



EUROPEAN
COMMISSION

Brussels, 6.5.2022
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ANNEX

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to the

COMMUNICATION FROM THE COMMISSION

**Approval of the content of a draft for a COMMUNICATION FROM THE
COMMISSION**

**Communication pursuant to Articles 3(2), 13(3), 20, and 22 of Commission Regulation
(EU) [No [X]/2023 of [X] 2023] implementing Council Regulation (EC) No 139/2004 on
the control of concentrations between undertakings**

ANNEX

Communication pursuant to Articles 3(2), 13(3), 20, and 22 of Commission Regulation (EU) [No [X]/2023 of [X] 2023] implementing Council Regulation (EC) No 139/2004 on the control of concentrations between undertakings

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Articles 3(2), 13(3), 20, and 22 of Commission Regulation (EU) [No [X]/2023 of [X] 2023] implementing Council Regulation (EC) No 139/2004 on the control of concentrations between undertakings (the “Implementing Regulation”)¹ require notifications, reasoned submissions, comments on the Commission's objections, commitments offered by the undertakings concerned and the Form RM to be submitted to the Commission in the format specified by the Commission in the *Official Journal of the European Union*.

The Commission hereby specifies, pursuant to Articles 3(2), 13(3), 20, and 22 of the Implementing Regulation, the format in which notifications, reasoned submissions, comments on the Commission's objections, commitments offered by the undertakings concerned and the Form RM (hereinafter the “Documents”) should be submitted.

1.1. Method of transmitting documents to the Commission

1. Transmissions of documents under 10 gigabytes in size should be sent electronically using EU Send Web (hereinafter referred to as “EU Send”), the Commission’s web-based exchange platform for secure transmission of documents.² EU Send requires prior registration and transmissions sent through EU Send are subject to various size limitations that are subject to change. If a transmission is under 10 gigabytes in size but exceeds the size limitations of EU Send, it should be transmitted in two or three parts.
2. Transmissions sent using EU Send must be accompanied by a transmittal form, provided by EU Send. The transmittal form must be completed correctly and diligently.
3. Transmissions of over 10 gigabytes in size may be hand delivered or sent by registered post to the Commission’s DG Competition using hard disk drives, formatted in Microsoft Windows-compatible, uncompressed data in a USB 2.0 or 3.0 external enclosure.
4. Documents sent by registered post or by means of hand delivery should be addressed to the Commission’s DG Competition at the address set out on DG Competition’s website.³ Addressing documents to other Commission services may result in delays.

¹ OJ L, [X], [X].[X].[X], p. [X].

² For instructions on how to use EU Send (also called “eTrustEx”), please refer to https://ec.europa.eu/competition-policy/mergers/practical-information_en.

³ https://ec.europa.eu/competition-policy/mergers/practical-information_en.

1.2. Signing the documents electronically

5. This section sets out technical specifications regarding the signature of documents submitted electronically, including transmissions sent using EU Send as well as those delivered to the Commission in external storage devices.
6. To be considered valid, documents submitted electronically must be signed using at least one Qualified Electronic Signature (QES) complying with the requirements set out in Regulation (EU) No 910/2014 (the “eIDAS Regulation”).⁴ Since only QES are explicitly recognised to have legal effect equivalent to that of hand-written signatures in all EU Member States, other types of electronic signatures, such as scanned signatures or Advanced Electronic Signatures as defined in the eIDAS Regulation that do not meet the requirements of QES are not accepted.
7. The format of the QES must comply with one of the formats referenced in Commission Implementing Decision (EU) 2015/1506⁵ or their latest specifications as published by the European Telecommunications Standards Institute.
8. Qualified Trust Services may be obtained from Qualified Trust Service Providers (QTSPs) as defined in the eIDAS Regulation. QTSPs are commercial service providers and qualified members of the European Union’s Trust Scheme. QTSPs are listed in the Trusted List Browser.⁶
9. Any digital or hardware equipment to enable the implementation of a QES, such as qualified electronic certificates and qualified electronic signature devices must be purchased by and remain in the responsibility of the sender.
10. The Commission will validate QES-signed documents. To increase confidence that a QES will be successfully validated by DG Competition, it is possible to test its validity by involving a QTSP who provides a qualified validation service upon remuneration.⁷ The Commission’s Digital Signature Services web application may also be used for demonstration purposes.⁸ For the avoidance of doubt, this platform must not be used to submit any case-related documents, any confidential or case-specific information.
11. Signed documents must not be encrypted nor contain any certificates, other than QES-related certificates.

