



# ANA Privacy Shield Annual Report

August 1, 2018 - July 31, 2019

## Report Summary:

- Background of Privacy Shield Frameworks
- About the ANA Privacy Shield Program
  - Participating Companies
  - Complaint Overview
  - Renewal Process
  - Outreach & Resources

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# What are the Privacy Shield Frameworks?

## Legal Means for Transferring Data from Europe\* to U.S.

\*Switzerland modelled its Privacy Shield Framework after the EU-U.S. Privacy Shield Framework – same privacy principles apply

EU legislators put restrictions on transfers of personal data outside of the EU, specifying that such data could only be exported if “adequate protection” is provided.

The European Commission (EC) is responsible for assessing whether a country outside the EU has a legal framework that provides sufficient protection for it to issue an “adequacy finding” to that country.

The U.S. not found adequate by the EC – no national comprehensive data privacy law – patchwork of self regulation; state and federal laws. This means that U.S. companies can only receive personal data from the EU if they:

Join [EU-U.S. Privacy Shield](#) and/or Swiss-U.S. Privacy Shield, or

Provide appropriate safeguards (e.g. [contractual clauses](#), [binding corporate rules](#)).

# Key Components to Join Shield Frameworks



**Designate an accountable executive and train appropriate staff**



**Operationalize and verify compliance with core Privacy Principles:**

Notice, Choice, Security; Onward Transfer  
Data integrity and purpose limitation; Access;  
and Recourse, enforcement and liability



**Update your Privacy Shield Notice – ANA staff can review/not certify.**



**Update your third-party contracts to comply with onward transfer principle**



**Select a third party (ANA) to serve as your Dispute Resolution Provider**



**Self-certify with U.S. Department of Commerce, annually**



**Pay initial fee to Arbitration Fund.**

# ANA Privacy Shield Program Overview



## ANA & DMA:

### Privacy Shield Dispute Resolution Services Continue...

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The Association of National Advertisers (ANA) acquired DMA during this reporting period. It was included as a division and part of the ANA. ANA Accountability offers uninterrupted privacy shield dispute resolution services to existing DMA members and has expanded its offering of such services to interested ANA members.

Depending on the company's membership level, its annual fee will be either complimentary (included in its membership package) or \$300.

Companies interested in selecting the ANA Privacy Shield Dispute Program must submit an application which includes: signed contract, contact sheet, copy of the Privacy Shield policy statement, and annual Privacy Shield fee, if appropriate.

- **General ANA Membership Questions?**
- **ANA Privacy Shield Program Questions?**



## Key Components of ANA Privacy Shield Program

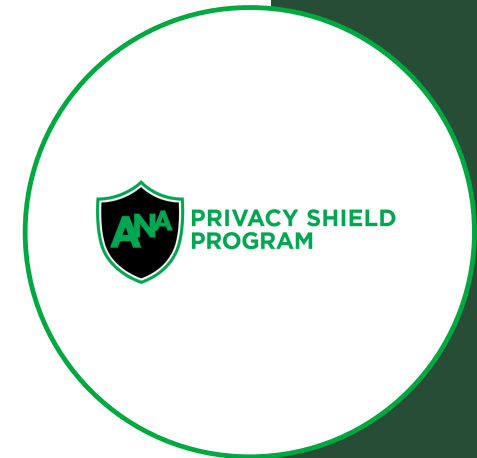
- Serves as a 3<sup>rd</sup> party, independent dispute resolution provider for unresolved European/Swiss data privacy complaints.
- Covers offline and online data issues.
- Provides technical assistance; and compliance materials – including a staff review of the company’s Shield privacy policy statement.
- Be accessible so that there are no barriers to the filing of a complaint, free to consumers;
- Provides finality for the consumer by reaching an independent determination of the dispute in a fair and timely manner; and
- Provides enforceability of the final conclusions in the determination of the consumer’s dispute
- Provides an ANA Privacy Shield Mark.
- Does not provide verification services.



# Participating Companies and Complaint Overview

# The ANA Privacy Shield Program Executive Summary

- This reporting period covers activity: August 1<sup>st</sup>, 2018 – July 31, 2019
- The DMA Privacy Shield Program transitioned to the ANA Privacy Shield Program during this reporting period (due to its acquisition).
- The ANA Privacy Shield Program serves 48 participating member companies. Enrollment is ongoing.
- 6 DMA/ANA participants did not renew with ANA.
- 4 new participants joined the ANA Privacy Shield Program.
- During this reporting period, ANA did not receive any eligible complaints under the ANA Privacy Shield Program.

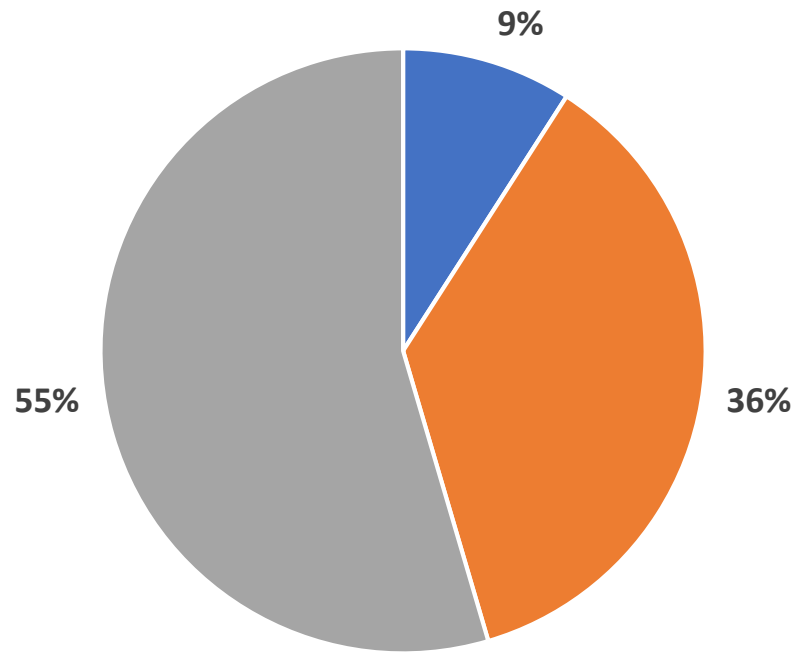




# The ANA Privacy Shield Participant Survey

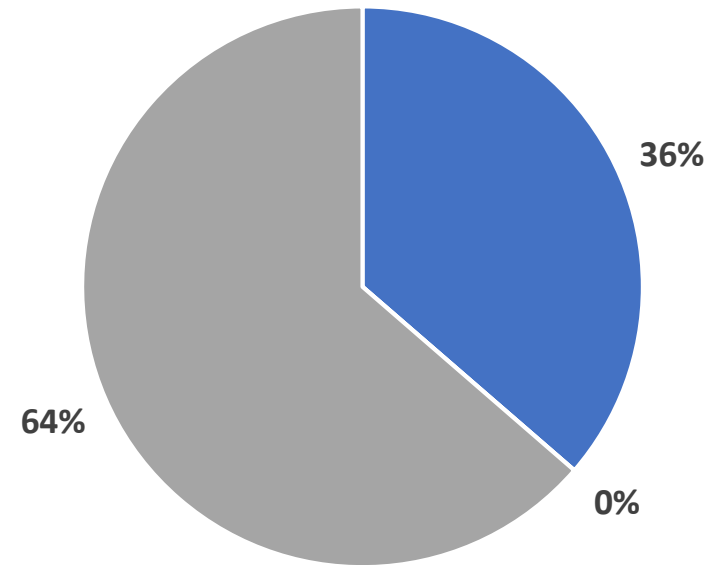
ANA polled its Privacy Shield participating companies in July 2019 to ascertain additional information regarding their Shield status: Over half self-identified with being labelled as both a data controller and processor of information, and 64% are participants in both the EU and Swiss frameworks.

Type of Company



■ Data Controller ■ Data Processor ■ Both

Privacy Shield Program Participant



■ EU-U.S. Privacy Shield Program ■ Swiss-U.S. Privacy Shield Program  
■ Both

# Processing Complaints Under ANA Privacy Shield Program



**Contact company or organization directly with European or Swiss data privacy concern.**

Contact information can be found in company's privacy policy or via the Privacy Shield List.

