facing DPF-compliant privacy policy that it will post on its public website once it is self-certified under the DPF Program. DPF Services staff reviews the privacy policy for basic compliance with DPF Notice Principle requirements. Notably, DPF Services staff ensures that the draft privacy policy includes clear instructions for EU, UK, and Swiss individuals who wish to contact the business with DPF complaints and inquiries, as well as a hyperlink to the DPF Services consumer information webpage and online complaint form.

For more information, visit bbbprograms.org/DPF.

Participation Requirements

Each DPF Services participant is required to:

- ◆ Upload the privacy policy approved by DPF Services to the U.S. Department of Commerce website during the self-certification process and, following approval, to post and maintain the privacy policy on all business websites to be covered by DPF;
- ◆ Notify DPF Services of all changes to the approved policy, including any changes required during the self-certification process, and provide DPF Services a copy of the updated and posted policy;
- ◆ Apply promptly for self-certification with the U.S. Department of Commerce following acceptance into the DPF Services program, and maintain a current self-certification for the duration of its participation in DPF Services;
- ◆ Cooperate with DPF Services staff to respond to privacy complaints in accordance with the DPF Services Procedure Rules;
- ◆ Accept the Panelist's final decision in cases sent to a Data Privacy Review before an independent Data Privacy Panelist; and
- ◆ Implement any corrective action agreed to as part of a settlement or mandated by a Panelist's decision.

Each participant executes a Participation Agreement that is renewable annually following a DPF Services staff review of the business's online privacy policy and self-certification listing to ensure that the business remains in compliance with all program requirements.

Review of Privacy Policies and Practices

DPF Services staff examines each applicant's draft public privacy policy for inclusion of all elements required by the DPF Notice Principle and for consistency with the rest of the DPF Principles. In addition, staff reviews any other relevant published policies or referenced terms and conditions for consistency.

Applicant businesses can access detailed resources about the DPF Principles and the self-certification process at bbbprograms.org/DPF. We provide additional privacy policy guidance and tips for our participating businesses during the application process.

This guidance helps each participating business to:

- ◆ Ensure that the DPF notice in its privacy policy is clearly written and is readily accessible on the business's public website.
- ◆ Ensure that the DPF notice clearly identifies the corporate entity or entities processing EU or Swiss personal data pursuant to DPF.
 - ◆ If a brand name or d/b/a is used on the business's public website(s), the business's legal name should also appear in the policy, in its self-certification, and in the DPF Services Participation Agreement. This information can facilitate a consumer's search for the appropriate business on the official U.S. Department of Commerce DPF List and in the DPF Services complaints system.
- ◆ Ensure that all covered websites include the approved DPF notice, including an active hyperlink to the DPF Services consumer pages and complaint system.

Compliance Activities & Key Issues 2023-2024

Businesses maintaining enrollment in DPF Services during the period of review ranged from large multinational corporations to small and mid-sized businesses across multiple industry sectors. Those seeking self-certification assistance from DPF Services were closely engaged in adapting their privacy policies to align with DPF requirements and to resolve any conflicts with other EU, UK, or Swiss requirements, as applicable.

BBB National Programs continues to work closely with new program applicants to help them comply with all current requirements of the DPF self-certification process. Through our routine review process following self-certification, we alert our participating businesses about upcoming deadlines for re-certification, request clarification when inconsistencies are found, and follow up through all available means of communication when lapses occur. We routinely provide updated guidance about changes to the certification process to the business community on our program website and to our participants and applicants in newsletters, service messages, and one-on-one consultations.

The Independent Recourse Mechanism (IRM) is a vital aspect of the DPF Program. It provides customers with an impartial way to get their complaints investigated and resolved, building trust between the company and its customers.

Alex Greenstein, Director, Data Privacy Framework, U.S. Department of Commerce

BBB National Programs also provides timely guidance to participants on recent updates to the DPF Program, such as the addition of the UK Extension to the EU-U.S. DPF. Based on recent data analyzed by BBB National Programs, more than 60% of DPF Program participants are leveraging the UK Extension for their UK transfers,

which demonstrates that data flows across the Atlantic remain a priority for companies.

Additionally, we provide timely guidance on relevant privacy topics, such as Artificial Intelligence (AI), cross border data flows, industry trends, and international privacy regimes in blog posts, podcasts, webinars, and in our periodical newsletter.

Some examples of our recent educational activities and posts:

WEBINAR
Data Privacy Without Borders: International Data Flows

PODCAST
Data Privacy Framework (DPF) is Here - Now What?

BLOG
The ABCs of DPF and GDPR

BLOG
Renewal Season: 5 Tips to Ensure a Smooth Data Privacy Framework Process

BLOG
The UK Extension: Implications for International Data Transfers

BLOG
Ring in the New Year with Data Privacy Framework

BLOG
Robust Dispute Resolution: A Quiet Enforcer for Privacy Compliance

BBB National Programs latest privacy posts can be found at [BBBPrograms.org/Privacy](https://bbbprograms.org/Privacy).

Dispute Resolution & Enforcement

DPF Services' dispute resolution procedures are designed with two primary goals in mind. First, to ensure that the privacy concerns of individual complainants concerning data collected in the EU, UK, or Switzerland are addressed speedily and impartially. Second, to promote privacy accountability among U.S. businesses participating in the program.

BBB National Programs provides a secure, accessible online mechanism for handling privacy complaints under the DPF Principles by individuals against participating U.S. businesses.

The service is provided free of charge to individual complainants, who can readily access the DPF Services online complaint form through a live hyperlink each participating business must include in the privacy policy posted on its public website.

The dedicated link first takes the site visitor to DPF Services' consumer-facing webpage entitled "BBB National Programs DPF Services Dispute Resolution Process," which describes the program's role as an IRM and our complaint process.¹ From this page, the site visitor clicks a prominent "File a Complaint" button to gain direct access to the DPF Services complaint form. On a second page linked from the main consumer-facing page, entitled "How to File a Complaint with DPF Services," visitors can find a mailing address to communicate with the program by postal mail.

Complaint Handling Rules and Procedures

As provided in the program's Procedure Rules,² DPF Services engages in a multi-step process through which we determine complaint eligibility and then resolve complaints against participating businesses through our dispute resolution procedures. Language translation services are available as needed to facilitate any or all stages of the complaint review and dispute resolution process.

1. See <https://bbbprograms.org/dpf-consumers/>. While the program welcomes complaints from individuals in the U.S. or in other countries who claim that their data was collected in the EU, UK, or Switzerland and received in the United States by a DPF business, we pay particular attention to ensuring access by EU, UK, and Swiss data subjects.

2. <https://bbbprograms.org/programs/all-programs/dpf/ProcedureRules>.

Primary Dispute Resolution Goals

1

Ensure that the privacy concerns of individual complainants concerning data collected in the EU, UK, or Switzerland are addressed speedily and impartially.

2

Promote privacy accountability among U.S. businesses participating in the program.

Initial Eligibility Review

DPF Services staff reviews each incoming complaint to determine whether, on its face, the complaint is eligible for resolution under the program. During this step of the process, complaints are closed if they (A) do not identify a DPF Services participating business or (B) do not originate from an individual in the EU, UK, or Switzerland and do not otherwise allege data collection in the EU, UK, or Switzerland. When a complaint is closed for one of these reasons, the complainant is provided with instructions to pursue relevant alternative redress options. If the complaint concerns a business self-certified under the DPF Program, we provide a link to the business' public certification page. If the complaint concerns a U.S. business not participating in the DPF Program, we direct the complainant to the appropriate local Better Business Bureau or the Federal Trade Commission. If the complaint concerns a business in the EU, UK, or Switzerland, we provide the complainant with information on contacting the appropriate Data Protection Authorities.

