

John P. Tomaszewski, Esq.
General Counsel & Corporate Secretary
johnt@truste.com



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Joshua Harris
Office of Technology and Electronic Commerce
International Trade Administration
U.S. Department of Commerce
1401 Constitution Ave. NW
Room 4324
Washington, DC 20230
Email: joshua.harris@trade.gov

Re: Submission of Completed Accountability Agent APEC Recognition Application for review

TRUSTe appreciates the opportunity to apply to become an APEC recognized Accountability Agent under the APEC Cross Border Privacy Rules (CBPR) System.

As a US-based commercial entity, TRUSTe is subject to the regulatory oversight and enforcement authority of the United States Federal Trade Commission (FTC) which is recognized as the regulatory enforcement authority in the United States.

In order to be considered eligible for recognition, TRUSTe has outlined how it meets the Accountability Agent Recognition Criteria outlined in Annex A utilizing the Accountability Agent Recognition Criteria Checklist provided in Annex B.

Responses to the questions in the Accountability Agent Recognition Criteria Checklist (Annex B) are provided below in the following sections:

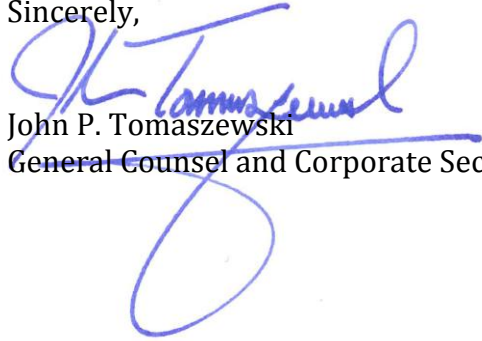
- Conflicts of Interest
- Program Requirements
- Certification Process
- On-going Monitoring and Compliance Review Process
- Re-Certification and Annual Attestation
- Dispute Resolution Process
- Mechanism for Enforcing Program Requirements

Documentation to support the answers to the questions in Annex B is provided as appendices that are listed at the end of this document.

Also included in this application packet is Annex C demonstrating how TRUSTe's current intake process meets the baseline established by the CBPR's, and Annex F including application signature and contact information sheet.

Please accept this packet as TRUSTe's application to be a recognized accountability agent under the CBPR system. For questions regarding this application, please contact Joanne Furtsch, Director of Product Policy, at jfurtsch@truste.com.

Sincerely,



John P. Tomaszewski
General Counsel and Corporate Secretary

Accountability Agent Recognition Criteria Checklist

Conflicts of Interest

- 1. Applicant Accountability Agent should describe how requirements 1(a) and (b) in Annex A have been met and submit all applicable written policies and documentation.*

The integrity of the TRUSTe certification process is central to its value. As a consequence, TRUSTe takes significant steps to ensure that any potential conflicts of interest are sufficiently mitigated. This is achieved via two different methods.

First, under US trademark law, TRUSTe is required to apply its certification standards in an impartial manner. Any application of the certification process which is done outside of an impartial manner would put TRUSTe's entire business at risk. This is particularly true since TRUSTe's functional regulator is the FTC - the same regulator who is the privacy enforcement authority under the APEC CBPR framework.

Second, TRUSTe does not engage with its clients to perform consulting services outside of the functions described in paragraphs 5 - 14 of the Accountability Agent Recognition Criteria.

Even were TRUSTe to provide consulting services, such services would be provisioned by completely separate staff. For example, where TRUSTe does consult with regard to privacy practices not specifically addressed by a certification program, such work is executed by a member of the Legal department staff, as opposed to Operations staff.

- 2. Applicant Accountability Agent should submit an overview of the internal structural and procedural safeguards to address any of the potential or actual conflicts of interest identified in 2(b) of Annex A*

All TRUSTe employees owe a duty of loyalty to TRUSTe. This is a fundamental component of employment law in the state of California. As a consequence, no employee of TRUSTe can be employed by any other entity, whether that entity is a licensee of TRUSTe or not. This includes Officers of TRUSTe as Officers are also employees.

