



PRIVACY STATEMENT

This statement refers to the processing of personal data in the context of State aid investigations carried out by the European Commission Directorate General for Competition (Competition DG). The data that are collected and further processed in such investigations may 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 ('Regulation 659/1999').

The processing occurs under the responsibility of Ms. Corinne DUSSART-LEFRET, Head of Unit of the Document Management Unit in the Competition DG, acting as the Controller.

What is the purpose of the data collection?

The purpose of an EU State aid investigation is to determine whether State aid is granted and if so, to assess its compatibility under Articles [107](#) and [108](#) of the Treaty on the Functioning of the European Union.

For the purpose of enabling the Commission to conduct State aid investigations, Member States have to notify to the Commission their plans to grant State aid, according to the specific regulations in this field. Furthermore, as provided in Council [Regulation 659/1999](#) of 22 March 1999 laying down detailed rules for the application of Article 93 of the EC Treaty, the Commission can ask additional information from Member States, undertakings and associations of undertakings. Information can also be received from complainants and interested parties.

Information that is collected and further processed by the Competition DG relates to undertakings which are or will be possible recipients of State aid. Such information is only used in evidence for the purpose of applying the EU State aid rules and in respect of the subject matter for which it was collected. As a result of the investigation, and when the State aid is not compatible, it will not be authorized, or in the case of unlawful aid it will have to be recovered by the Member State concerned from the beneficiary.

What personal data do we collect?

The State aid procedural rules are aimed at collecting correct information, including, where relevant, personal data. Specific instruments are available for the data collection (e.g. through notifications, requests for information or information injunctions). Normally, personal data, if any, is provided by the Member State concerned and complainants. Member States have all interest in providing correct data since incorrectness may be a ground for annulment of the decision, if the incorrect information is decisive. Personal data may also have been received from interested parties.



Personal data thus collected and further processed in the context of State aid investigations are the names, contact details (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. owner, CEO, marketing manager, etc). Other data are contact details of complainants, or business holdings of individuals, in order to examine the SME-status of certain undertakings.

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

Access to State aid files is restricted to the Competition DG personnel on a strictly need to know basis. The documents collected are stored electronically and, with regard to originals received in hard copy, in paper files. Access to the electronic files is restricted to the Competition DG personnel using the Competition DG IT infrastructure, the operation of which is governed by the Commission's security provisions and measures implemented by the Informatics DG for the protection of the integrity and confidentiality of the electronic assets of the institution. The data is not accessible by anyone outside the Competition DG, except for DG AGRI and DG MARE, to the extent they are involved in the respective State aid file, and which comply with the same security rules of the Commission. Certain data may also be made available to other Commission services (without however granting access to ISIS), on a strictly need-to-know basis, in the context of the inter-service consultations for assessing the competition case. The original paper files are kept in the State aid Registry within the Competition DG premises. The Registry is accessible only to duly authorised Registry personnel and locked outside of office hours. Access to the Competition DG premises is restricted.

Transfer of information in the State aid file can only occur in very specific circumstances, either to the Member State under investigation or to national courts.

The Commission shall not use confidential information provided by respondents, which cannot be aggregated or otherwise be anonymised, in any decision taken in State aid cases, unless it has obtained their agreement to disclose that information to the Member State concerned. The Commission may take a reasoned decision, which shall be notified to the undertaking or association of undertakings concerned, finding that information provided by a respondent and marked as confidential is not protected, and setting a date after which the information will be disclosed.

An undertaking or an association of undertakings providing information and which is not a beneficiary of the State aid measure in question may request, on grounds of potential damage, that its identity be withheld from the Member State concerned (Art 7(10) of Regulation 659/1999).

The Commission notice on the enforcement of State aid law by national courts allows for certain cases where national courts can ask for information from the Commission. In addition to the possibility of transmitting information in the Commission's possession to the national courts, Regulation 659/1999 provides that the courts may ask for the Commission's opinion on questions concerning the application of State aid rules. The Commission, on own initiative and with prior information of the Member State of its intention, may submit written observations to the courts of the Member States that are responsible for applying the State aid rules. The Commission may request the relevant court to transmit documents at the disposal



of the court, necessary for the Commission's assessment of the matter (art. 23a of Regulation 659/1999).

Furthermore, the Commission also needs to respect its obligation of professional secrecy. Hence, in view of the limited scope of such cooperation, it seems unlikely that this could entail communication of personal data.

How do we protect and safeguard your information?

In addition to the physical measures outlined above, data may only be processed where necessary for the Commission's EU tasks under Articles [107-109](#) TFEU and in conformity with Procedural Regulation 659/1999. The Procedural Regulation, as well as the case-law of the EU Courts set out clear limits to the powers of investigation of the Commission, as well as to the use of the information.

Information covered by the obligation of professional secrecy may not be disclosed. [Commission communication C\(2003\) 4582](#) of 1 December 2003 on professional secrecy in State aid decisions (OJ C 297, 9.12.2003, p. 6-9) clarifies the nature of this obligation and the procedure to be followed.

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

In cases where the formal investigation procedure is initiated, all interested parties will have a chance to comment.

Other than this right to comment, interested parties and undertakings have no further rights under Procedural Regulation 659/1999 in order not to jeopardize the enforcement of State aid rules which are necessary to safeguard important economic or financial interests of the European Union (i.e. the proper functioning of competitive markets, undistorted through government intervention).

This is the reason why the exception of Article 20(1) sub b) and e) of Regulation 45/2001 applies as regards the right to access, blocking and erasing of personal data.

However, you have the chance to address the following mailbox: comp-data-protection@ec.europa.eu to request the deletion or modification of your personal data which you believe have 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. The electronic file is closed in the case management application and remains in principle accessible to the Competition DG staff. As regards paper files in State aid cases, the Registry retains the original files for a period of 2 years after closure of the file. At some stage, the State aid Registry sends the files to the historical archives for permanent conservation. This is necessary in order to comply with the Commission's general obligation



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to preserve the documents that it has obtained within the exercise of its duties and which relate to Community activities.

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 data-protection-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/>