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UNITED STATES OF AMERICA
FEDERAL TRADE COMMISSION

COMMISSIONERS: Edith Ramirez, Chairwoman
Julie Brill

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 Safe Harbor Framework.

Violations of Section 5 of the FTC Act

9. Since at least January 2015, respondent has disseminated or caused to be disseminated privacy policies and statements on the <http://www.racingadventure.com/privacy> website, including, but not limited to, the following statement:

Dale Jarrett Racing adventure adheres to the US Safe Harbor Privacy Principles of Notice, Choice, Onward Transfer, Security, Data Integrity, Access and Enforcement, and is registered with the U.S. Department of Commerce’s Safe Harbor Program. Dale Jarrett Racing adventure regularly reviews its compliance with this Privacy Policy. When we receive formal written complaints, we fix the issues at hand. (emphasis added)

10. Through the means described in Paragraph 9, respondent represented, expressly or by implication, that it is a current participant in the U.S.-EU Safe Harbor Framework.

11. In truth and in fact, respondent is not and never has been a participant in the U.S.-EU Safe Harbor Framework. Therefore, the representation set forth in Paragraph 10 was, and is, false and misleading.