With regard to Directors of TRUSTe, there are several legal requirements in place as well. First, Directors do not have day today operational responsibilities. In point of fact, corporate governance requirements in the

United States significantly restrict a Director's ability to influence day-to-day management of the corporation. Where a Director may have a potential conflict of interest would be in a commercial transaction normally classified as an "insider transaction". Article 9 of TRUSTe's Articles of Incorporation impose penalties on any Director that violates their duty of loyalty to the corporation. Based on this fundamental fiduciary duty, directors of TRUSTe will recuse themselves from voting on any matter which can give rise to conflict of interest as contemplated by section 2(b).

3. *Applicant Accountability Agent should describe the disclosure/withdrawal mechanisms to be used in the event of any actual conflict of interest identified.*

Where a Director identifies a conflict of interest, that Director shall either 1) recuse themselves in the event that the conflict of interest arises from a relationship that Director has, or require the Director with the conflict of interest to recuse themselves. This is a fundamental requirement of the fiduciary duty inherent in the membership of the Board of Directors.

Program Requirements

4. *Applicant Accountability Agent should indicate whether it intends to use the relevant template documentation developed by APEC or make use of Annex C to map its existing intake procedures program requirements.*

TRUSTe meets this requirement and used Annex C to map its current Privacy Certification Program Requirements to the Assessment Criteria. Please see the APEC Cross-Border Privacy Rules System Program Requirements Map (Annex C) for additional detail.

Certification Process

5. *Applicant Accountability Agent should submit a description of how the requirements as identified in 5 (a) – (d) of Annex A have been met.*

TRUSTe meets these requirements. TRUSTe has a commercially reasonable, but comprehensive, process in place to review a program applicant organization's policies and practices with respect to the program applicant participation in the Cross Border Privacy Rules System; and to verify its compliance with the Accountability Agent's Program Requirements.

Overall, TRUSTe uses a combination of three different methodologies to conduct the privacy certification review: a manual evaluation of the client's practices; the program applicant's own attestations; and interviews, and monitoring through TRUSTe's proprietary technology and tools. The extent to which we use one methodology over another is dependent on a client's

risk profile and TRUSTe’s capacity to use that particular methodology. We examine how the program applicant collects, uses and shares personal data; we also identify the program applicant’s third party, data-sharing relationships.

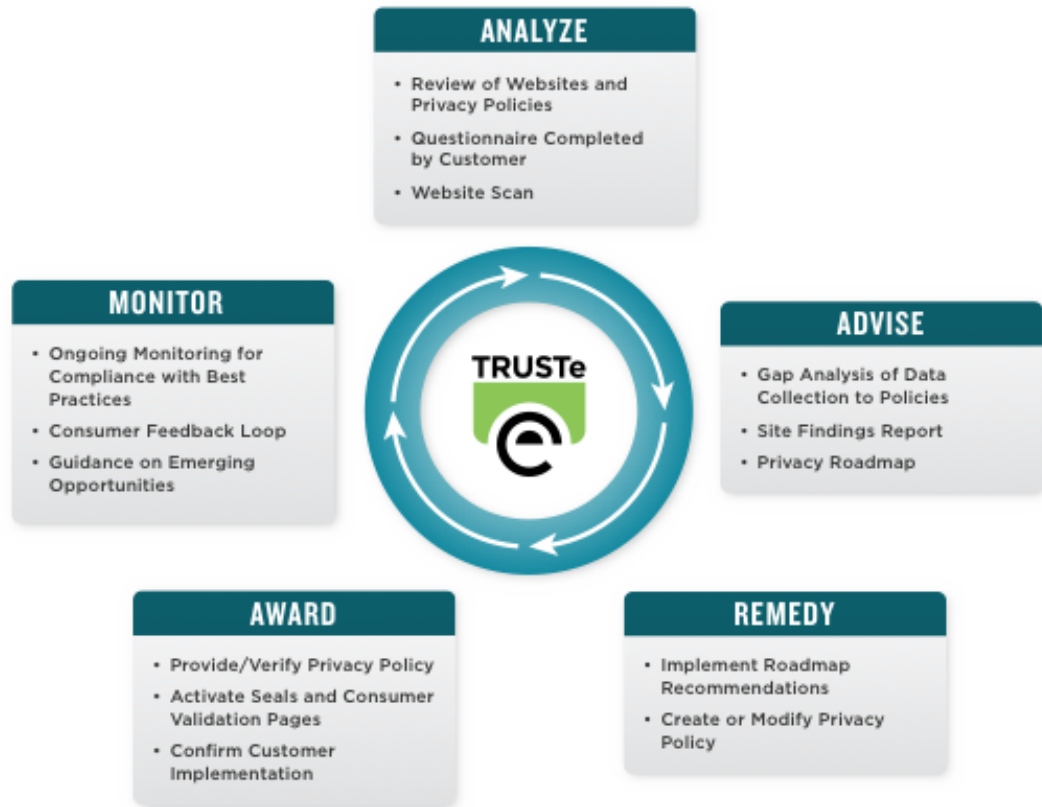
To meet the requirements as identified in 5 (a)-(d) of Annex A, the TRUSTe certification process involves five steps: analyze, advise, remedy, award and monitor.

