

NYT - Penny Pritzker on the Privacy Shield Pact With Europe

By MARK SCOTT MARCH 8, 2016

Secretary of Commerce Penny Pritzker led the American negotiating team at the privacy talks. Credit Rebecca Blackwell/Associated Press

The E.U.-U.S. Privacy Shield may, at first blush, sound like a pretty boring group of superhero characters. But the agreement, whose details [were released](#) late last month, will have a major impact on how companies collect, manage and use digital data transferred from Europe to the United States.

It places a greater onus on companies like Google and General Electric to ensure people's digital information — from social media posts to employee payroll data — is not misused. The deal also forces the United States government to further limit what access the country's intelligence agencies have to Europeans' data when it is moved across the Atlantic.

The European Court of Justice, the region's highest court, [ruled last year](#) that the previous data-transfer agreement was invalid because it did not provide sufficient protection for European citizens when their data was transferred to the United States.

The new deal, though, did not come without a fight. American and European negotiators [bickered](#) over many of the proposals, partly because both sides [took different views](#) on how individuals' data protection rights should be handled. In Europe, privacy is seen as a fundamental right on par with freedom of expression, while in the United States, a number of privacy laws apply only to specific sectors, like health and credit.

[Penny Pritzker](#), the United States commerce secretary who led the American negotiating team, recently talked with The New York Times about the new data-transfer deal, what it means for people and how privacy is viewed differently on the two sides of the Atlantic. This interview has been condensed and edited for clarity.

Q. *What is the importance of the new Privacy Shield?*

A. It allows us to acknowledge that even though we have different systems when it comes to privacy, they are both strong enough to protect the \$260 billion of trans-Atlantic commerce that depends on having the Privacy Shield in place.

Q. *There has been criticism that the deal does not go far enough to protect people's privacy. What's your response to that?*

A. We feel very strongly that we have met Europe's privacy conditions. The college of European Commissioners also came to the same conclusion. We looked very carefully at all of the provisions to make sure that the new framework fully met the standards set by the European Court of Justice.

Q. *What were the hardest compromises that you had to make to reach a final agreement?*

A. The issues in the end that took the longest time were around the ombudsman proposal (an official in the State Department that will review European complaints about American intelligence agencies' access to their data) and the arbitration proposal (the ability for Europeans to seek legal remedies from American companies when they believe their digital information is misused).

The issue with the ombudsman was to ensure she had the ability to access the information required from our intelligence community, and to explain to the Europeans that she reported through the secretary of state, not through the intelligence community, so that she is independent.

On the arbitration proposal, there were questions on how was it going to work in practice, and to make sure that it would not be overly onerous for either European citizens or U.S. companies.

Q. *How did you balance the American view on privacy with the somewhat different European view?*

A. The U.S. has a different structure than Europe, but both systems offer robust privacy protection. Part of the challenge was to make sure that the European negotiators understood how our system works.

Unlike the E.U., we don't have a single overarching privacy law. We have sectoral laws. It was important to explain to them how our system works. Now, the Privacy Shield provides a bridge between the two regions, acknowledging the effectiveness of both systems.

Q. *Do you think the United States has sufficient privacy protections in place for people's day-to-day activities?*

A. Yes. We have a very robust privacy structure, and the issues that were called into question by Europe have been addressed by the president (who has issued a number of executive orders to bolster privacy rights). The awareness of privacy by digital companies has only risen, and you have seen some of those companies take their own actions to protect privacy.

Q. *The negotiations at times were pretty difficult. And even now, privacy campaigners are threatening to take the new agreement to court. So can the Privacy Shield be seen as a success?*

A. We did our best to get a strong agreement to make sure that people understood that their privacy would be protected. Trust in the Internet and trust in the ability to send data back and forth is fundamental to the global economy.

What we tried to do is get a durable agreement so that in the long term, individuals and businesses can rely on the Privacy Shield.

Source: http://www.nytimes.com/2016/03/09/technology/penny-pritzker-on-the-privacy-shield-pact-with-europe.html?ref=business&_r=0