

Guidance on confidentiality claims during Commission antitrust procedures¹

(last updated: 3 February 2025)

- (1) If an investigation leads to the adoption of a Statement of Objections, the Commission grants access to documents in the Commission's file that DG Competition has obtained, produced and/or assembled during the course of its investigation. Access to that file is granted upon request and only to those undertakings/associations of undertakings, to which a Statement of Objections is addressed². If the Commission has decided in a cartel case to pursue a settlement procedure, the Commission will disclose information in its file to the parties that are engaged with it in settlement discussions³. The Commission may disclose information on its file for the purposes of court proceedings pertaining to this investigation.
- (2) The right of access to the file does not extend to the parts of the file that contain business secrets or other confidential information, or to internal documents of the Commission or of the competition authorities of the Member States (nevertheless, see also paragraph (20) below)⁴.
- (3) Access to the file is granted on condition that the information thereby obtained may be used only for the purposes of judicial or administrative proceedings for the application of Article 101 or 102 TFEU⁵.
- (4) Undertakings, associations of undertakings and persons must indicate business secrets and other confidential information in submissions and/or documents in the Commission's file that originate from them⁶. This obligation extends also to observations that addressees of a Statement of Objections may submit.
- (5) In certain circumstances, the Commission may decide to grant access to documents in the file also at stages of the proceedings other than the Statement of Objections. In particular, the Commission may decide to grant access to key submissions in antitrust proceedings other than cartel proceedings, or to parts of written replies to the Statement of Objections. In such an event, the Commission would take into account genuine

¹ This guidance concerns confidentiality claims vis à vis parties of the proceedings. Note that there is distinct guidance on confidentiality in view of preparation of public versions of Commission decisions and related publications. With effect from 1 December 2009, Articles 81 and 82 of the EC Treaty have become Articles 101 and 102, respectively, of the Treaty on the Functioning of the European Union ("TFEU"). The two sets of provisions are, in substance, identical. In regulations and notices adopted before the 1 December 2009, references to Articles 81 and 82 of the EC Treaty should be understood as references to Articles 101 and 102 TFEU.

² Article 15 of Commission Regulation (EC) No 773/2004 (OJ L 123, 27.4.2004, p. 18).

³ Article 10a(2) of Commission Regulation 773/2004, as modified by Commission Regulation (EU) 2015/1348; paragraphs 15 and 16 of the Commission Notice on the conduct of settlement procedures in cartel cases (OJ C 167, 2.7.2008, p. 1).

⁴ Articles 27 and 28 of Council Regulation (EC) No 1/2003 (OJ L 1, 4.1.2003, p. 1); Articles 15(2) and 16 of Commission Regulation No 773/2004; point 10 of the Commission Notice on the rules for access to the Commission file in cases pursuant to Articles 81 and 82 of the EC Treaty, Articles 53, 54 and 57 of the EEA Agreement and Council Regulation (EC) No 139/2004 (OJ C 325, 22.12.2005, p. 7) ("Notice on access to file"). See also Joined Cases C-204/00 P, C-205/00 P, C-211/00 P, C-213/00 P, C-217/00 P and C-219/00 P *Aalborg Portland and Others/Commission*, EU:C:2004:6, paragraph 68.

⁵ See Article 16a of Commission Regulation No 773/2004, as modified by Commission Regulation (EU) 2015/1348; Point 48 of the Notice on access to file.

⁶ Article 16 of Commission Regulation No 773/2004.

concerns regarding confidentiality, including fears of retaliation, before granting any access⁷.

- (6) This document provides guidance for identifying business secrets and other confidential information and outlines the manner in which non-confidential versions of documents must be submitted.
- (7) If you do not comply with this guidance, the Commission may assume that your submissions/documents do not contain any business secrets or other confidential information⁸ and that therefore you do not object to the disclosure of that information.
- (8) For the guidance on how to submit documents electronically please refer to the '*Recommendations for electronic document submission in antitrust and cartel proceedings*', which is available [here](#).
- (9) This guidance document can under no circumstances be construed as contradicting the respective provisions in EU law concerning professional secrecy and claims for confidentiality⁹.
- (10) Finally, this guidance document also explains in section IV how claims for redaction of personal data based on data protection grounds are handled.

