



Asia-Pacific  
Economic Cooperation

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**2007/SOM3/ECSG/SEM/022**

Agenda Item: VI

## **Trustmark Certification Program**

Purpose: Information  
Submitted by: TRUSTe



**2<sup>nd</sup> Technical Assistance Seminar on the  
International Implementation of the  
APEC Privacy Framework  
Cairns, Australia  
25-26 June 2007**

## Trustmark Certification Program



APEC Technical Assistance Seminar II  
June 2007  
Fran Maier  
Executive Director, TRUSTe



### About TRUSTe

- Independent, non-profit headquartered in San Francisco
  - Washington, DC gov't affairs office
- Web Privacy Seal Program
  - Anti-spam and email standards
  - Trusted Download Program for legitimate (spyware-free) downloads
- Celebrating 10 Year Anniversary

1997



2007



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## Mission

Advancing Privacy and Trust for the Networked World

- Widely accepted privacy best practices
- Elevate responsible players
- Help consumers identify who they can trust
- Supplement legislation and regulation
- Address emerging privacy vulnerabilities and threats

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## TRUSTe: 10 Years of Impact

- **Web Privacy Seal**
  - 2,400 Websites
  - 1,500 companies
  - 22 of Top 50 most visited websites
  - 1 Million “click-to-verify” pageviews monthly
  - Thousands of consumer complaints resolved annually
- **EU Safe Harbor Seal** by authority of the US Department of Commerce
- **Children’s Online Privacy Protection Act Safe Harbor** by authority of the US Federal Trade Association
- **Email Privacy Seal** beyond legal requirements for legitimate mail
- **Trusted Download Program** (beta)
  - Certifying consumer downloadable software (not Spyware)



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## Our Sealholders



## Today

- Certification Process
  - Complete, Rigorous, Beyond simple Self-Assessment
- Compliance and Enforcement Toolbox
  - Aimed at improvement
  - Thorough, Regular, and Action-Oriented
  - Dispute Resolution, Monitoring, and Enforcement
- Building toward Common Criteria



## TRUSTe Certification Process

### 1. Web Site Privacy Assessment

- Application/Contract
- Self-Assessment

### 2. Web Site Audit

- TRUSTe expert
- Access Reputation and other Data
- Revision of policy and practice

### 3. Seals Awarded and Displayed

### 4. Ongoing Monitoring & Dispute Resolution

- Watchdog Dispute Resolution
- Scanning/Seeding



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## TRUSTe Certification Process: Improve Licensee Practices

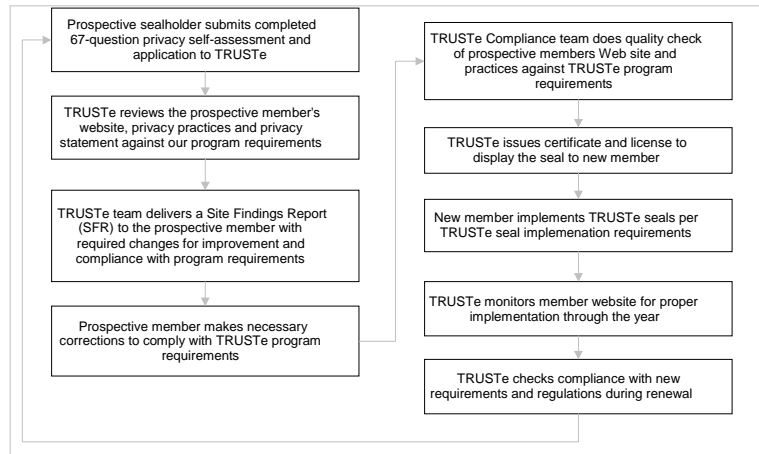
- Over 90% required to make changes to business practices
  - Notice at Point of Collection
  - Privacy Policy disclosures esp. cookies and third-party sharing
  - HTTPS for sensitive data (e.g. credit card)

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## TRUSTe Privacy Seal Certification



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## Compliance and Enforcement Toolbox

- Certification:
  - 90% improve practices
- Watchdog Dispute Resolution
  - 100% resolution
  - Small # of terminations
- Proactively monitor
  - Scanning: 50% fail and then fix
  - Email Seeding
- Enforcement Options
  - Non Renew
  - Suspend
  - Terminate



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## Watchdog Online Dispute Resolution

- Online independent recourse mechanism for consumers to report
- Goal is to augment Sealholder's privacy program, escalate and resolve complaints quickly
- 86% would recommend using Watchdog to a friend

*"I loved Adobe beforehand and I love it now. TRUSTe facilitated getting me to the right person to talk to."*



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## TRUSTe Watchdog Complaints

- Resolve 5000+ per year directly
  - Also offer "self help" through web site
- TRUSTe works with consumer and the sealholder to resolve issues
- Critical input to monitoring process
- Goal: Improve Consumer

