

## APEC CBPR and PRP Dispute Resolution Procedure Rules

### **Part 1: Procedure Overview and Definitions**

#### **1.1 Overview**

BBB National Programs administers an Asia Pacific Economic Cooperation (“APEC”) Cross Border Privacy Rules (“CBPR”) and Privacy Recognition for Processors (“PRP”) Dispute Resolution Procedure (“Procedure”) pursuant to the BBB National Programs’ APEC CBPR and PRP Programs. This Procedure provides for the resolution<sup>1</sup> of complaints alleging that a business participating in BBB National Programs’ APEC CBPR and/or PRP Programs (“Participant”) has failed to comply with the BBB National Programs’ APEC CBPR and/or PRP Program requirements. By participating in the Procedure, all parties agree to abide by the rules set forth below.

#### **1.2 Definitions**

- (a) **“BBB National Programs”** is the dispute resolution provider that administers the Procedure.
- (b) **“Complaint”** means an allegation that a Respondent has failed to comply with the CBPR or PRP Program requirements.
- (c) **“Complainant”** means an individual who has filed a Complaint with the Procedure.
- (d) **“Case”** means a Complaint that BBB National Programs has determined to be eligible in accordance with Part 2.
- (e) **“Decision”** means the judgment reached by BBB National Programs based on the merits of the Case after considering all the evidence presented pursuant to this Procedure. All Decisions related to any Complaint made pursuant to this Procedure, including determinations of eligibility, are made within BBB National Programs’ sole discretion.
- (f) **“Participant”** has the meaning set forth in Section 1.1.
- (g) **“Parties”** are the Complainant and Respondent.
- (h) **“Personal Information”** is information relating to an identified or identifiable individual.
- (i) **“CBPR and PRP Program Requirements”** are those standards adopted by APEC Member Economies against which BBB National Programs has been approved to certify, available at: [www.cbpr.org/documents](http://www.cbpr.org/documents).
- (j) **“Procedure”** has the meaning set forth in Section 1.1.
- (k) **“Respondent”** is a Participant alleged by Complainant to have failed to comply with the CBPR and/or PRP Program Requirements.

### **Part 2: Eligibility**

#### **2.1 Initial Review of Complaints**

Upon contact by a potential Complainant, BBB National Programs will identify initial information about the potential Complaint and will seek additional information needed to determine eligibility. BBB National Programs will open a Case when it determines that the Complaint is eligible for resolution under the Procedure.

#### **2.2. Verifying Identity of Complainant**

BBB National Programs shall take reasonable steps to verify the identity of the Complainant. If, in the sole discretion of BBB National Programs, the identity of the Complainant cannot be verified, BBB National Programs shall decline to open a Case.

#### **2.3 Eligible Complaint**

To be eligible, a Complaint must:

- (a) Be made against a Participant;

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<sup>1</sup> BBB National Programs may not order any corrective action, require payment of monetary damages, or require the Respondent to violate its legal obligations.



- (b) Allege that the Respondent failed to comply with the CBPR and/or PRP Program Requirements in relation to Complainant's covered Personal Data; include information to support Complainant's allegations as required by Section 2.3.1; follow a good faith effort to resolve the Complaint as required by Section 2.3.2; and not have been previously resolved by the Procedure, or by court action, arbitration, or other form of dispute settlement; and
- (c) Unless both Parties agree otherwise, not be currently the subject of litigation or any other adjudicatory process (including claims submitted for resolution through binding arbitration).

### **2.3.1 Information Required to Support a Complaint**

Information submitted by a Complainant must be sufficient to permit both BBB National Programs and the Respondent to evaluate the Complaint adequately, and to enable the Respondent to respond to the Complaint. BBB National Programs shall be the sole decisionmaker of whether the information submitted is sufficient.

### **2.3.2 Prior Good Faith Attempt to Resolve Complaint**

Prior to filing a Complaint with the Procedure, the Complainant must have made a good faith attempt to resolve the Complaint directly with the Respondent.

