

5. The U.S.-EU Safe Harbor Framework provides a method for U.S. companies to transfer personal data outside of Europe that is consistent with the requirements of the European Union Directive on Data Protection (“Directive”). Enacted in 1995, the Directive sets forth European Union (“EU”) requirements for privacy and the protection of personal data. Among other things, it requires EU Member States to implement legislation that prohibits the transfer of personal data outside the EU, with exceptions, unless the European Commission (“EC”) has made a determination that the recipient jurisdiction’s laws ensure the protection of such personal data. This determination is referred to commonly as meeting the EU’s “adequacy” standard.
6. To satisfy the EU adequacy standard for certain commercial transfers, the U.S. Department of Commerce (“Commerce”) and the EC negotiated the U.S.-EU Safe Harbor Framework, which went into effect in 2000. The U.S.-EU Safe Harbor Framework allows U.S. companies to transfer personal data lawfully from the EU. To join the U.S.-EU Safe Harbor Framework, a company must self-certify to Commerce that it complies with seven principles and related requirements that have been deemed to meet the EU’s adequacy standard.
7. Companies under the jurisdiction of the U.S. Federal Trade Commission (“FTC”), as well as the U.S. Department of Transportation, are eligible to join the U.S.-EU Safe Harbor Framework. A company under the FTC’s jurisdiction that claims it has self-certified to the Safe Harbor principles, but failed to self-certify to Commerce, may be subject to an enforcement action based on the FTC’s deception authority under Section 5 of the FTC Act.
8. Commerce maintains a public website, www.export.gov/safeharbor, where it posts the names of companies that have self-certified to the U.S.-EU Safe Harbor Framework. The listing of companies indicates whether their self-certification is “current” or “not current” and a date when recertification is due. Companies are required to re-certify every year in order to retain their status as “current” members of the U.S.-EU Safe Harbor Framework.

Violations of Section 5 of the FTC Act

9. In May 2006, respondent submitted to Commerce a self-certification of compliance to the U.S.-EU Safe Harbor Framework.
10. In May 2011, respondent did not renew its self-certification to the U.S.-EU Safe Harbor Framework, and Commerce subsequently updated respondent’s status to “not current” on its public website. In December 2013, respondent renewed its self-certification to the U.S.-EU Safe Harbor Framework, and respondent’s status was changed to “current” on Commerce’s website.
11. Since at least May 2006, respondent has disseminated or caused to be disseminated privacy policies and statements on the www.criver.com website, including, but not limited to, the following statements:

It is our policy to respect the privacy of our employees, customers, business partners, and others. Personal Data is used, collected, and retained in a manner consistent with the laws of the countries in which we do business. In furtherance of this commitment, we comply with the U.S.-EU Safe Harbor Framework as set forth by the U.S. Department of Commerce regarding the collection, use, and retention of personal data from European Union countries (“EU”). We self-certify our adherence to the Safe Harbor Privacy Principles (“Safe Harbor Principles”) of notice, choice, onward transfer, security, data integrity, access and enforcement. To learn more about the Safe Harbor Principles, and to view our certification, please visit <http://www.export.gov/safeharbor/>.

12. Through the means described in Paragraph 11, respondent represents, expressly or by implication, that it is a “current” participant in the U.S.-EU Safe Harbor Framework.
13. In truth and in fact, from May 2011 until December 2013, respondent was not a “current” participant in the U.S.-EU Safe Harbor Framework. Therefore, the representation set forth in Paragraph 12 was false and misleading.
14. The acts and practices of respondent as alleged in this complaint constitute deceptive acts or practices, in or affecting commerce, in violation of Section 5(a) of the Federal Trade Commission Act.

THEREFORE, the Federal Trade Commission this ___ day of ____ 2014, has issued this complaint against respondent.

By the Commission.

Donald S. Clark
Secretary

SEAL
ISSUED: