

Annual APEC CBPR and PRP Dispute Resolution Report

Reporting Period: March 1, 2022 through February 28, 2023





EXECUTIVE SUMMARY

This annual report of TRUSTe LLC (TRUSTe), a subsidiary of TrustArc Inc, provides aggregated dispute resolution complaint statistics about the number and types of complaints received through TRUSTe’s Feedback and Resolution System against companies certified under TRUSTe’s APEC Cross Border Privacy Rules (CBPR) and APEC Privacy Recognition for Processors (PRP) Assurance Programs (program(s)) during the reporting period. Anonymized case notes about selected complaints resolved under TRUSTe’s APEC-CBPR program are also included in this report.

From March 1, 2022 through February 28, 2023, 65 companies participated in one or both of TRUSTe’s APEC certification programs, an increase from 43 that participated during the previous reporting period.

During the reporting period, March 1, 2022 through February 28, 2023, TRUSTe received a total 239 complaints broken down as follows:



75 complaints against companies certified under both the TRUSTe APEC-CBPR and APEC-PRP programs, a decrease from 81 complaints received during the previous reporting period;



150 complaints against companies certified under only the TRUSTe APEC-CBPR program, an increase from 115 complaints received during the previous reporting period; and



14 complaints against companies certified under only the TRUSTe APEC-PRP program, a decrease from 38 complaints received during the previous reporting period.

The total number of complaints received during this reporting period is a 2% increase from the last reporting period, with 77% of the complaints coming from individuals located in an APEC economy. The APEC economies that complaints originated from include Australia, Canada, China, Chinese Taipei, Hong Kong China, Indonesia, Japan Malaysia, Mexico, Philippines, Thailand, United States, and Vietnam. The remaining 23% of the complaints came from individuals that are located in countries outside of APEC.

The complaints TRUSTe received concerned a number of APEC Principles, however, TRUSTe noted the largest number of complaints, 54%, were regarding an individual’s ability to contact a participating company generally, or to exercise choice relating to the use of their personal information or individual rights. TRUSTe continues to see increasing privacy awareness as demonstrated by individuals wanting to exercise their privacy-related rights or reaching out to ask questions or raise concerns.



REPORT OVERVIEW

This report includes information about:

- Compliant statistics for companies participating in both APEC-CBPR and APEC-PRP programs
- Complaint statistics for companies participating in only the APEC-CBPR program
- Complaint statistics for companies participating in only the APEC-PRP program
- Complaint process quality measures
- APEC-CBPR Case Notes

I. Complaint Statistics: APEC-CBPR and APEC-PRP Certified Companies

From March 1, 2022 through February 28, 2023, TRUSTe handled 75 Dispute Resolution complaints against companies that have been certified under both the APEC-CBPR and APEC-PRP programs. Table 1 shows how the resolution of these complaints were classified and resolved by TRUSTe. No complaints were pending resolution as of the close of this reporting period.

Complaint Resolution Classification	Number of Complaints Resolved
Procedural grounds <i>Procedural grounds may include:</i> • Complaints that fail to state a comprehensible issue or even a complete word (e.g. random typing such as “xyxyxy”); • When the complaint did not give TRUSTe permission to pass identifying information to the company in question; or • The complainant provided an invalid e-mail address, impeding investigation of that complaint. • Complainant withdrew the complaint. • Duplicate complaint. • No response from the complainant	30
Out of scope <i>Out of scope are complaints that fall into categories that are outside the scope of TRUSTe’s authority under its Assurance Programs, (e.g., billing/transactional issues, requests for feature enhancements). TRUSTe typically suggests that the complainant contact the company directly in these instances.</i>	20
Consumer education by TRUSTe	16
Action taken without involvement from TRUSTe	1
TRUSTe's assistance in facilitating resolution was required, but no changes were required from the participating company.	1
No action required (such as for incomprehensible typing)	7



Total	75
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Table 1

Table 2 details the types of complaints TRUSTe received about companies it certified under both APEC-CBPR and APEC-PRP programs by the APEC Principle to which the complaint type aligns, country where the complainant is located, and by type of complaint. APEC economies are noted with an asterisk (“*”).