Organization must respond to your complaint within 45 days.



**Companies must sign contract to agree to abide by the decisions of the ANA Privacy Shield Program.**



**Process handled staff-to-staff level. Complaint forms and dedicated email address created:**

[privacyshield@thedma.org](mailto:privacyshield@thedma.org)

<https://thedma.org/resources/consumer-resources/privacyshield-consumers/>



**Escalation: referred to ANA Privacy Shield Committee. The Committee hears both sides of a dispute and provides final determination.**



**Committee takes steps to final resolution including:**

Correction/deletion of inaccurate information, correction of actions found not to be in compliance, publicity, and/or referral to FTC/DOC.

In previous reporting periods, staff has addressed complaints within 30 days – our standard resolution occurring within 5-7 business days.

# Additional Avenues for Handling Complaints

- **CONTACT YOUR DATA PROTECTION AUTHORITY (DPA)**

- You can always submit a complaint directly to your [local DPA](#) or the [Swiss Federal Data Protection and Information Commissioner](#). Your DPA or the Swiss Commissioner may refer your complaint directly to the U.S. Department of Commerce on your behalf.
- The U.S. Department of Commerce's Privacy Shield Team will work with the organization and complainant to seek to resolve the concern.

- **INVOKE BINDING ARBITRATION**

- If your complaint is not resolved after following the steps above, you may have the ability to invoke [binding arbitration](#).

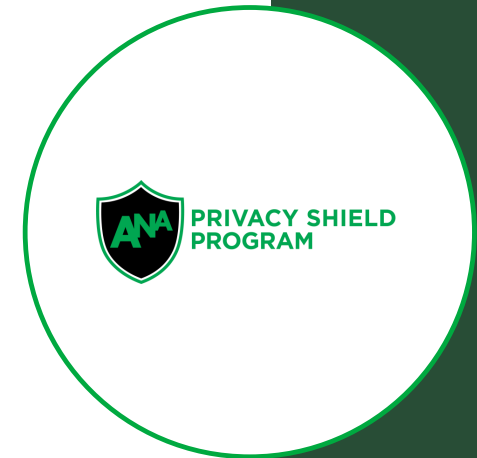
- **CONTACT THE APPROPRIATE U.S. ENFORCEMENT AUTHORITY**

- In most instances, the relevant U.S. enforcement authority is [the Federal Trade Commission \(FTC\)](#). To submit a complaint to the FTC, click [here](#). The FTC uses complaints in its database, accessible by other law enforcement agencies, to identify trends, determine priorities, and identify potential investigative targets. Please note that the FTC does not resolve or mediate individual complaints, so you are encouraged to use the other complaint resolution mechanisms noted above as well.

# ANA Privacy Shield Renewal Process & Fees

# ANA Privacy Shield Program Renewal Process

- During this transition year of ANA's acquisition of DMA, staff reached out to its participants during the reporting period with organizational & program updates and enforcement announcements including but not limited to the recent FTC enforcement and warning letters issued.
- Staff provided ANA Privacy Shield participants with updated contact information and logo for them to post in their Privacy Shield notices.
- Staff asked companies to provide ANA with any updated Privacy Shield notices for staff review and filing.
- Staff reviewed privacy shield notices and provided recommended edits as needed.
- Staff reached out to U.S. Department of Commerce as needed and appropriate upon request of participants – for status updates on self-certification renewals and new applications.
- ANA reduced its fees for eligible participants to join. It's either included with ANA membership or participants pay \$300 annually depending on member dues level. There's still a separate application and staff review process.