In addition, complaints are closed at this stage if they (C) do not state a complaint of any kind (e.g., unintelligible submissions) or (D) are entirely unrelated to data protection concerns (e.g., product or service complaints). When a complaint is closed for one of these reasons, the complainant is encouraged to contact DPF Services with additional information if they believe their complaint is in fact eligible for resolution.

Verifying Eligibility

When a complaint appears to be potentially eligible for the program, but lacks important information, DPF Services contacts the complainant to confirm that the complaint meets DPF Program eligibility criteria before opening a case. This process may entail requesting information from the complainant such as the location of the data collection, the complainant's identity, the nature of the personal data at issue, or the nature of the complaint itself. It also may be necessary to confirm that the complainant has made a good faith effort to contact the relevant participating business about their complaint.

Conciliation

When a complaint is found eligible, DPF Services opens a formal case and works with the complainant and the participating business to develop the facts and to facilitate a mutually agreeable settlement of the complaint in a process known as conciliation. BBB National Programs resolves many of the privacy complaints received through conciliation and settlement by the parties.

Data Privacy Review

If conciliation efforts are unsuccessful, either the complainant or the participating business may request a Data Privacy Review, which takes the form of a decision by an independent panelist on BBB National Programs Data Privacy Board based on a review of the Case Record, including position statements submitted by each of the parties regarding the complaint. The panelist has discretion to seek additional written information from the

parties and to convene a telephone hearing, if necessary, before issuing a final decision.³

Participating businesses that fail to comply with DPF Services Data Privacy Review procedures, including failing to take agreed upon action following a conciliated settlement, or failing to implement mandated corrective action following the final decision of the independent Data Privacy Board panelist, may be referred to the appropriate federal government agency—generally the Federal Trade Commission—and the referral will be reported to the U.S. Department of Commerce.

In such a case, DPF Services is required to publish in its next Annual Procedure Report the name of the participating business and the fact of the referral, along with a summary report of the facts of the case and the Procedure’s action in the matter.⁴

Compliance Confirmation and Additional Redress Options

DPF Services verifies each business’s performance of corrective actions agreed to in a conciliated settlement or mandated by a Data Privacy Review, as applicable. This is a multi-step process that may add significant time to the full resolution of the case, depending on the nature of the corrective actions. Performance is verified through independent means, when possible, and through a formal certification by the business. Following the confirmation of business performance, DPF Services seeks confirmation from the complainant that the matter has been resolved to their satisfaction. The case is then closed. However, each complainant is also advised that they are not bound by the outcome of the DPF Services dispute resolution procedure, and that they are free to pursue all additional redress options up to and including the binding arbitration procedures provided for in Annex 1.

3 See Part 4 of the Procedure Rules at <https://bbbprograms.org/programs/all-programs/dpf/ProcedureRules>

4 See Section 8.8 of the Procedure Rules at <https://bbbprograms.org/programs/all-programs/dpf/ProcedureRules>

2023-2024 DPF Services Casework

During the period of review, DPF Services received 141 complaints from individuals in the European Union, United Kingdom, and Switzerland.

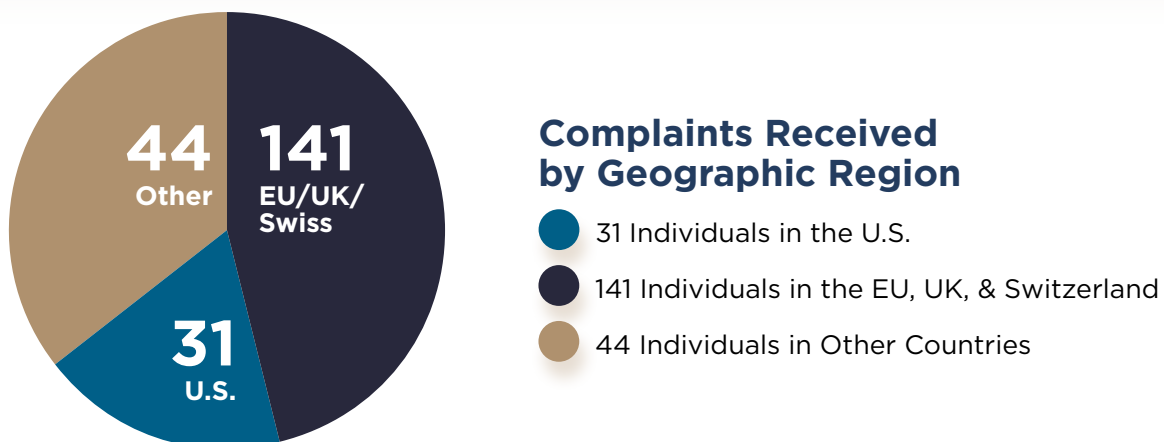
The report addresses only complaints submitted directly to the program by mail or through the dedicated DPF [online complaint form](#). Complaints are funneled to this form in most cases through a dedicated link in participating business privacy policies, through the “[File a Complaint](#)” link on our dedicated consumer-facing webpages.

During this reporting period, DPF Services received a total of 216 complaints. No DPF consumer complaints were opened during this reporting period.

Origin of All Complaints Received 2023-2024

The BBB National Programs DPF Services dispute resolution service was accessed during the reporting period by complainants from a diverse group of countries, including the EU, UK, and Switzerland. Of 216 complaint submissions reviewed, 141 were submitted by individuals claiming to be in 27 EU countries plus the United Kingdom and Switzerland, 31 were submitted by individuals who provided a U.S. address, and 44 were received from individuals who appeared to be in other countries outside the EU, UK, and Switzerland.

The figure below shows the geographic distribution of complaints received.



Breakdown of EU, UK, and Swiss Complaints Received by Country

Austria	1	Finland	4	Latvia	2	Portugal	5
Belgium	3	France	6	Liechtenstein	0	Romania	4
Bulgaria	1	Germany	12	Lithuania	1	Slovakia	3
Croatia	2	Greece	2	Luxembourg	0	Slovenia	0
Cyprus	8	Hungary	0	Malta	1	Spain	7
Czech Republic	2	Iceland	0	Netherlands	6	Sweden	1
Denmark	3	Ireland	3	Norway	6	Switzerland	1
Estonia	0	Italy	8	Poland	2	United Kingdom	46



Statistics and Analysis of Complaints Received 2023-2024

DPF Services received a total of 216 complaint submissions during the 2023-2024 reporting period.

A total of 141 complaints reviewed during this period originated in the EU, the UK, and Switzerland. 139 of these complaints concerned businesses not currently participating in the DPF Services program.

Following an eligibility review of each complaint, which included requesting additional information from the complainant wherever appropriate, the total complaints received ultimately resulted in three cases that DPF Services processed during the reporting period.

Ineligible Complaints

Although most complaints received were found ineligible for resolution, DPF Services reviewed each complaint carefully, as described in the section titled “Initial Eligibility Review.” For complaints closed as ineligible, DPF Services sought to direct complainants to an alternative dispute resolution mechanism, where appropriate.

The table below represents the 216 complaints received during the reporting period that were closed after the initial eligibility review. 208 of these were found ineligible because they did not identify a business participating in the DPF Program.

On average, DPF Services closed each ineligible complaint that identified a participating business within five days.

The remaining two complaints were considered facially eligible for review through the DPF Services procedure.

Breakdown of Ineligible Complaints, 2023-2024

	Region/Country of Origin				Total
	EU/UK	Switzerland	U.S.	Other	
Not a Participating Business	136	1	28	43	208
Participating Business but non-complaint (e.g., comment, empty, spam)	2	0	0	0	2
Complaint, but not a privacy complaint (e.g., service issue)	0	0	0	0	0
Privacy complaint, but not subject to DPF			3	1	4

Eligible Complaints

Complaints that appeared on their face to be eligible for resolution by DPF Services remained open after the initial eligibility review. At this stage, DPF Services reached out to the complainant for additional information needed to open a case, as described in the “Verifying Eligibility” section of this report. Two complaints potentially eligible for resolution by DPF Services were closed after 45 days when the complainant did not respond to staff requests for additional information required to proceed with the case.