Complaint Facts:

- 68 of the 75 complaints came from individuals located in APEC economies
- 72% of the complaints were regarding a company’s compliance with an APEC Principle
- 43 complaints highlighted challenges of contacting the company, or exercising choice, or access or deletion rights.

APEC CBPR or PRP Principle		Complainant location		By Type	
Collection Limitation	3	Canada*	1	Abuse by Another User	2
Use	6	France	1	Account Access / Creation	3
Security Safeguards	2	India	1	Account Hacked / Disabled / Suspended	4
Access	9	Italy	1	Can't Change / Remove Personal Info	9
Choice	9	Malaysia*	1	Help with Features / Functionality	5
Accountability	25	Mexico*	1	Monetary / Billing / Transactional	5
Other	21	Myanmar	2	Received Unauthorized Email	3
		Philippines*	1	Shared Personal Info with Unauthorized Third Party	2
		Saudi Arabia	1	Unable to Contact Participating Site ¹	25
		United Kingdom	1	Unable to Unsubscribe	6

¹ TRUSTe requires complainants to first contact the APEC certified company to give the company a chance to resolve the issue before contacting TRUSTe. In many instances, the complainant will indicate on TRUSTe’s Feedback and Dispute Resolution submission form that they have not attempted to contact the company or contacted the company less than 24 hours prior to contacting TRUSTe. All APEC certified companies are required to include contact information in their privacy notice about how to contact them regarding privacy-related questions or issues.



		United States*	63	Undefined e.g. Incomprehensible	11
		Vietnam*	1		
Totals	75	Totals	75	Totals	75

Table 2

II. Complaint Statistics: APEC-CBPR Certified Companies

From March 1, 2022 through February 28 2023, TRUSTe handled 150 Dispute Resolution complaints against companies that have only been certified under the APEC-CBPR program. Table 3 shows how the resolution of these complaints were classified and resolved by TRUSTe. No complaints were pending resolution as of the close of this reporting period.

Complaint Resolution Classification	Number of Complaints Resolved
Procedural grounds <i>Procedural grounds may include:</i> • Complaints that fail to state a comprehensible issue or even a complete word (e.g. random typing such as “xyxyxy”); • When the complaint did not give TRUSTe permission to pass identifying information to the company in question; or • The complainant provided an invalid e-mail address, impeding investigation of that complaint. • Duplicate complaint • No response from the consumer	51
Out of scope <i>Out of scope are complaints that fall into categories that are outside the scope of TRUSTe’s authority under its Assurance Programs, (e.g., billing/transactional issues, requests for feature enhancements). TRUSTe typically suggests that the complainant contact the company directly in these instances.</i>	48
Consumer education by TRUSTe	37
Action taken without involvement from TRUSTe	1
Personal information removed, account closed, or credentials validated	2
TRUSTe’s assistance in facilitating resolution was required, but no changes were required from the participating company.	2
No action required (such as for incomprehensible typing)	9



Total	150
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Table 3

Table 4 details the types of complaints TRUSTe received about its APEC-CBPR certified companies by the APEC CBPR Principle to which the complaint type aligns, country where the complainant is located, and by type of complaint. APEC economies are noted with an asterisk (“*”).

Complaint Facts:

- 106 of the 150 complaints came from individuals located in APEC economies
- 74% of the complaints were regarding a company’s compliance with an APEC Principle
- 82 complaints highlighted challenges of contacting the company, or exercising choice, or access or deletion rights.

APEC CBPR Principle		Complainant location		By Type	
Collection Limitation	4	Aruba	1	Abuse by Another User	2
Use	21	Australia*	5	Account Access / Creation	4
Security Safeguards	4	Bangladesh	5	Account Hacked / Disabled / Suspended	20
Access	37	Barbados	2	Can't Change / Remove Personal Info	37
Choice	3	Belgium	1	Help with Features / Functionality	7
Accountability	42	Brazil	5	Monetary / Billing / Transactional	6
Other	39	Canada*	2	Shared Personal Info with Unauthorized Third Party	1
		China*	3	Unable to Contact Participating Site ²	42
		Chinese Taipei*	1	Unauthorized Profile With My Information	2
		Colombia	1	Unable to Unsubscribe	3

² TRUSTe requires complainants to first contact the APEC certified company to give the company a chance to resolve the issue before contacting TRUSTe. In many instances, the complainant will indicate on TRUSTe’s Feedback and Dispute Resolution submission form that they have not attempted to contact the company or contacted the company less than 24 hours prior to contacting TRUSTe. All APEC certified companies are required to include contact information in their privacy notice about how to contact them regarding privacy-related questions or issues.



		Croatia	1	Undefined e.g. Incomprehensible	26
		Egypt	2		
		France	4		
		Germany	1		
		Hong Kong China*	2		
		India	4		
		Indonesia*	1		
		Iraq	2		
		Japan*	1		
		Mexico*	1		
		Myanmar	1		
		Nepal	2		
		Nigeria	1		
		Philippines*	4		
		Poland	2		
		Portugal	1		
		Saudi Arabia	2		
		South Africa	1		
		Spain	1		



		Thailand*	1		
		Turkey	1		
		Ukraine	1		
		United Arab Emirates	1		
		United Kingdom	1		
		United States*	84		
		Vietnam*	1		
Totals	150	Totals	150	Totals	150

Table 4

III. Complaint Statistics: APEC-PRP Certified Companies

From March 1, 2022 through February 28, 2023, TRUSTe handled 14 Dispute Resolution complaints against companies that have only been certified under the APEC-PRP program. Table 5 shows how the resolution of these complaints were classified and resolved by TRUSTe. No complaints were pending resolution as of the close of this reporting period.

Complaint Resolution Classification	Number of Complaints Resolved
Procedural grounds <i>Procedural grounds may include:</i> • Complaints that fail to state a comprehensible issue or even a complete word (e.g. random typing such as “xyxyxy”); • When the complaint did not give TRUSTe permission to pass identifying information to the company in question; or • The complainant provided an invalid e-mail address, impeding investigation of that complaint. • Duplicate complaint • No response from the consumer	4
Out of scope	3



<i>Out of scope are complaints that fall into categories that are outside the scope of TRUSTe's authority under its Assurance Programs, (e.g., billing/transactional issues, requests for feature enhancements). TRUSTe typically suggests that the complainant contact the company directly in these instances.</i>	
Consumer education by TRUSTe	5
Action taken without involvement from TRUSTe	1
TRUSTe's assistance in facilitating resolution was required, but no changes were required from the participating company.	1
Total	14

Table 5

Table 6 details the types of complaints TRUSTe received about companies it certified under the APEC-PRP program by the APEC-PRP Principle to which the complaint type aligns, country where the complainant is located, and by type of complaint. APEC economies are noted with an asterisk ("*").

Complaint Facts:

- 10 of the 14 complaints came from individuals located in APEC economies
- 78% of the complaints were regarding a company's compliance with an APEC Principle
- 8 complaints highlighted challenges of contacting the company, or exercising choice, or access or deletion rights.

APEC CBPR or PRP Principle		Complainant location		By Type	
Security Safeguards	3	Egypt	2	Account Hacked / Disabled / Suspended	2
Accountability Mechanisms	8	Peru	1	Can't Change / Remove Personal Info	2
Other	3	United Kingdom	1	Monetary / Billing / Transactional	1
		United States*	10	Unauthorized Profile With My Information	1
				Unable to Contact Participating Site ³	6

³ TRUSTe requires complainants to first contact the APEC certified company to give the company a chance to resolve the issue before contacting TRUSTe. In many instances, the complainant will indicate on TRUSTe's Feedback and Dispute Resolution submission form that they have not attempted to contact the company or contacted the company less than 24 hours prior to contacting TRUSTe. All APEC certified companies are required to include contact information in their privacy notice about how to contact them regarding privacy-related questions or issues.