I. What constitutes business secrets and other confidential information?

- (11) EU legislation on proceedings pursuant to Articles 101 and 102 TFEU provides that information shall not be communicated or made accessible by the Commission in so far as it contains **business secrets** or **other confidential information** of a person¹⁰.
- (12) **Business secrets** are confidential information about an undertaking's business activity of which [...] mere transmission to a person other than the one that provided the information may seriously harm the latter's interests¹¹. Examples of information that may qualify as business secrets include: technical and/or financial information relating to an undertaking's know-how, methods of assessing costs, production secrets and processes, supply sources, quantities produced and sold, market shares, customer and distributor lists, marketing plans, cost and price structure and sales strategy¹².
- (13) **Other confidential information** is information other than business secrets, insofar as its disclosure would significantly harm a person or undertaking. Depending on the specific circumstances of each case, this may apply to information provided by third parties about undertakings which are able to place very considerable economic or commercial pressure on their competitors or on their trading partners, customers or suppliers. The Court of Justice of the European Union (CJEU) has acknowledged that it is legitimate to refuse to reveal to such undertakings certain letters received from their customers, since their disclosure might easily expose the authors to the risk of retaliatory

⁷ See in this regard paragraphs 71-74 and 103 of the Commission Notice on best practices for the conduct of proceedings concerning Articles 101 and 102 TFEU, (OJ C 308, 20.10.2011, p.6) ("Best Practices").

⁸ Article 16(4) of Commission Regulation No 773/2004.

⁹ Article 339 TFEU, Council Regulation No 1/2003, Commission Regulation No 773/2004 and the Notice on access to file.

¹⁰ Article 16(1) of Commission Regulation No 773/2004.

¹¹ Case T-353/94 *Postbank NV/Commission*, EU:T:1996:119, paragraph 87.

¹² Point 18 of the Notice on access to file.

measures¹³. Therefore, the notion of other confidential information may include information that would enable the parties to identify complainants or other third parties where those have a justified wish to remain anonymous¹⁴. The category of other confidential information also includes military secrets¹⁵.

- (14) For **information to be regarded as confidential, all of the following conditions must be met**: i) this information must be known only to a limited number of persons; ii) its disclosure must be liable to cause serious harm to the person who has provided it or to third parties; and iii) the interests liable to be harmed by the disclosure must be objectively worthy of protection¹⁶. These principles are applied in the assessment of confidentiality claims in the context of Statements of Objections, access to the file, publication of final decisions addressed to the parties, and court proceedings.

II. Assessment of confidentiality claims for redaction

- (15) The assessment of whether given information contains business secrets or other confidential information has to be done on a case-by-case basis. Information in your submissions/documents that does not qualify as “business secrets and other confidential information” (see section I.) will not be considered as confidential.
- (16) In particular, information relating to an undertaking that is already known outside the undertaking (in case of a group, outside the group), or outside the association to which it has been communicated by that undertaking, will usually not be considered as confidential. For information to lose its confidential nature, it is sufficient for it to be available to specialist circles or capable of being inferred from publicly available information¹⁷.
- (17) Information that has lost its commercial importance, for instance due to the passing of time, can also no longer be regarded as confidential. Generally, a period of five years is sufficient in itself for information to lose its qualification as business secrets or other confidential information¹⁸. A confidential treatment may only be granted to such data exceptionally, if it can be shown that they still constitute essential elements of the commercial position of the undertaking concerned, notwithstanding their historical nature¹⁹.
- (18) By way of example, the following type of information is usually not regarded as a business secret or other confidential information, unless duly and individually justified (showing the need for its deletion from the accessible part of the file²⁰):

¹³ The CJEU has pronounced upon this question both in cases of alleged abuse of a dominant position (Article 102 TFEU) (Case T-65/89, *BPB Industries and British Gypsum/Commission*, EU:T:1993:31, ; and Case C-310/93P, *BPB Industries and British Gypsum/Commission*, EU:C:1995:101, , and in merger cases (Case T-221/95 *Endemol v Commission*, EU:T:1999:85, paragraph 69, and Case T-5/02 *Laval/Commission*, EU:T:2002:264, paragraph 98 et seq).

¹⁴ Redaction of personal data based on data protection grounds is developed under section IV of the present guidance.

¹⁵ Points 19-20 of the Notice on access to file.

¹⁶ See, to this effect, Case T-198/03 *Bank Austria Creditanstalt AG/Commission*, EU:T:2006:136, paragraph 71.

¹⁷ Order in Case T-89/96 *British Steel/Commission*, EU:T:1997:77, paragraphs 26 and 27.

