

January 15, 2016

The Honorable Barack Obama
President of the United States of America

H.E. Jean-Claude Juncker
President of the European Commission

H.E. Donald Tusk
President of the European Council

Heads of Government of the 28 EU Member States

Dear Leaders:

Cross-border data flows are essential to innovation, job creation, and economic growth in both Europe and the United States. As representatives of companies in a wide variety of sectors that do business in Europe, the United States, and around the world, we are writing to convey the critical importance of your efforts to come to a comprehensive and sustainable transatlantic agreement concerning data transfers.

Our member companies strongly support personal privacy, data protection, and security, and they are committed to fulfilling their obligations under both European and U.S. law. Yet recent developments in the EU have created significant uncertainty for the ability of individuals and enterprises to transfer data across borders in order to operate.

The recent ruling by the Court of Justice of the European Union (CJEU) that the U.S.-EU Safe Harbor agreement can no longer provide thousands of firms assurance that they conform to the EU's legal requirements for protecting personal data has raised enormous uncertainty that seriously undermines the ability of U.S. and EU companies and individuals to conduct business across the Atlantic. We commend the ongoing efforts of the European Commission and the U.S. Department of Commerce to negotiate a revised Safe Harbor agreement by the January 31, 2016, deadline set out by Member State Data Protection Authorities. We are hopeful that the two sides will succeed in concluding a modified framework by that time. This issue must be resolved immediately or the consequences could be enormous for the thousands of businesses and millions of users impacted.

However, the scope of the CJEU decision and subsequent public interpretations by a number of Data Protection Authorities is such that not just Safe Harbor, but also all other data transfer mechanisms such as model contract clauses and binding corporate rules (which impact nearly all financial transactions between the two largest economies of the world), may be in jeopardy.

It is against this backdrop that we respectfully request your leadership to both support the efforts to negotiate a strengthened Safe Harbor agreement and to help establish a long-term, sustainable framework for data flows between Europe and United States. In particular, we seek your active and immediate engagement with respect to three specific objectives.

- First, in the near term, it is critical to ensure the conclusion of negotiations on a strengthened mechanism for transatlantic data transfers.
- Second, following conclusion of an agreement, it is important to provide a reasonable transition period in order for companies to come into compliance with the revised framework. This is especially important for the large number of small- and medium-sized enterprises that have depended entirely on the Safe Harbor to transfer data.
- Third, in order to provide the certainty needed to ensure data flows, innovation, and economic growth, the EU and the United States should work to establish a legally durable framework that reflects shared principles on privacy and security, including with respect to surveillance activities.

In sum, our companies share our respective governments' commitments to promoting innovation and growth, advancing privacy and data protection, and protecting security, and we believe the engagement of national leaders will be essential to help strike the right balance of the many interests at stake. We therefore urge your leadership to ensure a durable legal framework for transatlantic data flows in the future.

We thank you for your attention to this matter, and we stand ready to assist you and your colleagues in whatever way we can.

Sincerely,



Emma Marcegaglia
President
BUSINESSEUROPE



Thomas J. Donohue
President and CEO
U.S. Chamber of Commerce



Peter Olson
President
DIGITALEUROPE



Dean C. Garfield
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