				Undefined e.g. Incomprehensible	2
Totals	14	Totals	14	Totals	14

Table 6

IV. Complaint Process Quality Measures

These statistics are drawn from TRUSTe’s internal Dispute Resolution program. This process begins with a complaint filed by an individual against an APEC-CBPR or APEC-PRP certified company (Participant) either with the company, or with TRUSTe. After TRUSTe receives a complaint, we initiate an investigation starting with a review of the complaint to determine if the complaint is relevant and falls under the scope of the APEC CBPR or APEC-PRP Program Requirements. This initial review can take up to 10 business days. The individual (complainant) receives an initial response from TRUSTe within 10 business days, our published time frame (available at <https://feedback-form.truste.com/watchdog/request>).

TRUSTe asks the complainant to provide consent before TRUSTe shares their personal information with the Participant about which the complainant is filing a dispute. All personal information collected during the request for assistance is collected in accordance with the TrustArc Inc, the parent company of TRUSTe LLC, group privacy notice (available at <https://www.trustarc.com/privacy-policy/>).

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, TRUSTe will escalate this issue to the Participant via phone as well and generally expect responses much sooner, especially if we are able to verify the problem. Once the complaint is resolved, TRUSTe will send an email notice to both the complainant and, if participating in the process, the Participant, notifying them of closure of the complaint.



V. Case Notes

This section provides anonymized case notes for three complaints where the certified company may have been required to make a change in its data, policies or practices as part of resolving a complaint.

For purposes of these case notes, "Complaint" refers to a complaint filed with TRUSTe via TRUSTe's Feedback and Resolution System against a company ("Participant") certified at that time by TRUSTe under its APEC-CBPR and/or APEC-PRP programs.

Case Note 1: Company certified under APEC-CBPR program only

Citation:

Deletion request, 2022, TRUSTe US, Case Note 1

Facts:

Complainant experienced difficulty removing personal information. TRUSTe forwarded the issue to the Participant six days after receiving the complaint. Four days later, TRUSTe forwarded the Participant's response that the Participant had proceeded with deleting the requested information after authenticating the Complainant's request to the Complainant. Total time to resolve: 10 days.

Law (Excerpted from the United State's 2012 Application to Join the APEC CBPR System):

The FTC enforces Section 5 of the FTC Act, 15 U.S.C. § 45, which prohibits unfair or deceptive acts or practices in or affecting commerce. An act or practice is deceptive if it is likely to mislead a consumer acting reasonably under the circumstances and is likely to affect a consumer's conduct or decision regarding a product or service. An act or practice is unfair when it causes, or is likely to cause, substantial injury to consumers that (i) is not reasonably avoidable by consumers themselves; and (ii) is not outweighed by countervailing benefits to consumers or to competition. A company that joins the APEC CBPRs must publicly declare that it will comply with the CBPR program requirements and must make these program requirements publicly accessible. If the company fails to comply with any of these program requirements, its public representation of compliance may constitute an unfair or deceptive act or practice subject to Section 5 enforcement. If a company engages in any of the following practices it may violate Section 5 of the FTC Act, 15 U.S.C. § 45 and be subject to an enforcement action: a. Making a public representation relating to the notice requirements and failing to comply with the representation; b. displaying a seal, trustmark or other symbol on the company's website or on any other of its own publicly available documentation that indicates that it participates in the APEC CBPRs and thus complies with the notice requirements and failing to comply; or c. causing the company's name to appear on a list of companies that are certified for participation in the APEC CBPRs (e.g., lists on the websites of participating government authorities, privacy enforcement authorities, APEC-recognized Accountability Agents, or on an APEC website specifically dedicated to the operation of APEC Cross-Border Privacy Rules) thereby indicating that it complies with the notice requirements and failing to comply.

Discussion: The issues raised in this instance involve the following CBPR program requirements:

38. Do you permit individuals to challenge the accuracy of their information, and to have it rectified, completed, amended and/or deleted? Describe your applicant's policies/procedures in this regard below and answer questions 37 (a), (b), (c), (d) and (e)

38.c) Do you make such corrections or deletions within a reasonable time frame following an individual's



request for correction or deletion?