¹⁸ See Case T-341/12 *Evonik Degussa GmbH v Commission*, EU:T:2015:51, paragraphs 84-85 and Case C-162/15 P *Evonik Degussa GmbH v Commission*, EU:C:2017:205, paragraphs 64-67.

¹⁹ See, for example, Order in Case T-271/03 *Deutsche Telekom/Commission*, EU:T:2006:163, paragraph 45.

²⁰ See, for example, point 19 of the Notice on access to file.

- data or information from and about another undertaking (such as price announcements, sales data, etc). Exceptionally, however, data received pursuant to a contract with another undertaking, that is subject to specific non-disclosure obligations, may be considered confidential. By contrast, generic references to a non-disclosure agreement are insufficient to justify the confidentiality of such data;
 - information made known outside your undertaking (such as price targets, price increases, dates of implementation of such increases and customer names, especially when these are undertakings);
 - facts relating to an application for immunity or a reduction of fines, where these facts aim to provide evidence of an alleged infringement, unless the disclosure of such facts could harm the Commission's leniency policy.
- (19) It should be noted that **oral corporate statements** that have been supplied in an application for immunity from or a reduction of fines under the Leniency Notice²¹ **cannot by definition contain any business secrets or other confidential information**, as they are a presentation of the undertaking's knowledge of a cartel and its role therein²².
- (20) Information which is considered to be confidential may nevertheless be disclosed, if that disclosure is **necessary to prove an alleged infringement ('inculpatory information') or could be necessary to exonerate a party ('exculpatory information')**²³.
- (21) DG Competition may provisionally accept confidentiality claims, when these seem justified. DG Competition may also inform you that it does not agree with the scope of your confidentiality claims. The provisional acceptance of a confidentiality claim may be reversed, in whole or in part, at a later stage in the proceedings.
- (22) If no agreement is reached on a confidentiality claim, you may present within the deadline set by DG Competition in the letter rejecting your confidentiality claim, a reasoned request to the Hearing Officer to take a final decision on the confidentiality issue²⁴.

III. How to claim confidentiality

- (23) For reasons of administrative efficiency, the Commission encourages to use the eConfidentiality secure platform to claim confidentiality, negotiate and to finalise non-confidential versions of documents in a centralised way. More information on the benefits of eConfidentiality and how to register for and use the tool (including tutorials) can be found on the DG Competition website (see [here](#)).
- (24) If you choose to use eConfidentiality, you do not have to provide a non-confidential version together with your confidential submission to the Commission, including your reply to a request for information. The case team will contact you separately.

²¹ Commission notice on immunity from fines and reduction of fines in cartel cases (OJ C 298, 8.12.2006, p. 17) ("the Leniency Notice").

²² See paragraph 31 of the Leniency Notice. The Commission requires leniency applicants to make a declaration to that effect at the time of their leniency application.

²³ Points 24-25 and 42 of the Notice on access to file.

²⁴ See Decision 2011/695/EU of the President of the European Commission of 13 October 2011 on the function and terms of reference of the hearing officer in certain competition proceedings (OJ L 275, 20.10.2011, p. 29).

- (25) If you do not choose to use eConfidentiality, please provide first a draft non-confidential version of the submissions/documents, in which the information claimed to be confidential is highlighted but remains legible²⁵. After the Commission has provisionally accepted your confidentiality claims, you will be asked to submit a final non-confidential version in which confidential information is blacked out.
- (26) The Commission will send back the non-confidential versions and confidentiality claims, if they do not meet the requirements set out below, and ask for correction.
- *Submit complete non-confidential version to each document on which you have confidentiality claims*
- (27) You must submit a non-confidential version for each submission/document on which you claim confidentiality²⁶. Standard confidentiality stamps in letterheads from law firms, or automatic generic disclaimers in e-mails, are not regarded as requests for confidential treatment.
- (28) The non-confidential version of your submissions/documents must **mirror the confidential version in terms of the number of pages, layout and its quality**²⁷. If you claim confidentiality for any parts of a document, you are requested **to provide a non-confidential version of the ENTIRE document**. The **PDF format** remains the preferred option for non-confidential versions (or Excel format, when appropriate), provided that the PDF conversion does not impact the integrity of the document and the information contained therein.
- (29) In case you do not claim confidentiality for a document, this should be stated in the table mentioned in paragraph (33) below. You need to explicitly confirm in the table that you do not raise any confidentiality claims on a particular document²⁸.
- (30) The full batch of documents must be sent back to the Commission, including those for which you do not claim confidentiality. Name the draft non-confidential version in the following way: “ID [Commission ID]-NCV”, provided that you know the Commission ID numbers. Please also use the Commission ID numbers in the table mentioned in paragraph (33) below²⁹.
- *Limit redactions to specific pieces of information*
- (31) In general, you cannot claim confidentiality for an entire document or whole sections of it. It is normally possible to protect confidential information with limited redactions. Entirely blank or blacked-out pages will not be accepted. As a minimum, leave the headings of the documents and/or the headings of the columns contained in tables and pictures as well as any list of annexes intact.

