

PRIVACY STATEMENT

This statement refers to the processing of personal data in the context of merger investigations carried out by the Commission. 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 (EU) 2018/1725¹. The processing occurs under the responsibility of the Unit Registry and Transparency in DG Competition, acting as the Controller.

The name and the contact details of the controller:

Unit R1- Registry and Transparency, DG Competition,

COMP-R1-MAIL@ec.europa.eu

The name and the contact details of the data protection officer:

data-protection-officer@ec.europa.eu .

What is the purpose of the data collection? What is the legal basis for the processing?

The purpose of EU merger control is to assess whether concentrations between undertakings with an EU dimension significantly impede effective competition in the internal market or in a substantial part of it. Concentrations which fall under the scope of Council Regulation (EC) No 139/2004 of 20 January 2004 on the control of concentrations between undertakings ('Regulation 139/2004') shall be notified to the Commission in order to obtain the Commission's authorisation to implement the operation.

For the purpose of enabling the Commission to conduct merger investigations, the Council has granted the Commission various powers to collect information (e.g. by sending requests for information, taking statements and carrying out inspections).

Information that is collected and further processed by DG Competition relates to undertakings that are subject to EU merger control rules and potentially their competitors, clients and suppliers. However, necessary information that is collected and further processed by the

¹ Regulation (EU) 2018/1725 of the European Parliament and of the Council of 23 October 2018 on the protection of natural persons with regard to the processing of personal data by the Union institutions, bodies, offices and agencies and on the free movement of such data, and repealing Regulation (EC) No 45/2001 and Decision No 1247/2002/EC, OJ L 295, 21.11.2018, p. 39–98.

Commission pursuant to its inspection and investigative powers unavoidably includes personal data.

Such information is only used for the purpose of effectively assessing the jurisdiction of the Commission over a proposed concentration and the potential effects of the latter on the structure and dynamics of competition in the EU, as well as an undertaking's compliance with its obligations under Regulation 139/2004 or with commitments entered into under this regulation.

Furthermore, the Commission may process the contact details for other compatible purposes, such as conducting market surveys, consultations and evaluations of its procedures or relevant substantive rules, in order to improve its practice and applicable legislation. The data subject's input is provided on a voluntary basis on such occasions.

The Commission may also process personal data in exchanges with third country authorities and organisations.

What personal data do we collect? The categories of personal data concerned

The personal data that are collected and further processed in the context of merger proceedings are often the names, contact details (e-mail address, postal address, telephone number, fax number, and occasionally also private contact details) and title or position (e.g. CEO, marketing manager, etc.) of natural persons within an undertaking and of natural persons that have communicated with such persons. We may also collect details regarding natural persons who own an undertaking or a shareholding in an undertaking, as well as of complainants. If commitments are at stake, the personal data collected may include the role in a (potentially) to be divested business in view of an assessment of the suitability to address the concerns identified and the viability of the business (mainly organigrams); also, personal data of natural persons employed in an undertaking interested in purchasing a (potentially) to be divested business, as well as data typically inserted in a CV in the context of a candidacy for a trustee or hold-separate manager (mainly professional experience relevant to the application).

Recipients and transfers

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

Within the Commission

Access to merger files is restricted to Commission personnel. The documents collected are stored electronically and, when applicable, in paper files. Access to the electronic files stored in the case management applications is restricted to Commission personnel. The original paper files are kept at the Merger Registry, in a specific location, which is locked outside the office hours. In addition, entrance to the Commission premises is restricted. Beyond the personnel from the DG in charge of the investigation, certain data may also be made available

to other Commission services, on a strictly need-to-know basis, for example in the context of inter-service consultations, with the purpose of assessing the merger case.

Other EU bodies and institutions

Where a complaint is sent to an EU institution for information, comments or an opinion, the personal data may be transferred to that institution (e.g. complaints to the Ombudsman or to the EDPS). These recipients are subject to the Regulation (EU) 2018/1725.

Member States and EFTA Surveillance Authority

Transfer of information to competition authorities within the EU is possible when the conditions required by Regulation 139/2004 to ask for a partial or entire referral are fulfilled. Moreover, the Commission shall transmit to the competent authorities of the Member States copies of notifications and copies of the most important documents lodged with or issued by the Commission pursuant to Regulation 139/2004 (e.g. commitments offered by the parties, draft decision). In these cases National Competition Authorities are subject to GDPR² and national implementation regulations that contain similar obligations as Regulation (EU) 2018/1725.