In addition to the Participant's legal obligation to comply with its stated privacy practices under the FTC's Section 5 authority, TRUSTe has the authority to enforce its program requirements against Participants through our Assurance Services Addendum ("ASA"), which we require all clients to enter into before we begin the engagement (see Appendix F of TRUSTe's 2022 APEC CBPR and PRP Application) unless we have negotiated with a particular Participant separate terms, which are comparable to those contained in the ASA. This is reflected in the Company's ASA, which states in the relevant part in Section 4.2.1: "If participating in a TRUSTe Assurance Solution, Customer shall fully comply with the applicable Assurance Standards." The Assurance Standards are defined in Section 2.1 of the ASA as: "the requirements, conditions, and other terms applicable to the Customer under an applicable TRUSTe Assurance Program or Assurance Solution."

This case illustrates how TRUSTe Feedback and Resolution system facilitates an individual's ability to exercise their right to have their personal information deleted, and to verify a Participant's practices and procedures align with those required by the APEC-CBPR program requirements listed above. The Participant responded by deleting the personal information as requested by the Complainant after verifying the Complainant's request. The complaint was closed after TRUSTe forwarded the Participant's response to the Complainant.

Case Note 2: Company certified under APEC-CBPR program only

Citation:

Deletion Request, 2022, TRUSTe US, Case Note 2

Facts:

Complainant experienced difficulty removing personal information. TRUSTe forwarded the issue to the Participant four days after receiving the complaint. Fourteen days later, the Participant responded to TRUSTe saying they had proceeded with deleting the requested information after authenticating the Complainant's request. Total time to resolve: 18 days.

Law (Excerpted from the United State's 2012 Application to Join the APEC CBPR System):

The FTC enforces Section 5 of the FTC Act, 15 U.S.C. § 45, which prohibits unfair or deceptive acts or practices in or affecting commerce. An act or practice is deceptive if it is likely to mislead a consumer acting reasonably under the circumstances and is likely to affect a consumer's conduct or decision regarding a product or service. An act or practice is unfair when it causes, or is likely to cause, substantial injury to consumers that (i) is not reasonably avoidable by consumers themselves; and (ii) is not outweighed by countervailing benefits to consumers or to competition. A company that joins the APEC CBPRs must publicly declare that it will comply with the CBPR program requirements and must make these program requirements publicly accessible. If the company fails to comply with any of these program requirements, its public representation of compliance may constitute an unfair or deceptive act or practice subject to Section 5 enforcement. If a company engages in any of the following practices it may violate Section 5 of the FTC Act, 15 U.S.C. § 45 and be subject to an enforcement action: a. Making a public representation relating to the notice requirements and failing to comply with the representation; b. displaying a seal, trustmark or other symbol on the company's website or on any other of its own publicly available documentation that indicates that it participates in the APEC CBPRs and thus complies with the notice requirements and failing to comply; or c. causing the company's name to appear on a list of companies that are certified for participation in the APEC CBPRs (e.g., lists on the websites



of participating government authorities, privacy enforcement authorities, APEC-recognized Accountability Agents, or on an APEC website specifically dedicated to the operation of APEC Cross-Border Privacy Rules) thereby indicating that it complies with the notice requirements and failing to comply.

Discussion: The issues raised in this instance involve the following CBPR program requirement:

38. Do you permit individuals to challenge the accuracy of their information, and to have it rectified, completed, amended and/or deleted? Describe your applicant's policies/procedures in this regard below and answer questions 37 (a), (b), (c), (d) and (e)

38.c) Do you make such corrections or deletions within a reasonable time frame following an individual's request for correction or deletion?

