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PRIVACY STATEMENT

This statement refers to the processing of personal data in the context of anti-trust investigations carried out by the Directorate General for Competition (hereinafter "Competition DG"). The data that are collected and further processed in such investigations include information relating to identified or identifiable natural persons and the processing of such data is subject to [Regulation \(EC\) 45/2001](#) of the European Parliament and of the Council of 18 December 2000 on the protection of individuals with regard to the processing of personal data by the Community institutions and bodies and on the free movement of such data.

The processing occurs under the responsibility of Mrs Isabelle Benoliel, Director of the Registry and Resources Directorate of the Competition DG, acting as the Controller.

What is the purpose of the data collection?

The purpose of an European Community anti-trust investigation is to determine whether the undertaking(s) subject to the investigation act in conformity with the competition rules contained in Articles [81](#) and [82](#) of the Treaty.

For the purpose of enabling the Commission to conduct antitrust investigations, the Council has granted the Commission in [Regulation No 1/2003](#) enforcement powers to collect information (e.g. by sending requests for information, taking statements, carrying out inspections and sectoral inquiries).

Information that is collected and further processed by the Competition DG relates to undertakings that are subject to the investigation. Such information is only used in evidence for the purpose of applying the EC competition rules and in respect of the subject matter for which it was collected. As a result of the investigation, and when an infringement of the competition rules by the undertakings has been established, the Commission may impose a fine to the undertaking concerned.

What personal data do we collect?

Personal data that are collected and further processed in the context of anti-trust investigations are the names, contact details (work (e-mail) address, telephone and fax number and occasionally also private contact details) and the position of the natural person in the undertaking (e.g. CEO, marketing manager, etc).

Who has access to your information and to whom is it disclosed?

Access to antitrust files is restricted to the Competition DG personnel. The documents

collected are stored both electronically and in paper files. Access to the electronic files is restricted to the Competition DG personnel using the Competition DG IT infrastructure. The original paper files are kept at the antitrust Registry within the Competition DG building in specific location, which is locked outside the office hours. In addition, entrance to the Competition DG is restricted.

Transfer of information in the anti-trust file is possible under certain conditions with competition authorities within the EU and with national courts within the EU. Both are subject to national data protection laws, based on [Directives 95/46](#) and [97/66](#) that contain similar obligations as Regulation 45/2001.

Articles 12 and 28 of Council Regulation (EC) No 1/2003 safeguard that the information exchanged can only be used by national competition authorities in evidence for the purpose of applying Articles 81 and 82 of the Treaty in respect of the subject matter for which it was collected. Use in evidence by national competition authorities to impose sanctions on natural persons is largely theoretical and has not yet occurred. According to Article 12(3) of Regulation No 1/2003, information gathered by the Commission can only be used to impose pecuniary sanctions on natural persons if it has been collected in a way which respects the same level of protection of rights of defence of natural persons as provided for under the national rules of the receiving authority. This implies that information, and in particular personal data, can only be used by a national competition authority against a natural person if it has been collected without the cooperation of that person.

There are also safeguards for the protection of personal data of natural persons when national courts in the EU ask for information from the Commission's competition file. In principle the Commission should produce documents from its file if the national court can assure confidentiality. However, the national court must specify its request and set out why the specific document would be of direct relevance to the national proceedings. According to the case law, the Commission may refuse to provide the information for reasons of confidentiality ([Article 287](#) of the Treaty) or for overriding reasons relating to the need to avoid interference with the functioning and independence of the Community or to safeguard third parties' legitimate interests.

How do we protect and safeguard your information?

Pursuant to Article 12 of Regulation 1/2003 data may only be processed where necessary for the Commission's EC enforcement tasks and on a legal basis. Various competition regulations list the specific enforcement tools of the Commission in this regard (e.g. the possibility to send written requests for information, carry out inspections and conduct interviews) and provides their modalities.

The procedural Regulations, as well as the case-law of the Community Courts set out clear limits to the powers of investigation of the Commission. In inspections conducted in antitrust cases for example, inspectors are only allowed to take copy of documents relevant for the purpose of their investigation, i.e. of documents falling within the scope defined by the inspection decision (or mandate). This limit applies not only to paper documents but also to electronic documents.

Furthermore, information covered by the obligation of professional secrecy may not be disclosed. The Hearing Officers need to take into account the data protection Regulation when deciding on the disclosure of information on natural persons in the context of their decisional powers. There are special procedures that protect interested third parties where a balancing of interests requires the disclosure of information that is considered to be confidential by those parties (the so-called AKZO procedure).

The various competition regulations also guarantee that any data is collected for specified, explicit and legitimate purposes. The data may only be collected and further processed for the purpose of applying the EC competition rules and in respect of the subject matter for which it was collected.

There are also sufficient guarantees that data are adequate, relevant and not excessive in relation to the purposes for which they are collected. This proportionality test is reflected in various provisions of the different competition regulations.

How can you verify the accuracy of your personal data and, if necessary, correct it?

The various competition regulations ensure that data are accurate and where necessary kept up to date, since they provide the Commission with various instruments (e.g. written requests for information) to check with the relevant sources whether the data are indeed accurate. The competition Regulations provide guarantees that undertakings (which may include natural persons) that are the addressees of a Statement of Objection have access to the antitrust case file. Natural persons who are not the addressees of a Statement of Objections have no such rights. Granting them right of access, blocking and erasing of data would hinder the monitoring and inspection tasks of the Commission when enforcing competition law, which is necessary to safeguard important economic or financial interests of the European Communities (i.e. the proper functioning of competitive markets). The exceptions of Article 20(1) sub b) and sub e) of Regulation 45/2001 therefore apply in these cases. However the data subject will have the chance to address the mailbox mentioned in the privacy statement a request of the deletion or modification of his/her data which had allegedly been unlawfully processed.

How long do we keep your data?

The Competition DG conserves competition files until closure of the case which is necessary for sound procedure. After closure of the case, the paper file is sent to the Commission's archives. This is necessary in order to comply with the Commission's general obligation to preserve the documents that it has obtained within the exercise of its duties and which relate to Community activities. The Competition DGs retention policy of competition files should be seen in the broader context of the archiving policy of the Commission.

Contact Information

Should you have any question or request concerning the information submitted or on your rights, feel free to contact the Data Protection Coordinator of the Competition DG by sending an email message to the following contact mailbox: comp-data-protection@ec.europa.eu or

contact the Commission's Data Protection Officer by sending an email message to dataprotection-officer@ec.europa.eu .

Recourse

Complaints, in case of conflict, can be addressed to the European Data Protection Supervisor. All details can be found on the following website <http://www.edps.europa.eu/EDPSWEB> .