Note: for all TRUSTe Watchdog Complaints

### TRUSTe Watchdog Report

#### April 2007

Watchdog Privacy Complaints: 103

Number of Trademark Violation Reports: 384

Unable to unsubscribe: 16%

Shared personal info.: 19%

Unable to close account: 20%

Email sent without permission: 18%

Unauthorize profile with my information: 20%

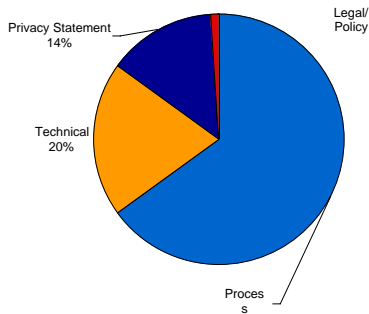
Unable to contact licensee: 7%



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## Types of Investigations: Primarily Customer Care



- **Process (65%):**
  - Unsubscribe me
  - Close account
  - Can't reach licensee
- **Technical (20%):**
  - Interface disclosures
  - TRUSTe seeding of client lists to check unsub link, unauthorized third-party mail
- **Privacy Statement Analysis (14%):**
  - Notice about data sharing, cookies etc.
- **Legal/Policy Analysis:**
  - Legal status of unusual business models or practices
  - Potentially deceptive notice

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## Severity Scorecard: Early Warning System

- Used to analyze Watchdog complaints by company and provide early warning
- Weighting helps assess:
  - severity of complaint(s)
  - trends in complaint type
  - Trends in complaint volume
- Color/letter process map reflect: type of follow-up and sealholder changes required:
  - type of investigation
  - privacy policy change
  - notice at opt-in
  - type of information collected
  - data spill assistance to Licensee
  - level of escalation within TRUSTe

TRUSTe Watchdog Diagnosis (Complaints per Month)	Increasing Offenses			weight ed score
	1	2	3+	
Unable to unsubscribe	D	E	G	-
Unauthorized profile with my information	D	E	G	
Unwanted email	D	E	G	
Excessive email	D	E	G	
Email sent without permission	D	E	G	
Unable to close account	D	E	G	
Unable to change/delete personal information	D	E	G	
Shared personal information	A	B	C	
Violated privacy policy	A	B	C	
Unable to contact licensee	A	B	C	
Children's information (under 13)	A	B	C	
Inconsistent Unsubscribe Instructions	A	B	C	
Inaccurate Disclosure: POC	A	B	C	
Inaccurate Disclosure: PS	A	B	C	

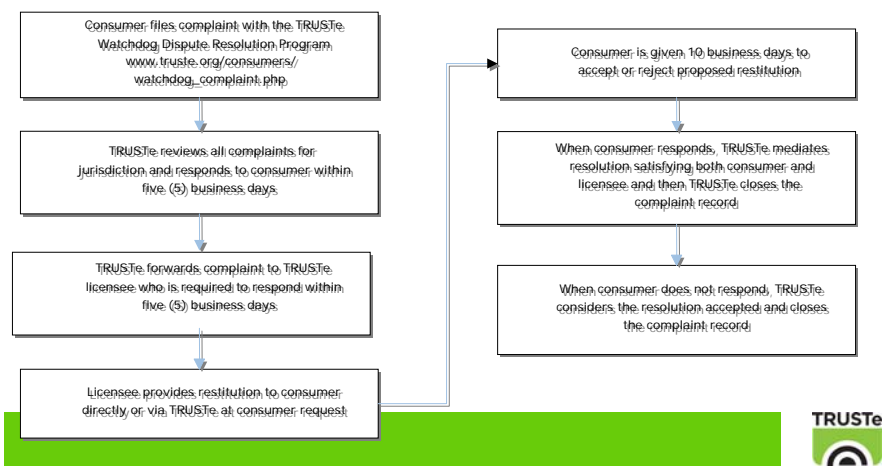
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## Steps to Resolve a Watchdog Complaint

- Working with Consumer and Sealholder to reach satisfactory resolution



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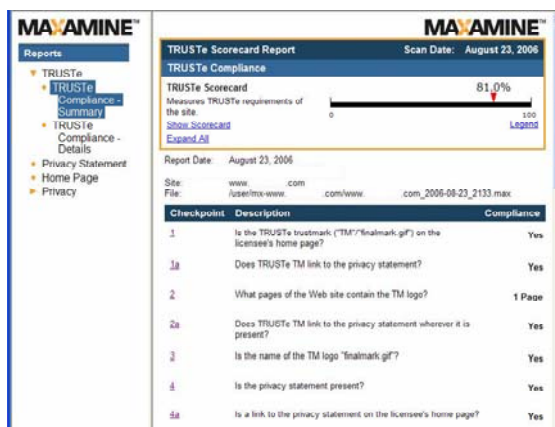
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## Ongoing Monitoring

Evaluate websites from many angles: proactive and reactive approach

- Technological scans
- Email "seeding"
- Reputation monitoring
- Ongoing reviews
- Watchdog monitoring
- Other reviews of blogs, press, consumer postings
- Approximately 50% of scans discover problems



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## Enforcement Options

- **Suspend Certification**
  - Notified on Verification Page
  - Seal still on Website
  - Timeframe for Resolution
- **Terminate**
  - Termination for Convenience (non-public) - other issues not directly related to contract and/or reputation issues
  - Terminate and Rehabilitate – Batteries.com
  - Termination for Cause (Publish on website) – Gratis/FreeIPods.com
  - Terminate and refer case to law enforcement/regulators – ToySmart.com
- Process must be **Transparent, Consistent, Fair**, and Lead to Positive Consumer Outcomes
  - Usually result in company coming back into compliance

### Independent Non-Profit Status Important

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QuickTime™ and a  
TIFF (Uncompressed) decompressor  
are needed to see this picture.

