



POSITION STATEMENT

DATED 23 October 2015

The European Court of Justice judgment declared as “invalid” the European Commission’s Decision 2000/520/EC of 26 July 2000 “on the adequacy of the protection provided by the safe harbour privacy principles and related frequently asked questions issued by the US Department of Commerce.”

BACKGROUND:

- Movio is the global market-leading provider of cloud-based analytics and campaign management solutions to cinema exhibitors. Developed in New Zealand, Movio is part of the Vista Group of companies which listed on the New Zealand (NZX: VGL) and Australian (ASX: VGI) Stock Exchanges in August 2014;
- Movio Cinema connects to existing cinema loyalty programmes and tracks individual loyalty member’s interactions with the cinema. Movio Cinema processes the data to profile loyalty members and serve the information back to the cinema for analysis of the audience and for the creation of targeted marketing initiatives all delivered via the Movio’s cloud-based platforms;
- This statement outlines Movio’s position with respect to the Safe Harbour framework and the recent European Court of Justice judgment pertaining to the Safe Harbour framework;

PART ONE: THE US-EU & US-SWISS SAFE HARBOUR FRAMEWORKS.

During October 1998, the European Parliament put into effect Directive 95/46/EC on the protection of individuals with regard to the processing of personal data and on the free movement of such data. The directive provides a regulatory framework to guarantee secure and free cross-boarder movement of data within European Union (EU) Member Nations while establishing a baseline of security around personal information wherever it is stored, transmitted or processed. The directive prohibits the the transfer of personal data to non-EU countries that do not meet the EU “adequacy” standards for privacy protection.

According to a United States (US) Government website, the US use a sectoral approach to Data Protection that relies on a combination of legislation, regulation and self-regulation.

In November 2000 the US Department of Commerce in consultation with the European Commission established a “US-EU Safe Harbour” agreement in response to the directive. The agreement is a policy compromise that sets out a framework which provides a “streamlined and cost effective means for US organisations to satisfy the directive’s ‘adequacy’ requirements”¹.

The Swiss Federal Act on Data Protection (FADP) went into effect in July 1993 and applies to the processing of data pertaining to Swiss nationals by individuals or organisations. It stipulates that “Personal data may not be disclosed abroad if the privacy of the data subjects

¹ export.gov/safeharbor



would be seriously endangered thereby, in particular due to the absence of legislation that guarantees adequate protection”.

In February 2009 the U.S. Department of Commerce in consultation with the Federal Data Protection and Information Commissioner of Switzerland officially declared the US – Swiss Safe Harbour Privacy Principles. The agreement was again a policy compromise establishing a framework providing “for U.S. organizations to avoid experiencing interruptions in their business dealings with Switzerland or facing prosecution by Swiss authorities under Swiss privacy law”².

PART TWO: PERSONAL DATA STORED, TRANSMITTED AND PROCESSED IN MOVIO CINEMA.

Movio’s platforms are hosted on Amazon Web Services (AWS). Movio chooses to partner with AWS for the specific security benefits (highly accredited, high availability, highly automated, constantly monitored and securely designed), the range of product features offered and AWS’s commitment to compliance with accredited bodies³. AWS has been recognized as the only leader in a recent Public Cloud Security report⁴ published by influential research and advisory firm, Forrester Research. The report evaluation includes comments like “Microsoft and AWS have the strongest security services partner ecosystem” and “AWS’s and CenturyLink’s customers felt that their security controls and approach to security exceeded their expectations”.

A cinema can import personal data into Movio Cinema from various sources including their newsletter email lists and directly from their loyalty programme. The list below shows the types of data that Movio stores on AWS) for the purposes of profiling cinema loyalty members. This list is not exhaustive, but is intended to provide an accurate representation of the most personally identifiable information being used. Movio Cinema does not use any data inference or enrichment services to obtain this data, the cinema’s loyalty member personally volunteers all of the information stored.

Cinema loyalty member information stored within Movio Cinema:

- Demographic - Loyalty member contact details, age & gender
- Location - Country, city, state, suburb and post codes
- Subscription - Member’s preferences for how to contact them, including email address and mobile number.
- Loyalty - Loyalty programme membership information including date of joining and points loyalty balance.
- Transactional - Details of member’s loyalty transactions with the cinema.
- Other - Member profile data including preferred cinema and loyalty card number.

Movio Cinema uses the data to profile each loyalty member. The profile information is then served back to the cinema via their instance of Movio Cinema, providing them with the ability to:

1. Search their loyalty members and display the following:
 - a. Demographic information.
 - b. Subscription info

² [export.gov/safeharbor/swiss](https://www.export.gov/safeharbor/swiss)

³ aws.amazon.com/compliance

⁴ aws.amazon.com/resources/download-forrester-pc-report-emea



- c. Loyalty programme information.
 - d. Marketing information.
 - e. Transactional information.
2. Group their loyalty members in order to contact them with targeted marketing campaigns.
3. Create personalized campaigns to send to loyalty members by adding fields that populate with member specific information.

Each marketing campaign executed on Movio Cinema and sent, via whichever medium the cinema chooses, is processed entirely within the Movio Cinema platform from design to execution until it is ultimately delivered to the cinema's loyalty member.

At the point of execution during a cinema's marketing campaign the message will be delivered from Movio Cinema to the cinema's loyalty member. Movio's campaigns are designed and tested to work equally well across mobile devices and email clients. As such, Movio Cinema makes no attempt to control the destination of the message as selected by the loyalty member. Where the loyalty member has chosen to receive the campaign message will determine where Movio Cinema transmits the message. Movio deems the loyalty member responsible for the control of where the campaign message is transferred to once it leaves the platform and is unable to make any representation as to the adequacy of the privacy protection of the destination as defined by EU and Swiss laws.

PART THREE: MOVIO'S STATEMENT ON THE SAFE HARBOUR FRAMEWORK.

Movio would like to confirm that all personal data stored, transmitted and processed within the Movio Cinema platform is retained on the AWS services at the data centre in that physical EU based location. Personal data stored within the Movio Cinema platform will remain under the sole ownership of the cinema operator. At no time will Movio attempt to transfer personal data from an EU Member Nation to the US under the provisions of the Safe Harbour framework, its revised successor agreement or any other avenue made available for an organisation to transfer personal data outside the EU without obtaining prior written agreement from the owner of that data.