⁴ Regulation (EU) No 910/2014 of the European Parliament and of the Council of 23 July 2014 on electronic identification and trust services for electronic transactions in the internal market and repealing Directive 1999/93/EC, available at https://eur-lex.europa.eu/legal-content/EN/TXT/?uri=uriserv%3AOJ.L_.2014.257.01.0073.01.ENG

⁵ Commission Implementing Decision (EU) 2015/1506 of 8 September 2015 laying down specifications relating to formats of advanced electronic signatures and advanced seals to be recognised by public sector bodies pursuant to Articles 27(5) and 37(5) of Regulation (EU) No 910/2014 of the European Parliament and of the Council on electronic identification and trust services for electronic transactions in the internal market, OJ L 235, 9.9.2015, p. 37-41.

⁶ QTSPs per EU Member State are listed here: <https://esignature.ec.europa.eu/efda/tl-browser/#/screen/home>. Only QTSPs carrying the tag “QCert for ESig” can provide a qualified certificate for electronic signature, which is required for QES.

⁷ QTSPs per EU Member State are listed here: <https://esignature.ec.europa.eu/efda/tl-browser/#/screen/home>. QTSPs with the indication “QVal for QESig” can provide qualified validation service for qualified electronic signature.

⁸ The Commission’s Digital Signature Services web application is available at <https://ec.europa.eu/cefdigital/DSS/webapp-demo/validation>.

12. The QES metadata must match the contact details of the signatory. When using one or several QES to sign a document, please provide, for information purposes, the contact details of the signatory, as well as the indication “[e-signed]” at the end of the document. A visual representation of the electronic signature is optional and brings no additional legal value.
13. Modifications of a signed document will break the integrity of any existing electronic signatures. The document therefore should not be modified after the introduction of one or more QES.
14. Documents electronically signed using a QES must not be locked or be password protected. This will enable the Commission’s dedicated software to access the document and verify the validity of the QES.

1.3. Technical specifications of documents submitted electronically

15. This section sets out technical specifications regarding documents submitted electronically, including transmissions sent using EU Send as well as those delivered in external storage devices.
16. All documents submitted in electronic format must be scanned for and free of viruses prior to submission. The Commission will delete any infected files and will discard any infected external storage media. Deleted or discarded files may render the submission invalid or incomplete.
17. Documents submitted using EU Sign must not be encrypted. For documents delivered in external storage devices, encryption is strongly encouraged. Encryption should be implemented only at container level, so that all documents placed inside a container on the storage device are not password-protected. Decryption passwords should be sent under separate cover.
18. All documents must be in Portable Document Format (PDF) or in spreadsheet (XLSX) format (subject to point 21 below). Documents in PDF format must be searchable, either as digitally created PDFs or through having been scanned for optical character recognition (OCR). Documents in XLSX format must be submitted with all underlying data un-redacted and all underlying formulas and algorithms intact.
19. Documents should be named in a way that allows easy identification of the relevant section in the Form CO, Short Form CO, Form RS or Form RM they refer to. Each document name should also contain the number of the proceeding for which the submission is made. Document names must exclude special or non-latin characters and the complete path must be limited to 250 characters.
20. Documents in PDF format must be marked on each page with corporate identification and consecutive document control numbers (e.g., ABC-00000001).

1.4. Additional specifications for internal documents submitted as part of section 5.4 of the Form CO

21. Documents must be submitted in native format (i.e. not be converted into PDF to be submitted to the Commission as part of the Form CO).

22. Emails and other files must be submitted as single files (they should not be in “.pst”, “.zip” or “.nsf” formats). .nsf files should be converted into any “single” email format (such as .msg or .eml).
23. Documents must be transmitted in whole and un-redacted. All underlying metadata must be kept intact. No de-duplication or email threading software may be used.

1.5. Alternative methods of signing and submitting documents to DG Competition

24. If the EU Send application is unavailable for maintenance or for technical reasons beyond the Commission’s control, contact immediately the IT Support team of EU Send at COMP-EU-SEND@ec.europa.eu. Do not use this email address to submit any documents or to discuss any confidential or case-specific information.
25. Where it is technically impossible and the Commission exceptionally agrees that other means of transmission may be used, documents under 10 gigabytes in size may be hand delivered or sent by registered post to DG Competition using external storage devices such as USB, CD, or DVD, or external hard disk drives formatted in Microsoft Windows-compatible, uncompressed data in USB 2.0 or 3.0 external enclosure. These documents must be digitally signed with a QES.
26. If the Commission agrees that signing documents with a QES is not feasible, a hand signed paper copy of the complete submission may be hand delivered or sent by registered post to the Commission’s DG Competition. In this case, the submission must be accompanied by two digital copies of the full submission in external storage devices (such as USB, CD, or DVD, or external hard disk drives formatted in Microsoft Windows-compatible, uncompressed data in USB 2.0 or 3.0 external enclosure) for information. The submission must also be accompanied by a hand signed declaration stating that the signed paper copy and the digital copies are identical.

Date of applicability of this communication. The instructions contained in this communication shall be applicable as of the day of the entry into force of the Implementing Regulation.