In case authorisations from national judicial authorities are necessary, such as for conducting inspections, the Commission may have to provide to the respective judicial authority detailed explanations regarding the subject matter of inspections. However, the national judicial authority may not demand to be provided with information in the Commission's file (Art. 13 of Regulation 139/2004).

Exchanges with third country authorities and organisations

The Commission may exchange information with third country authorities and has entered, with a number of third countries, into a variety of international agreements and instruments concerning competition law enforcement. At times, personal data may be included in that information material. In order to transfer such information, the Commission relies on the following: on adequacy for information exchanges containing personal data with the Swiss competition authorities, which take place in the framework of the 2nd generation cooperation agreement in force since 2014. Regarding other jurisdictions, in the absence of adequacy, the Commission must ensure appropriate safeguards before transferring personal data, or international transfers can take place where this is necessary for "*important reasons of public interest*".

² Regulation (EU) 2016/679 of the European Parliament and of the Council of 27 April 2016 on the protection of natural persons with regard to the processing of personal data and on the free movement of such data, and repealing Directive 95/46/EC (General Data Protection Regulation), OJ L 119, 4.5.2016, p. 1–88.

Access to the file

Parties to the procedure which are generally the addressees of objections: in the context of the right of defence when the merger case is subject to an in-depth investigation, parties and their representatives may have access to the file (excluding confidential information and business secrets), in accordance with the procedure and safeguards provided in the merger legislation. Documents obtained through the 'access to file' procedure may only be used for the purpose of assessing a proposed concentration.

Trustees, Consultants

The Commission may transfer personal data to a trustee appointed to assist in the monitoring of the implementation of commitments adopted in a merger decision, in particular in case of complaints concerning the implementation of such commitments. The trustee will be bound to observe the same data protection and confidentiality standards as the institutions.

As part of the assessment of a proposed concentration as well as for certain consultation and evaluation purposes in view of increasing effectiveness of the Commission procedures or the relevant regulatory framework, the contact details of individuals may be transferred to contractors who will be bound to observe the same data protection and confidentiality standards as the institutions.

How do we protect and safeguard your information?

In addition to the physical measures outlined above, pursuant to Regulation 139/2004 data may only be collected and further processed when necessary for the Commission's merger's assessment enforcement tasks. The procedural regulations, 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.

Furthermore, information covered by the obligation of professional secrecy may not be disclosed. When deciding on the disclosure of information on natural persons in the context of their decisional powers, the Hearing Officers also need to take into account Regulation (EU) 2018/1725. 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 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 EU merger rules and in respect of the subject matter for which it was collected.

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

Granting to data subjects a right of access, restriction of processing or erasure of their data present in the Commission's case files 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 Union (i.e., the proper functioning of competitive markets). The restrictions of Article 25 of Regulation (EU) 2018/1725 and the Commission decision (EU) 2018/1927 of 5.12.2018³ therefore apply in these cases. However the data subject will have the chance to address to the mailbox mentioned in the privacy statement a request for restriction of processing or erasure of his/her data which had allegedly been unlawfully processed.

How long does the Commission keep your data?

The Commission retains competition files until closure of the case which is necessary for a sound administrative procedure. The electronic file is closed in the case management application. While the documents and case metadata remain accessible to the Commission personnel, full text searches (using a separate tool) are not available anymore within two years after the closure of the case. With regard to the answers provided to the Commission through the electronic questionnaire application (eQuestionnaire), such answers are stored in the application for a certain period, as follows: (i) with regard to contact details, one year after the closure of the case, and (ii) with regard to other answers, 5 years after the closure of the case.

After closure of the case, the file is sent to the Commission's historical 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 EU activities. This should be seen in the broader context of the archiving policy of the Commission.

Personal data processed in the context of consultations, evaluations and other type of feedback regarding the activities of the Commission will be stored for a period of time necessary to be able to contact the stakeholders for feedback. For each specific consultation, evaluation or other type of feedback, the retention period for a contractor would not exceed 6 months after the date when the final report or output was provided by the contractor to the Commission or when the contract otherwise ended between the contractor and the Commission.

³ Commission Decision (EU) 2018/1927 of 5 December 2018 laying down internal rules concerning the processing of personal data by the European Commission in the field of competition in relation to the provision of information to data subjects and the restriction of certain rights, OJ L 313, 10.12.2018, p. 39–44.

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 DG Competition 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> .