# ANA Annual Dispute Resolution Fees: ANA & ASM Membership



<b>ANA Client-Side Marketers (CSM) or Marketing Solutions Providers (MSP) at the Gold or Platinum Level: For single or both frameworks/year</b>	<b>ANA or MSP Silver Members: for single or both frameworks/year</b>
Complimentary: value-added member benefit	\$300

# Additional Privacy Shield Fees

- **Contribution to Arbitral Fund (not annual)** – if inquiry is not resolved to complainant’s satisfaction by company or dispute resolution provider – can refer matter to binding arbitration.
- **U.S. Department of Commerce Annual Self Certification Fee**

**Privacy Shield Arbitral Fund Fee Schedule**  
*Approved by the U.S. Department of Commerce on September 5, 2017*

Participating Organization Annual Revenue	Required Contribution
\$0 to \$5 million	\$250
Over \$5 million to \$25 Million	\$500
Over \$25 million to \$500 million	\$1,000
Over \$500 million to \$5 billion	\$5,000
Over \$5 billion	\$10,000

## Commerce Annual Certification Fees:

Organization’s Annual Revenue:	Single Framework/Both Frameworks:
\$0 to \$5 million	\$250/\$375
Over \$5 million to \$25 million	\$650/\$975
Over \$25 million to \$500 million	\$1,000/\$1,500
Over \$500 million to \$5 billion	\$2,500/\$3,750
Over \$5 billion	\$3,250/\$4,875

# Renewal Process



**ANA Privacy Shield participating company renews annually with ANA that they would still like ANA to serve as their mediator. ANA membership is required to participate in the ANA Privacy Shield program. Depending on ANA membership level, fees are either complimentary or \$300.**



**Must renew annually with the U.S. Department of Commerce that they still want to participate in the Privacy Shield program(s). Annually fee with Commerce as well: <https://privacyshield.gov>**



**Initially must contribute to an Arbitration Fund (not annual).**



# ANA Privacy Shield Education & Resources

# ANA Privacy Shield Outreach & Transparency



To promote clarity, accessibility and transparency, ANA requires its participating members to provide in its Privacy Shield Notice:

- Company contact information,
- Appropriate ANA Privacy Shield contact information
- ANA Privacy Shield logo



ANA has a dedicated email address at [privacyshield@thedma.org](mailto:privacyshield@thedma.org) for an EU or Swiss consumer or business to contact us regarding a data privacy complaint.



ANA has both [industry](#) and [consumer](#) facing websites for privacy shield compliance



ANA Accountability has held webinars; attended and hosted conferences and industry briefings on Privacy Shield and GDPR.



ANA Accountability has reached out to its participants periodically to share program and enforcement activities and updates.

# ANA Accountability Resources for Responsible Marketing

## GUIDELINES AND INDUSTRY COMPLIANCE RESOURCES

- Guidelines for Ethical Best Practice: [thedma.org/Guidelines](https://thedma.org/Guidelines)
- Data Standards 2.0: [thedma.org/DataStandards](https://thedma.org/DataStandards)
- Ethics and Compliance Resources: [thedma.org/ComplianceResources](https://thedma.org/ComplianceResources)

## INTEREST-BASED ADVERTISING (IBA)

- Businesses should sign up for the icon at: [AboutAds.info](https://AboutAds.info)
- Consumers can submit their opt-out requests at: [youradchoices.com](https://youradchoices.com)
- To file an interest-based ads complaint: <https://thedma.org/accountability/file-a-complaint-unwanted-online-ad/>

## CONSUMER COMPLAINT AND COMPLIANCE RESOURCES

- Consumer Help: [thedma.org/ConsumerHelp](https://thedma.org/ConsumerHelp)
- DMAChoice – consumer mail management service: [DMAChoice.org](https://DMAChoice.org)
- Consumer Complaint Handling Process: <https://thedma.org/resources/consumer-resources/>
- To file a general ethics complaint: <https://thedma.org/accountability/file-ethics-general-complaint/>
- Questions about guidelines/business ethics: [ethics@thedma.org](mailto:ethics@thedma.org)
- Complaint Services: [thedma.org/FileComplaint](https://thedma.org/FileComplaint)

## ANA'S PRIVACY SHIELD PROGRAM

- Privacy Shield: [privacyshield@thedma.org](mailto:privacyshield@thedma.org)
- For Businesses: <https://thedma.org/resources/compliance-resources/privacy-shield-guide/>
- For Consumers: <https://thedma.org/resources/consumer-resources/privacyshield-consumers/>