In addition to the Participant's legal obligation to comply with its stated privacy practices under the FTC's Section 5 authority, TRUSTe has the authority to enforce its program requirements against Participants through our Assurance Services Addendum ("ASA"), which we require all clients to enter into before we begin the engagement (see Appendix F of TRUSTe's 2022 APEC CBPR and PRP Application) unless we have negotiated with a particular Participant separate terms, which are comparable to those contained in the ASA. This is reflected in the Company's ASA, which states in the relevant part in Section 4.2.1: "If participating in a TRUSTe Assurance Solution, Customer shall fully comply with the applicable Assurance Standards." The Assurance Standards are defined in Section 2.1 of the ASA as: "the requirements, conditions, and other terms applicable to the Customer under an applicable TRUSTe Assurance Program or Assurance Solution."

This case illustrates how TRUSTe Feedback and Resolution system facilitates an individual's ability to exercise their right to have their personal information deleted, and to verify a Participant's practices and procedures align with those required by the APEC-CBPR program requirements listed above. The Participant responded by deleting the personal information as requested by the Complainant after verifying the Complainant's request. The complaint was closed after the Participant responded saying they fulfilled the Complainant's request.

Case Note 3: Company certified under both APEC-CBPR and APEC-PRP programs

Citation:

Login issue, 2022, TRUSTe US, Case Note 3

Facts:

Complaint reported difficulty authenticating themselves and logging into their account on the Participant's website. TRUSTe replied the next-day requesting additional information from the Complainant. The complainant replied the following day that they were able to resolve the issue with the Participant. Time to resolve: 3 days.

Law (Excerpted from the United State's 2012 Application to Join the APEC CBPR System):

The FTC enforces Section 5 of the FTC Act, 15 U.S.C. § 45, which prohibits unfair or deceptive acts or practices in or affecting commerce. An act or practice is deceptive if it is likely to mislead a consumer acting reasonably under the circumstances and is likely to affect a consumer's conduct or decision regarding a product or service. An act or practice is unfair when it causes, or is likely to cause, substantial injury to consumers that (i)



is not reasonably avoidable by consumers themselves; and (ii) is not outweighed by countervailing benefits to consumers or to competition. A company that joins the APEC CBPRs must publicly declare that it will comply with the CBPR program requirements and must make these program requirements publicly accessible. If the company fails to comply with any of these program requirements, its public representation of compliance may constitute an unfair or deceptive act or practice subject to Section 5 enforcement. If a company engages in any of the following practices it may violate Section 5 of the FTC Act, 15 U.S.C. § 45 and be subject to an enforcement action: a. Making a public representation relating to the notice requirements and failing to comply with the representation; b. displaying a seal, trustmark or other symbol on the company's website or on any other of its own publicly available documentation that indicates that it participates in the APEC CBPRs and thus complies with the notice requirements and failing to comply; or c. causing the company's name to appear on a list of companies that are certified for participation in the APEC CBPRs (e.g., lists on the websites of participating government authorities, privacy enforcement authorities, APEC-recognized Accountability Agents, or on an APEC website specifically dedicated to the operation of APEC Cross-Border Privacy Rules) thereby indicating that it complies with the notice requirements and failing to comply.

Discussion: The issues raised in this instance involve the following CBPR program requirements:

27. Describe the physical, technical and administrative safeguards you have implemented to protect personal information against risks such as loss or unauthorized access, destruction, use, modification or disclosure of information or other misuses?

In addition to the Participant's legal obligation to comply with its stated privacy practices under the FTC's Section 5 authority, TRUSTe has the authority to enforce its program requirements against Participants through our Assurance Services Addendum ("ASA"), which we require all clients to enter into before we begin the engagement (see Appendix F of TRUSTe's 2022 APEC CBPR and PRP Application) unless we have negotiated with a particular Participant separate terms, which are comparable to those contained in the ASA. This is reflected in the Company's ASA, which states in the relevant part in Section 4.2.1: "If participating in a TRUSTe Assurance Solution, Customer shall fully comply with the applicable Assurance Standards." The Assurance Standards are defined in Section 2.1 of the ASA as: "the requirements, conditions, and other terms applicable to the Customer under an applicable TRUSTe Assurance Program or Assurance Solution."