- a) *Analyze*: TRUSTe performs the initial assessment of compliance.¹
- b) *Advise*: TRUSTe provides a comprehensive report to the program applicant outlining our findings regarding compliance with TRUSTe’s Privacy Certification Program Requirements.²
- c) *Remedy*: TRUSTe verifies that the required changes provided in the comprehensive report have been properly implemented.
- d) *Award*: TRUSTe has certified that the program applicant is in compliance with our program requirements.
- e) *Monitor*: TRUSTe verifies ongoing compliance with Program Requirements.

The diagram below illustrates the specifics of this approach:

¹ Appendix E is an example of TRUSTe’s A\program applicant interview form used during the Analyze portion of the certification process.

² Appendix F is a sample Findings Report that is the comprehensive report provided to the program applicant in the Advise portion. .



On-going Monitoring and Compliance Review Processes

6. *Applicant Accountability Agent should submit a description of the written procedures to ensure the integrity of the certification process and to monitor the participant's compliance with the program requirements described in 5 (a)-(d).*

TRUSTe meets this requirement and has included here a description of our written procedures to ensure the integrity of the certification process and to monitor the Participant³'s compliance with the program requirements as described in 5(a)-(d). Once a Participant completes the initial certification process as defined in requirements 5 (a)-(d), TRUSTe uses a combination of approaches to ensure that compliance with TRUSTe's Privacy Program Requirements is consistently and continually maintained. Unlike an audit - which only captures compliance at a single point in time - TRUSTe certification involves ongoing monitoring using a combination of inquiries/reviews and technological tools. These tools include:

³ "Participant" means the entity that has entered into an agreement with TRUSTe to participate in the TRUSTe program(s) and agreed to comply with the program requirements included therein

- *Web crawling*: Proprietary TRUSTe technology that verifies the existence of key website elements (e.g. a privacy policy at the point of PII collection), and website processes (e.g. the transmission of credit cards and other sensitive information over an encrypted connection). TRUSTe's web crawler also performs intensive website analysis for data collection and ad targeting processes, and in conjunction with other techniques serves as TRUSTe's technological accountability platform for monitoring clients.
- *E-mail seeding*: A process by which compliance is monitored using unique e-mail addresses that do not reference TRUSTe, to check for e-mail sent by an unauthorized party, or after an unsubscribe request has been processed.⁴
- *Traffic analysis*: A network packet monitoring process primarily used to verify compliance for our mobile privacy and Trusted Download certifications.
- *Dispute resolution process*: Defined in detail in the TRUSTe Transparency Report: 2011 (Appendix C) and online Dispute Resolution Form (Appendix B).

7. *Applicant Accountability Agent should describe the review process to be used in the event of a suspected breach of the program requirements described in 5(a)-(d) of Annex A.*

TRUSTe meets this requirement and has a review process in place to investigate a suspected breach of the program requirements described in 7 of Annex A. TRUSTe certification is fortified by strong enforcement of our Privacy Certification Program Requirements and our consumer dispute resolution process.

The TRUSTe enforcement process usually begins with an internal compliance investigation. TRUSTe may initiate this investigation based on results of our technological monitoring, on information contained in a consumer complaint, news or press reports, regulator inquiry, or reports from other credible sources. This process determines verification of compliance or non-compliance with the program requirements.