²⁵ Draft non-confidential versions in which confidential information has been blacked out are not acceptable, this is why highlighted versions are requested. Draft and/or final non-confidential versions in which confidential information has been erased or whitened are not acceptable either.

²⁶ Article 16(2) of Commission Regulation No 773/2004.

²⁷ If you do not use eConfidentiality.

²⁸ eConfidentiality also provides the possibility to explicitly mark a document as not confidential.

²⁹ This does not apply when using eConfidentiality since the tool automatically uses the Commission ID numbers. However, you still need to provide and submit claims for each document or mark documents as “non-confidential” where applicable.

- *Provide reasons for your confidentiality claims and non-confidential summaries*

(32) You are required to provide the Commission with all relevant details in order to enable it to assess the confidentiality of a piece of information. Therefore, you are requested to:

a. **support each claim** for confidentiality in writing, explaining:

- the reasons why the information in question constitutes a business secret or other confidential information
- in particular, how the disclosure of this information would cause serious harm to your undertaking or would significantly harm a person or undertaking.

b. **provide a concise but meaningful non-confidential summary** of each piece of information claimed to be confidential.

Generic justifications such as 'business secret' or 'information not known to other party' without any concrete justification will not be accepted. When redacting figures such as market shares or turnover figures you are asked to indicate ranges. Regarding sales and/or turnover data, provide ranges not wider than 20% of the respective total amounts. Relative figures such as market shares (in %) should be indicated in ranges not wider than 5%.

(33) The justifications and the non-confidential summaries for each piece of information claimed to be confidential should be presented in the form of a list. Please see the format below:

List of confidentiality claims³⁰ [accessible to addressees of the SO!]

ID # (if available)	Redactions on page # of original confidential version/paragraph # (please indicate annex # where relevant)	Reasons for redaction	Non-confidential summary

(34) The non-confidential versions of the submissions/documents and the summaries of the redacted information must be drafted in a way such as to enable a party entitled to access the non-confidential versions to determine whether the information redacted is likely to be relevant for its defence. **It is therefore very important to provide accurate descriptions, on the basis of which other parties can assess the information and make, if they deem necessary, well-motivated request to the Commission to grant access to information you have claimed to be confidential.**

³⁰ For more details see below "Examples of confidentiality claims: how to provide reasons and non-confidential summaries".

- (35) **Please ensure that the table containing the summaries and the justifications of your confidentiality claims does not contain any confidential information, or provide a non-confidential version, as this table will be made accessible to the parties that are entitled to have access to the file.** Check also that the properties of your electronic documents do not contain any confidential information. The Commission will assume that the summaries and the justifications of your confidentiality claims as well as the properties of your submitted non-confidential versions are non-confidential.

- *Ensure that your non-confidential versions are technically reliable*

- (36) In access to the Commission's file, the non-confidential versions of your submissions/documents will be made accessible to the parties to the proceedings in the same format in which they were submitted by you. It is your responsibility to ensure that the non-confidential versions provided by you are technically reliable and redacted information cannot be retrieved by any means, including forensic tools. The Commission does not take any responsibility for insufficiently blacked-out or unstable redactions in the final non-confidential versions. When using eConfidentiality, the tool generates non-confidential versions³¹, in which the confidential information is blacked out, and a list of confidentiality claims. The party has the responsibility within a set deadline to check and confirm these final non-confidential versions and the list of confidentiality claims.