Observations

According to the U.S. Department of Commerce, as of 2023, transatlantic data flows are estimated⁵ to underpin trillions of dollars in trade and investment annually between the U.S. and EU. Notably, global data flows now contribute more to global growth than global trade in goods.

Although the DPF Program is a voluntary standard companies can choose to adhere to, it is an accessible mechanism that simplifies what might otherwise be a confusing and expensive process, offering companies a significantly more affordable means to transfer data from the EU to the U.S. in compliance with EU privacy law versus much more expensive mechanisms such as Standard Contractual Clauses (SCCs). Coupled with enforcement oversight from the FTC and compliance checks from the U.S. Department of Commerce, participants in the DPF Program are held accountable for keeping the commitments they make.

In a world where companies are trying to navigate complex and evolving legal and regulatory obligations in the U.S. and abroad, the DPF Program can provide a good starting point for your privacy compliance program.

Alex Greenstein, Director, Data Privacy Framework, U.S. Department of Commerce

This is particularly true for U.S. companies interested in checking off one of the many required GDPR requirements and potentially avoiding fines, such as those relating to transferring data and other data subject rights, and those building a privacy compliance program that need to comply with other privacy obligations, such as ISO certifications.

Regarding consumer recourse, the DPF Program has been unique among international data transfer mechanisms authorized under European data protection law. Not only do the DPF Principles require participating U.S. businesses to publicly commit to align their practices with European standards, but they also provide for free, transparent, and expedited alternative dispute resolution for individual privacy inquiries and complaints. This mechanism has enabled EU, UK, and Swiss data subjects to readily exercise their data protection rights with respect to the commercial use of their personal data in the United States.

5 <https://www.commerce.gov/news/press-releases/2023/07/data-privacy-framework-program-launches-new-website-enabling-us>

Since its launch in July 2023, DPF Services has seen a sustained demand for its dispute resolution services from EU, UK, and Swiss individuals seeking to resolve privacy concerns raised by transatlantic transfers of their personal data. Nothing has diminished the demand from data subjects for responsive and effective redress related to the commercial processing of their personal data.

While most complaints received from EU, UK, and Swiss individuals were directed against nonparticipating companies, their ongoing engagement with DPF Services suggests a continued desire for expedient and effective alternative dispute resolution options for commercial privacy concerns that transcend jurisdictional lines. As data continues to flow globally, multi-layered mechanisms of accountability like the DPF Program will continue to be an essential ingredient for ensuring that businesses of all sizes maintain best practices when engaging with international consumers.

More than 130 countries and over three quarters of the world's population are covered by data privacy laws. Bilateral and multilateral data flow agreements are integral to this dynamic landscape. The DPF Program underscores a critical and viable mechanism to demonstrate adequacy between international governments and underpins the democratic values of each country. As data continues to flow globally, multi-layered mechanisms of accountability will continue to be an essential ingredient for ensuring that businesses of all sizes maintain best practices when engaging with international consumers.

About DPF Services

BBB National Programs operates an independent, third-party dispute resolution program that enables U.S. businesses to demonstrate that their transatlantic data transfers are consistent with European data protection rules, recognized as an Independent Recourse Mechanism under the Data Privacy Framework Program. Our Data Privacy Framework Services are a necessary component of a co-regulatory framework that enables trans-Atlantic trade.

About BBB National Programs

BBB National Programs, a non-profit organization, is the home of U.S. independent industry self-regulation, currently operating more than a dozen globally recognized programs that have been helping enhance consumer trust in business for more than 50 years. These programs provide third-party accountability and dispute resolution services that address existing and emerging industry issues, create a fairer playing field for businesses and a better experience for consumers. BBB National Programs continues to evolve its work and grow its impact by providing business guidance and fostering best practices in arenas such as advertising, child-and-teen-directed marketing, data privacy, dispute resolution, automobile warranty, technology, and emerging areas. To learn more, visit bbbprograms.org.