

**Question for written answer P-005158/2016
to the Commission**
Rule 130
Sorin Moisă (S&D)

Subject: Privacy Shield against the backdrop of recent developments in US enforcement powers over Internet Service Providers

The Schrems ruling stipulated that the USA must have data protection rules that are 'essentially equivalent' to those of the EU. In the draft adequacy decision 'Privacy Shield', the USA says that the protection it provides is already 'essentially equivalent', an argument that is based on the blueprint applied by the Federal Trade Commission (FTC).

This blueprint is likely to change. In 2015, the Federal Communications Commission (FCC) reclassified broadband Internet Service Providers (ISPs) to put them outside the FTC's jurisdiction. On 31 March 2016, a proposal was approved to expand its enforcement powers over ISPs and create a new privacy regulator to oversee data-based activities alongside the FTC. There will also be a new set of sectorial data protection rules for the ISP sector that will not apply to 'over-the-top' (OTT) service providers, who handle user-generated data in a similar way.

Does the Commission believe that the USA should use the old FTC blueprint to argue that its data protection rules are 'essentially equivalent' to the EU's?

Following the European Data Protection Supervisor's request for clarification on the respective roles of the FTC and the FCC (Opinion 4/2016), can the Commission explain if this development could impact on transatlantic data transfers?