IV. Assessment of claims for redaction of personal data based on data protection grounds

- (37) Parties sometimes ask the Commission to redact certain personal data from documents that have been put on its file, invoking data protection grounds.
- (38) Article 4(1) of Regulation (EU) 2016/679 of the European Parliament and the Council (GDPR)³² and Article 3(1) of Regulation (EU) 2018/1725 of the European Parliament and the Council (EUDPR)³³ define personal data as ‘any information relating to an identified or identifiable natural person’ and establish stricter rules for the processing of special categories of personal data, which are particularly sensitive (special categories of data)³⁴.
- (39) The Commission acts as controller³⁵ concerning the processing³⁶ of personal data in the context of antitrust investigations. The Commission, as a controller, may lawfully process personal data in the context of its investigations pursuant to Council Regulation (EC) No 1/2003³⁷. Specifically, such processing is lawful under Article 5(1)(a) of the

³¹ The tool generates non-confidential versions only for PDF documents. For non-PDF documents, your undertaking will need to upload the non-confidential versions agreed with the Commission into eConfidentiality.

³² 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).

³³ 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).

³⁴ See Article 9(1) GDPR and Article 10(1) EUDPR.

³⁵ See the definition of “controller” in Article 3(8) of the EUDPR.

³⁶ See the definition of “processing” in Article 4(2) of the GDPR and Article 3(3) of the EUDPR.

³⁷ See the Letter of the European Data Protection Supervisor (EDPS) of 22 October 2018 to DG COMP, DG TRADE and OLAF, the EIB and the EIF (available at: <https://edps.europa.eu/sites/edp/files/publication/18->

EUDPR (necessity for performance of a task in the public interest or for the exercise of official authority). The conduct of procedures for the enforcement of Articles 101 and 102 TFEU, including compliance with the rights of defence, constitutes an exercise of official authority and, in any event, the performance of a task in the public interest, which allows the collection of the personal data included in the documents in the file, and the granting of access to them in the context of access to file³⁸. There are specific safeguards in procedures for the enforcement of Articles 101 and 102 TFEU, which should ensure that legitimate interests of individuals are not prejudiced when their personal data are made available in the context of access to file³⁹. The EDPS has issued a supervisory opinion on the processing of personal data in the context of competition law investigations,⁴⁰ including on the rules applicable to the transmission of personal data by the Commission to recipients in the context of access to the file.⁴¹

- (40) As a matter of principle, during its investigation the Commission only collects documents that are related to the subject matter of the investigation⁴². Based on the relevant case law⁴³, the Commission may not determine on its own which documents are relevant for the parties' defence. This means that all the documents in the Commission's case file, including personal data therein,⁴⁴ must be made accessible to the parties entitled to receive access to the file. Nonetheless, the Commission is allowed to exclude from the administrative procedure evidence which has no relation to the allegations of fact and of law in the Statement of Objections and which therefore has no relevance to the investigation⁴⁵. In line with such case law as well as the data minimisation principle⁴⁶, the Commission will exclude from its file, or redact for the purposes of giving access to it, personal data, which are manifestly irrelevant to the

[10-30 letter investigative activities_eui_gdpr_en.pdf](#)), Judgment of 24 May 2023 in *Meta Platforms Ireland*, T-451/20, EU:T:2023:276, paragraphs 185-194 and Order of 9 September 2023 in *Red Bull*, T-306/23 R, EU:T:2023:590, paragraph 31.

³⁸ In particular, the collection of information and access to the file are closely linked. This also means that the granting of access to the Commission's file is a further stage of the same procedure, being an essential element of the parties' rights of defence.

³⁹ Such as: (i) access to file occurs between the Commission and the SO addressees (see paragraph (1)), (ii) the file to which access is given comprises the result of the Commission's investigation (see paragraph (40)), (iii) the information obtained in these proceedings cannot be used for purposes other than judicial or administrative proceedings for the application of Articles 101 and 102 TFEU (see paragraph (3) above), (iv) individuals as such are not under investigation by the Commission for competition infringements, (v) the Commission is obliged to protect the identity of individuals who claim anonymity because they fear reprisals (see paragraph (13) above).

⁴⁰ https://www.edps.europa.eu/data-protection/our-work/publications/opinions/2022-05-05-opinion-processing-personal-data-context-competition-law-investigations_en

⁴¹ *Ibid.*, section 3.3.

⁴² This is the case regardless of how the documents and information (including personal data) became part of the Commission file, namely whether they were provided under a legal obligation or on a voluntary basis to enable the Commission to perform its tasks in the public interest, as confirmed in the Letter of the EDPS of 22 October 2018 (see footnote 37).