Where non-compliance with any of the program requirements is found, TRUSTe will investigate the compliance issue, notify the Participant, outline the commercially reasonable corrections necessary to come back into compliance with our program requirements and provide a commercially reasonable timeframe. TRUSTe will continue to work collaboratively with the

⁴ TRUSTe's e-mail seeding process has had notable successes in cases where the client or seal holder was not initially aware of an unsubscribe malfunction or data leakage (through a service provider, for example). In such cases, TRUSTe's e-mail seeding report has alerted clients to the issue, and supported TRUSTe's recommendations for issue resolution.

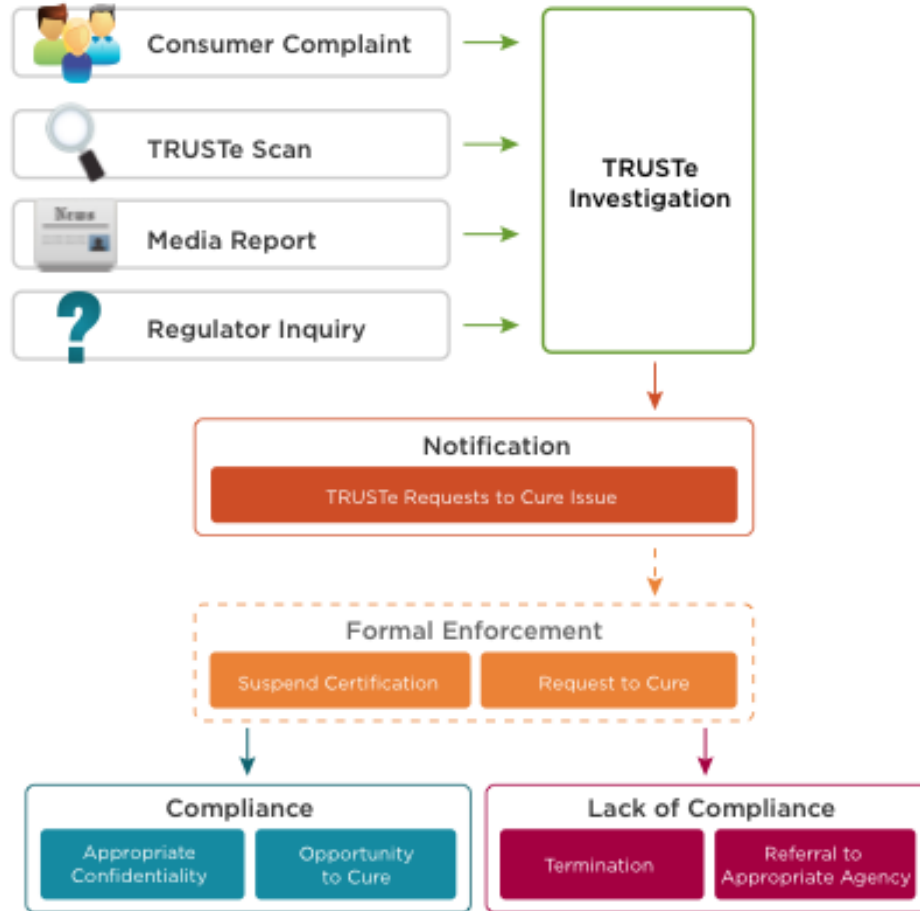
Participant to come back into compliance.

Our investigations have one of three possible outcomes:

- An agreement between TRUSTe and the Participant over the privacy complaint resulting in Participant resolution that addresses the consumer concern or request. TRUSTe provides a reasonable timeframe to complete the required changes based on the risk and level of non-compliance.
- A disagreement triggering a notice of formal enforcement, resulting in the Participant's suspension or notice of intent to terminate for cause if the matter is not cured.
- A failure to implement the required cure resulting in the Participant's termination from TRUSTe's program and, in extreme cases, publication and/or referral to an appropriate authority.⁵

The below diagram illustrates the specifics of enforcement process

⁵ One of our prior FTC referrals was ClassicCloseouts in 2008; TRUSTe assisted the FTC with the investigation, and the agency brought action for permanent injunction and relief against the site, ultimately obtaining a \$2.08 million settlement to provide redress for consumers. See Merchandiser Who Illegally Charged Consumers' Accounts Settles with FTC, available at: <http://www.ftc.gov/opa/2011/01/classicclose.shtm>.