This case illustrates how the TRUSTe Feedback and Resolution system facilitates an individual's ability to access their account, and to verify a Participant's practices and procedures align with those required by the APEC-CBPR program requirement listed above. The complaint was closed because the complainant was able to resolve their login issue directly with the Participant requiring no action from TRUSTe.



Case Note 4: Company Certified Under APEC-PRP Program Only

Citation:

Account Closure Request, 2022, TRUSTe US, Case Note 4

Facts:

The complainant requested that the accounts of two other individuals be closed and data be retained intact. TRUSTe forwarded the request to the Participant on the same day the complaint was received. The Participant notified TRUSTe that they were working on a response. The Participant sent a reply to the complainant approximately 22 calendar days later explaining that they are only the data processor acting solely at the instruction of the data controller, identifying the organization who is the data controller and that the request was forwarded to the identified data controller. After allowing the complainant time to respond, TRUSTe replied two weeks later indicating that TRUSTe does not have authority to require further response by the Participant and is closing the request in TRUSTe's system. Total time: 35 calendar days.

Law (Excerpted from the United State's 2012 Application to Join the APEC CBPR System):

The FTC enforces Section 5 of the FTC Act, 15 U.S.C. § 45, which prohibits unfair or deceptive acts or practices in or affecting commerce. An act or practice is deceptive if it is likely to mislead a consumer acting reasonably under the circumstances and is likely to affect a consumer's conduct or decision regarding a product or service. An act or practice is unfair when it causes, or is likely to cause, substantial injury to consumers that (i) is not reasonably avoidable by consumers themselves; and (ii) is not outweighed by countervailing benefits to consumers or to competition. A company that joins the APEC CBPRs must publicly declare that it will comply with the CBPR program requirements and must make these program requirements publicly accessible. If the company fails to comply with any of these program requirements, its public representation of compliance may constitute an unfair or deceptive act or practice subject to Section 5 enforcement. If a company engages in any of the following practices it may violate Section 5 of the FTC Act, 15 U.S.C. § 45 and be subject to an enforcement action: a. Making a public representation relating to the notice requirements and failing to comply with the representation; b. displaying a seal, trustmark or other symbol on the company's website or on any other of its own publicly available documentation that indicates that it participates in the APEC CBPRs and thus complies with the notice requirements and failing to comply; or c. causing the company's name to appear on a list of companies that are certified for participation in the APEC CBPRs (e.g., lists on the websites of participating government authorities, privacy enforcement authorities, APEC-recognized Accountability Agents, or on an APEC website specifically dedicated to the operation of APEC Cross-Border Privacy Rules) thereby indicating that it complies with the notice requirements and failing to comply.

Discussion: The issues raised in this instance involve the following PRP program requirements:

13. Does your organization have procedures in place to forward privacy-related individual requests or complaints to the controller or to handle them when instructed by the controller?

In addition to the Participant's legal obligation to comply with its stated privacy practices under the FTC's Section 5 authority, TRUSTe has the authority to enforce its program requirements against Participants through our Assurance Services Addendum ("ASA"), which we require all clients to enter into before we begin the engagement (see Appendix F of TRUSTe's 2022 APEC CBPR and PRP Application) unless we have negotiated with a particular Participant separate terms, which are comparable to those contained in the ASA. This is reflected in the Company's ASA, which states in the relevant part in Section 4.2.1: "If participating in a



TRUSTe Assurance Solution, Customer shall fully comply with the applicable Assurance Standards.” The Assurance Standards are defined in Section 2.1 of the ASA as: “the requirements, conditions, and other terms applicable to the Customer under an applicable TRUSTe Assurance Program or Assurance Solution.”

This case illustrates how the TRUSTe Feedback and Resolution system facilitates an individual’s ability to have their request forwarded to the data controller, and to verify a Participant’s practices and procedures align with those required by the APEC-PRP program requirement listed above. The complaint was closed because the Participant forwarded the request to the data controller and responded to the Complainant with the information necessary to follow up with the data controller .