See also DG COMP's privacy statement relating to antitrust proceedings: https://competition-policy.ec.europa.eu/system/files/2021-05/privacy_statement_antitrust_en.pdf

⁴³ Judgments of 29 June 1995 in *Solvay/Commission*, T-30/91, ECLI:EU:T:1995:115, paragraphs 81-86; of 29 June 1995 in *ICI/Commission*, T-36/91, ECLI:EU:T:1995:118, paragraphs 91-96; and of 7 January 2004 in *Aalborg Portland/Commission*, C-204/00 P, ECLI:EU:C:2004:6, paragraphs 68 and 126.

⁴⁴ Except for documents or information referred to in paragraph (2) and manifestly irrelevant personal data as explained further down in the present paragraph.

⁴⁵ Judgment of 7 January 2004 in *Aalborg Portland/Commission*, C-204/00 P, ECLI:EU:C:2004:6, paragraph 126.

⁴⁶ Article 4(1)(c) of the EUDPR.

investigation⁴⁷ either on its own motion where it has sufficient information to do so, or in response to an individualised and convincingly substantiated claim. As a result, such personal data should not be transmitted to the addressees of the Statement of Objections in the context of access to the file.

- (41) In the course of competition investigations, some documents collected or obtained by the Commission and added to its file may, following a more detailed examination, prove to be unrelated to the subject matter of the investigation in question. If it is confirmed that a document exclusively contains information (including personal data), which is manifestly irrelevant to the investigation, the Commission will return the entire document. Upon return, these documents will no longer constitute part of the file⁴⁸ and will be immediately deleted from the file. This mechanism also applies to documents containing personal data, including special categories of personal data. When providing information to the Commission or following a Commission inspection at your premises, you have the opportunity to identify such documents, by making individualised and duly substantiated claimsⁱ.
- (42) In the context of the preparation of access to file by the Commission, you have the opportunity to request redactions of personal data which you consider to be manifestly irrelevant to the investigation, in documents which are otherwise objectively related to the subject-matter of the investigation. Claims for redactions of this type must be individualised and duly substantiated. If the Commission agrees, it will redact the personal data in question in the versions of documents on the file to which access will be granted. As a result, that personal data should not be transmitted to the parties receiving access.
- (43) It follows from the above that personal data shall, as a rule, only be excluded or redacted from the file communicated to the parties when they are manifestly irrelevant to the investigation. Therefore, personal data such as names, job titles, functions, contact details, and other personal data relating to the business activities under investigation, which are reflected in documents on the file will in principle⁴⁹ not be redacted⁵⁰.
- (44) Should you consider that you have a valid claim for redaction in light of the guidance in this section, then the procedure described in section III applies *mutatis mutandis*⁵¹. In particular, the undertaking that provided the document should make individualised and duly substantiated claims for redaction, which the Commission will take into account. Claims which are raised in the form of a ‘blanket’ claim (i.e., categorical and without individualised reasoning for each personal data) cannot be accepted.

V. Assessment of further access to file requests, disclosure of confidential information and comparison with your own confidentiality claims regarding your submissions/documents

- (45) If you are granted access to the file and thereafter submit a reasoned request for further access to confidential information provided by other undertakings, the Commission will

⁴⁷ Manifestly irrelevant personal data are data that are objectively unrelated to the subject-matter of the investigation (“manifestly irrelevant to the investigation”).

⁴⁸ Point 9 of the Notice on access to file.

⁴⁹ Personal data of individuals that belong to the private sphere and have no relation to the business activities of the undertaking, may be redacted based on individualised and duly substantiated claims (see ID 1112 in the Annex).

⁵⁰ It is possible to claim the protection of anonymity concerning individuals that run a particular risk, see Judgment of 7 November 1985 in *Adams v Commission*, C-145/83, EU:C:1985:448, paragraph 34.

⁵¹ The table in the Annex should be used.

assess whether the need to safeguard the rights of the defence of the parties outweighs the concern to protect confidential information of other parties. In accordance with points 24 and 47 of the Access to File Notice, the Commission will assess whether such information is necessary to prove an alleged infringement ('inculpatory document') or could be necessary to exonerate a party ('exculpatory document').

- (46) In assessing any requests you make for further access to information claimed by other parties to be confidential, the Commission will take account of whether these requests are consistent with any claims that you have made with respect to your own information.
- (47) Where the Commission intends to disclose information that you, the information provider has claimed to be confidential, it will be granted the possibility to provide a non-confidential version of the document where that information is contained, with the same evidentiary value as the original document⁵². The information provider can also propose the use of a negotiated disclosure procedure or a data room procedure if it thinks that such a procedure would better safeguard confidentiality and facilitate the exchange of such confidential information⁵³.