Re-Certification and Annual Attestation

8. *Applicant Accountability Agent should describe their re-certification and review process as identified in 8(a)-(d) of Annex A.*

TRUSTe meets this requirement. At least once a year, TRUSTe engages a commercially reasonable process to investigate whether its Participants are meeting and/or exceeding TRUSTe's Program Requirements. If the Participant notifies TRUSTe of a change or TRUSTe detects a change outside the 'annual' re-certification cycle, the change will be verified by TRUSTe immediately, regardless of whether it's time for the Participant's annual re-certification or not.

Details of the re-certification process and annual attestation to answer questions Annex A 8 (a)-(d) are defined below.

a) *Analyze:* TRUSTe performs an assessment of compliance.

- b) *Advise*: TRUSTe provides a comprehensive report to the Participant outlining our findings regarding compliance with TRUSTe's Program Requirements.
- c) *Remedy*: TRUSTe verifies required changes outlined in the comprehensive report have been properly implemented.
- d) *Notify*: TRUSTe notifies Participant that it is in compliance with TRUSTe's Program Requirements.

Dispute Resolution Process

9. *Applicant Accountability Agent should describe the mechanism to receive and investigate complaints and describe the mechanism for cooperation with other APEC recognized Accountability Agents that may be used when appropriate.*

TRUST has an existing Customer dispute resolution program that meets this requirement. We manage this Dispute resolution process in-house and do not contract out this service to a third party. Our dispute resolution process is a mechanism to receive and investigate complaints about Participants and to resolve disputes between complainants and Participants. Consumer dispute resolution is a key component of TRUSTe's privacy management solution suite, and helps us monitor Participants' compliance with Privacy Certification Program Requirements and Participants accountable. Processing complaint disputes also provides TRUSTe with a window into the privacy issues that concern today's online consumers. This dispute resolution process is described in detail below.

10. *Applicant Accountability Agent should describe how the dispute resolution process meets the requirements identified in 10 (a) – (h) of Annex A, whether supplied directly by itself or by a third party under contract (and identify the third party supplier of such services if applicable and how it meets the conflict of interest requirements identified in sections 1-3 of Annex A) as well as its process to submit the required information in Annexes D and E.*

TRUSTe has its own in-house Consumer Dispute Resolution process that meets the requirements identified in 10(a)-(h) of Annex A as described here:

Receiving a Complaint

The TRUSTe Consumer Dispute Resolution process begins with a consumer complaint filed against a TRUSTe program Participant either with the company, or with TRUSTe. After TRUSTe receives a complaint, we initiate an investigation. A TRUSTe investigation may also be initiated after a TRUSTe scan, a media report, regulator inquiry or information obtained through other credible sources. TRUSTe then reviews the complaint to determine if the complaint is relevant and falls under the scope of the Program

Requirements. This generally takes 1-2 business days, but could take up to 10 business days.

Responding to a Complaint

The consumer receives TRUSTe's initial response within 10 business days, our published time frame⁶. TRUSTe's system notifies the consumer of the response by the Participant. Consumer and the Participant may correspond directly, with TRUSTe copied, such as in the event that the Participant asks the consumer for further information. Consumer and Participant are copied when TRUSTe sends its determination.

Investigating a Complaint

The nature and duration of the investigation needed can vary widely depending on the nature of the issue. TRUSTe quickly checks all issues that can be immediately verified. TRUSTe's system notifies the consumer of the response by the Participant. Consumer and Participant may correspond directly, with TRUSTe copied, such as in the event that the Participant asks the consumer for further information. Consumer and Participant are copied when TRUSTe sends its determination.

Resolving a Complaint

After the complaint has been investigated, the Participant ordinarily has 10 business days to provide a written response for the complainant. For more urgent issues, such as security vulnerabilities, we escalate to the Participant via phone as well and generally expect responses much sooner, especially if we are able to verify the problem.

Written Notice of Complaint Resolution

Once the complaint is resolved, TRUSTe will send an email notice to both the complainant and the Participant notifying them of closure of the complaint.