### **2.4 Eligibility Determination**

BBB National Programs shall determine whether the Complaint is eligible and shall notify the Complainant within ten (10) days of the receipt of a Complaint of the following actions:

- (a) If BBB National Programs concludes that a Complaint is eligible and contains all necessary information, it shall docket the Complaint as a Case. BBB National Programs will then request a response from the Respondent within ten (10) days of opening the Case.
- (b) If BBB National Programs concludes that additional information is needed to sustain a Complaint, it shall promptly request the information from the Complainant. If the Complainant fails to provide the requested information within five (5) days, BBB National Programs may advise the Complainant that it cannot process the Complaint and that it will be closed.
- (c) If BBB National Programs concludes that a Complaint is not eligible for reasons other than a lack of information, it shall advise the Complainant that BBB National Programs cannot process the Complaint and that it will be closed. Where appropriate, BBB National Programs may provide the Complainant with the name and address of another organization, agency, or group that may have jurisdiction over the Complaint.

## **Part 3: Decision**

### **3.1 Issuance**

For those Complaints deemed eligible under 2.4(a) or (b), BBB National Programs shall make commercially reasonable efforts to provide a written Decision to the Parties within ten (10) days after receipt of all information as provided by the Parties. The Decision shall state whether and why corrective action is or is not necessary and if it is, provide a commercially reasonable time frame for such action to be implemented.

If BBB National Programs determines no further action by the Respondent is required, it will notify the Parties and close the Case.

If BBB National Programs determines that changes to the Respondent's privacy policies or practices are necessary to correct any noncompliance with the CBPR and/or PRP Program Requirements, the Respondent must submit a statement to BBB National Programs indicating whether and how it will comply with the Decision within five (5) days of its receipt of the Decision. BBB National Programs will notify the Parties once the required changes have been made and close the Case.



### **3.2 Noncompliance**

BBB National Programs shall consider the Respondent's failure to respond or refusal to implement the identified corrective actions as noncompliant with the Decision. In such instances, BBB National Programs may suspend or terminate Respondent's participation in the CBPR and/or PRP Programs. In addition, in its sole discretion, BBB National Programs may report Respondent's non-compliance to the Federal Trade Commission ("FTC") or other appropriate government agency.

### **Part 4: Publication of Complaint Statistics and Case Notes**

BBB National Programs shall annually report complaint statistics and anonymous case notes to the APEC CBPR and PRP Joint Oversight Panel. This Report will be published on the BBB National Programs APEC CBPR and PRP web pages and shall:

- (a) Provide a statistical summary of the number and nature of contacts from the public and the actions taken by BBB National Programs with respect to or those contacts. The statistical summary shall be comprised of aggregated data and shall not contain any Party-specific data.
- (b) Provide a statistical summary of the number and nature of Complaints deemed ineligible for processing during the period, including the specific reason for a determination of ineligibility. The statistical summary shall be comprised of aggregated data and shall not contain any Party-specific data.
- (c) Provide case notes on a selection of resolved complaints illustrating typical or significant interpretations and notable outcomes pursuant to the requirements of [APEC Accountability Agent Recognition Application, Annex D](#).

### **Part 5: General Provisions**

#### **5.1 Parties' Waiver of Subpoena Rights and Liability Claims**

By participating in the Procedure, the Parties agree that they will not subpoena any of the following in any legal proceeding arising out of the matters at issue in the Procedure: BBB National Programs, its respective directors, officers, employees, independent contractors, volunteers, and agents, or any records of the Procedure. The Parties also agree that the following shall not be liable for any act or omission in connection with the Procedure: BBB National Programs, its respective directors, officers, employees, independent contractors, volunteers, and agents.

#### **5.2 Confidentiality of Procedure Files**

All deliberations, meetings, proceedings, and writings of the Procedure shall be sealed from public access and shall be treated as confidential by BBB National Programs except in the case of a referral to appropriate government agencies pursuant to Section 3.2. After the Procedure has been concluded and the Case has been closed, the Decision shall be the only permanent record required to be kept by BBB National Programs as to the basis of a Complaint, the issues defined, the facts and information presented, and the agreement reached by the parties or the conclusions reached by the Panelist.

#### **5.3 Language**

All proceedings will be conducted primarily in English. BBB National Programs shall furnish translation and interpretation services to the Parties as needed. All Decisions and associated documentation will be published in English.