⁵² Point 25 of the Notice on access to file.

⁵³ Points 95-98 of the Best Practices.

Examples of confidentiality claims: how to provide reasons and non-confidential summaries

During antitrust proceedings, companies are requested to provide reasoning for all of their confidentiality claims, along with non-confidential summaries, in a table format⁵⁴ containing the headings set out in the table below.

This table provides examples of reasoning for confidentiality request and of non-confidential summaries. Please note that this table is provided as an example and is non-exhaustive.

ID # (if available)/	Redactions on page # of original confidential version/paragraph # (indicate annex # where relevant)	Reasons for redaction	Non-confidential summary
ID 548-34 ⁵⁵	Pages 1-3	A has ongoing price negotiations with B. Knowledge of its pricing strategy by B would seriously undermine A's negotiation positions in ongoing negotiations and for future supply contracts.	Board meeting of [DATE] regarding price strategy towards B
ID 548-39	Page 6	Potential project with competitor of B. Project is still viable. Knowledge of the details of these discussions would impair current and future business opportunities of A.	Internal e-mail correspondence of [DATE] regarding supply in [NAME OF A COUNTRY/GEOGRAPHIC AREA]
ID 549-22	Page 18	Recent information on production costs, profits or other financial information which	Strategic and commercial information on company A's operations, that includes information

⁵⁴ The table is needed only if your undertaking does not use eConfidentiality (as eConfidentiality will generate the list of documents automatically).

⁵⁵ This is an example of reference to so called collection ID, which contains under one ID number (here 548) all documents received in the same submission, where each document has received its own individual identification number (here 34).

		are relevant for the current business strategy and commercial relations.	on production costs, profits and other financial information
ID 549-22	Page 54-57	Document contains details of A's business strategy and sensitive information on key commercial data which are not publicly known and whose knowledge by supplier B would seriously harm A's business interests and reveal its strategy for B, which would affect A's position in future supply discussions with B.	Internal Management Summary-Chart of [DATE] on volumes, pricing, contract structure and business strategy in [PRODUCT AND GEOGRAPHIC AREA CONCERNED]
ID 550	-	No confidentiality claimed.	-
ID 551	Pages 2, 5 and 8	The deletions concern an internal assessment of minutes of meetings with B. A has ongoing business relations with B. If revealed, the information will give B insight into A's negotiation strategies, internal assumptions and seriously harm A's position in future supply discussions with B.	Minutes of meetings with B of [DATE]
ID 555	Page 5	Private discussions by a company's employee	Private discussions

		<i>Explain the specific reasons why these discussions are manifestly irrelevant to the investigation (despite the fact that the information is in the Commission's file).</i>	
ID 600	Pages 2, 4, 5 and 8	<p>Private appointments in the personal agenda of a company's employee.</p> <p><i>Explain the specific reasons why these appointments are manifestly irrelevant to the investigation (despite the fact that the information is in the Commission's file).</i></p>	Private appointments
ID 717	Page 12	Internal strategic planning information on quantity and costs of raw materials, contractual obligations, technical processes, patents etc.	Internal strategic planning information
ID 1204	Page 1	Internal discussion on company's financial situation (debt/assets policy terms of finances, salary policy, etc.).	Internal discussion on company's financial situation
ID 1212	Page 18	Information regarding products/services that are not related	Information regarding [PRODUCT X; SERVICES Z] that are not related to the current investigation

		to the current investigation.	
ID 1581	Page 14	Information regarding bilateral commercial relations with a customer/supplier (a meeting report), that was not disclosed to other competitors.	Information regarding bilateral commercial relations with a customer/supplier
ID 1112	Page 43	<p>Personal data of individuals that belong to the private sphere and have no relation to the business activities of the undertaking.</p> <p><i>Explain why such personal data are manifestly irrelevant to the investigation.</i></p>	"Reference to private acquaintance" / "name of relative"
ID 1604	Page 6	<p>Information revealing special categories of personal data within the meaning of Article 10 EUDPR (e.g. health data) which are not relevant to the investigation.</p> <p><i>Explain why such personal data are manifestly irrelevant to the investigation.</i></p>	Information revealing special categories of personal data manifestly irrelevant to the investigation