Process for Obtaining Consent

Our Feedback and Resolution form asks the complainant to provide consent before TRUSTe shares their personal information with the program Participant the complainant is filing a dispute about. See screenshot below. The full online submission process for submitting feedback and requesting assistance with privacy-related disputes can be found in Appendix B. All personal information collected during the request for assistance is collected in accordance with TRUSTe's Privacy Policy (Appendix G).

⁶ The published timeframe can be found on TRUSTe's Feedback and Resolution Form at <https://feedback-form.truste.com/watchdog/request>

Below is a screenshot from TRUSTe’s Feedback and Resolution Form illustrating TRUSTe’s online consent mechanism. Note, the consumer must indicate a preference prior to submitting their complaint.

TRUSTe may share my information to resolve my issue *

- Yes, I give permission for TRUSTe to share my report and contact information with the organization named above to assist with resolving the issue.
- No, I do not want my report and contact information shared (Note: this may limit the ability of the organization named above to address your concern).

Submit

Reporting Complaint Statistics and Release of Case Notes

TRUSTe issues an annual Transparency Report⁷ to provide information on its certification programs, processes, and statistics on the number and types of complaints received during the previous calendar year. Pages 11-20 of TRUSTe’s Transparency Report: 2011 (Appendix C) for details around the publically available statistics about the types of complaints received and case notes on resolved complaints.

Mechanism for Enforcing Program Requirements

11. Applicant Accountability Agent should provide an explanation of its authority to enforce its program requirements against participants.

Authority to Enforce Program Requirements

TRUSTe has the authority to enforce its program requirements against Participants through our Master Services Agreement (“MSA”) which we require all clients to sign before we begin the engagement. This is reflected in TRUSTe’s MSA, section 3(a): Participant’s Adherence to the Program:

a) Participant’s Obligation to Comply. Participant shall fully comply with the Applicable Program Requirements for each Program Amendment.

12. Applicant Accountability Agent should describe the policies and procedures for notifying a participant of non-compliance with Applicant’s program requirements and provide a description of the processes in place to ensure the participant remedy the non-compliance.

Process of Notifying Participant of Non-Compliance and Remedy

Once TRUSTe identifies that a Participant is not complying with our program requirements, either through our re-certification process, ongoing monitoring, or dispute resolution process, the client will be contacted immediately by the designated contact individual at TRUSTe. We will outline

⁷ TRUSTe’s published Transparency Report: 2011 can be found online at <http://www.truste.com/about-TRUSTe/transparency-report> and is attached with this submission as Appendix C

the corrections necessary to come back into compliance with our program requirements and provide a reasonable timeframe. TRUSTe will continue to work with the Participant to come back into compliance.

If the Participant fails to come back into compliance with the program requirements, TRUSTe will take steps, as outlined below, to either temporarily remove the seal from the Participant's website or terminate the Participant's participation in the program.

13. Applicant Accountability Agent should describe the policies and procedures to impose any of the penalties identified in 13 (a) – (e) of Annex A.

Remedy of Non-Compliance Within a Specified Timeframe

If the Participant does not remedy the non-compliance within a specific time period, TRUSTe has a process in place to place the Participant on suspension. This is reflected in TRUSTe's Privacy Certification Program Requirements⁸ - section III.5.a (1)-(5), Suspension Status excerpted below.

5.Suspension Status

- a) In the event TRUSTe reasonably believes that Participant has materially violated these Program Requirements, Participant may be placed on suspension.
 1. Notice will be provided with a mutually agreed upon description of the violation and any remedial actions that TRUSTe will require Participant to take during the Suspension Period ("Suspension Obligations").
 2. Participant will be considered to be on Suspension immediately upon receiving notice from TRUSTe. Suspension shall last until such time as the Participant has corrected the material breach or Program Requirements violation to TRUSTe's satisfaction, but not for a period of greater than six (6) months ("Suspension Period") unless mutually agreed by the Parties.
 3. Suspension Obligations may include, but are not limited to:
 - a) Compliance with additional Program Requirements;
 - b) Cooperation with heightened compliance monitoring by TRUSTe; and
 - c) Payment to TRUSTe of mutually agreed additional amounts as compensation for TRUSTe's additional compliance monitoring.