## Termination Case Study Gratis Internet

**Timeline**  
9.14.2004: Gratis Internet, freeipods.com certified by TRUSTe  
10.4.2004: TRUSTe investigates complaints about freeipods sharing email addresses with 3<sup>rd</sup> parties  
1.14.2005: TRUSTe issues (private) Notice of Termination unless Gratis remedies all violations within 20 days  
1.14.2005: Seals are deactivated and Gratis removes TRUSTe seals from Website,  
2.9.2005: TRUSTe issues (public) Notice of Termination  
3/14/2006: New York Attorney General sues Gratis for breach of privacy policy after lengthy investigation

- Gratis Internet violated its stated policy to not sell or rent personal information to third parties
- TRUSTe investigated Watchdog reports of sharing by seeding email accounts
- TRUSTe required Gratis to change privacy practices
- Gratis complied but could not offer any remedy for consumer complaints, and refused privacy training
- TRUSTe publicly terminated Gratis Internet gaining the attention of the NY Attorney General
- Gratis was sued by the Attorney general for violating its privacy policy

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## Enforcement Action Case Study:

QuickTime™ and a  
TIFF (Uncompressed) decompressor  
are needed to see this picture.

### Timeline

4.24.2002: Batteries.com signs license agreement 7.0

4.4.2003: Sungifts.com sends out email promotion offering free subscription to *Men's Journal*

5.28.2003: CNet writer Berlind exposes breach of privacy policy in *ZDNet*.

6.13.2003: TRUSTe issues Notice of Termination unless Batteries.com remedies all violations.

- Batteries.com violated privacy policy when it changed it shared PII with a 3rd Party without gaining prior consent
- TRUSTe responded immediately and took swift corrective/enforcement action including notice of termination
- Fortunately Batteries.com agreed to the remedial steps
  - Apology sent to affected customers
  - In-house audit of privacy practices by TRUSTe
  - On-site privacy training
- Benefit to licensee and consumer by improving privacy practices and avoiding future breaches

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## Building Blocks for Effective Programs

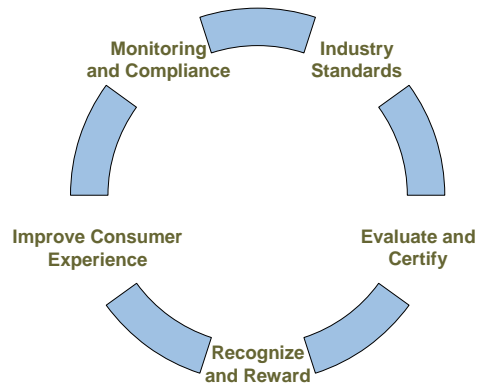
1. **Strong Program/Certification Requirements**
2. **Thorough and impartial audit**, more than self assessment
3. **Accountability and Enforcement**
4. **Credible oversight** from multiple parties
5. **Evolving** standards and accountability, ability to address new issues

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## Mutually Reinforcing Activities



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## Collaboration with APEC Trustmarks

- Member of Asia Trustmark Alliance (ATA) Task Force
- Project: Common Criteria for Cross-Recognition of Trustmarks under APEC Privacy Framework
  - Standards for Comparing Trustmarks
  - Standards for Certification of Merchants by Trustmarks
  - Essential for implementation of cross-border privacy rules
- First draft presented at May 2007 Trustmark Conference, Mexico City
- Now under consideration by ATA membership
- Paradigm for accountability agent structure in APEC

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## Range of Asia Trustmark ADR Models

- Government as Trustmark doing ADR
  - Thailand
- Private Trustmarks doing ADR
  - TrustSG
    - Government sponsored
  - TRUSTe
    - Private Industry sponsored
- Private Trustmarks outsourcing ADR
  - TradeSafe
    - in connection with EC Networks in Japan

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## Example Principle and Criteria

### 4 Privacy

#### 4.9. Accountability

*A personal information controller should be accountable for complying with measures that give effect to the Principles stated above. When personal information is to be transferred to another person or organization, whether domestically or internationally, the personal information controller should obtain the consent of the individual or exercise due diligence and take reasonable steps to ensure that the recipient person or organization will protect the information consistently with these Principles.*

**4.9.1 Accountability of merchant:** How does certifier require that merchant be accountable for complying with these measures?

\_\_\_ Certifier requires that merchant establish and maintain a system to implement the provisions of its website privacy statement and practices.

\_\_\_ Certifier requires that merchant assign individual(s) to be responsible for the accuracy of website privacy statement and for receiving and processing user questions or complaints.

\_\_\_ Certifier requires that merchant periodically or regularly undertake an audit of its privacy policy compliance, either through self-assessment or by a third party.

\_\_\_ Other (please specify): \_\_\_\_\_

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