⁸ TRUSTe's Privacy Certification Program Requirements are available on TRUSTe's website at <http://www.truste.com/privacy-program-requirements/program-requirements> and are attached as Appendix A to this application.

- d) Participant shall comply with all Suspension Obligations.
4. During the Suspension Period, Participant's status may be indicated via a TRUSTe Validation webpage or TRUSTe may require Participant to cease using the TRUSTe trustmarks.
5. At the end of the Suspension Period, TRUSTe will, in its discretion, either:
 - a) Determine that Participant has complied with Participant's Suspension Obligations, thereby satisfying TRUSTe's concerns;
 - b) Extend the Suspension Period by mutual agreement with the Participant; or
 - c) Determine that Participant has failed to comply with Participant's Suspension Obligations and immediately terminate Participant for cause.

Temporary Suspension to Display the TRUSTe Seal

TRUSTe will suspend the Participant's right to display the TRUSTe seal & notify the participant. This is part of our suspension process as detailed out above and reflected in our Privacy Program Requirements, section III.5.a.4.

"During the Suspension Period, Participant's status may be indicated via a TRUSTe Validation webpage or TRUSTe may require Participant to cease using the TRUSTe trustmarks."

Naming the Participant and Publicizing Non-compliance.

If a client does not cure an issue and is terminated, TRUSTe evaluates factors such as whether the violation was egregious and intentional, or whether impact was de minimis, in determining whether to publicize the non-compliance.

Referral to Relevant Privacy Authority

If a client does not cure an issue and is terminated, TRUSTe evaluates factors such as whether the violation was egregious and intentional, or whether impact was de minimis. TRUSTe may refer the issue to the appropriate public authority or enforcement agency. TRUSTe's referral to a privacy enforcement authority will also be contingent on whether or not the actions of the client rise to a level which would trigger jurisdiction by the privacy enforcement authority. Trustee does not refer clients to privacy enforcement authorities where such authority would be unable to take action against the referred client.

Other penalties – including monetary penalties – as deemed appropriate by the Accountability Agent.

If a client does not cure an issue and is terminated, TRUSTe evaluates factors such as whether the violation was egregious and intentional, or whether impact was de minimis, in determining whether to publicize the non-

compliance. Trustee does not have authority by contract to impose monetary penalties. Further, no commercial entity would enter into a contract with TRUSTe if TRUSTe were to have a contractual authority to impose monetary penalties.

*14. Applicant Accountability Agent should describe its policies and procedures for referring matters to the appropriate public authority or enforcement agency for review and possible law enforcement action.
[NOTE: immediate notification of violations may be appropriate in some instances.*

15. Applicant Accountability Agent should describe its policies and procedures to respond to requests from enforcement entities in APEC Economies where possible.

The response below applies to both items 14 and 15 of Annex B. TRUSTe's policies and procedures for referral to the appropriate public authority or enforcement agency, including responding to requests from enforcement entities in APEC Economies, are explained above as response to Annex B Question 7 - On-going Monitoring and Compliance Review Processes and in TRUSTe's Transparency Report⁹ for details around TRUSTe's processes to release publically available statistics about the types of complaints received and case notes on resolved complaints.

⁹ Appendix C - TRUSTe Transparency Report: 2011 pages 11-20

Appendix

Appendix A

TRUSTe's Privacy Program Requirements:

<http://www.truste.com/privacy-program-requirements/home>

Appendix B

Description and online submission process for TRUSTe's online Feedback and Resolution Program:

<https://feedback-form.truste.com/watchdog/request>

Appendix C

TRUSTe Transparency Report: 2011:

<http://www.truste.com/about-TRUSTe/transparency-report>

Appendix D

TRUSTe Master Service Agreement and Privacy Certification Program Amendment
(Business Proprietary - attached with submission)

Appendix E

Client Interview Form

(Business Proprietary - attached with submission)

Appendix F

Findings Report

(Business Proprietary - attached with submission)

Appendix G

TRUSTe Privacy Policy:

<http://www.truste.com/privacy-policy>

Appendix H

TRUSTe Conflicts of Interest Policies

(Business Proprietary - attached with submission)

Appendix I

Corporate Organizational Chart

(Business Proprietary - attached with submission)