

COMMUNICATION FROM THE COMMISSION**Communication pursuant to Articles 3(2), 13(3), 20, and 22 of Commission Implementing Regulation (EU) 2023/914 implementing Council Regulation (EC) No 139/2004 on the control of concentrations between undertakings and repealing Commission Regulation (EC) No 802/2004**

(2023/C 160/02)

Articles 3(2), 13(3), 20, and 22 of Commission Implementing Regulation (EU) 2023/914 of 20 April 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 set out in the *Official Journal of the European Union*.

In this document, the Commission 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 (the 'documents') should be submitted.

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 ('EU Send'), the Commission's online exchange platform for secure transmission of documents⁽²⁾. EU Send requires prior registration and prescribes size limitations to documents transmitted through the system 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 sent in several 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.
3. Transmissions of more than 10 gigabytes in size may be hand delivered or sent by registered post to DG Competition in the Commission 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 delivered by hand should be addressed to DG Competition at the address published on DG Competition's Internet: ⁽³⁾. Addressing documents to other Commission departments may result in delays.

2. Signing documents electronically

5. This section sets out technical specifications for the signature of documents submitted electronically (where a signature is required). This applies to documents sent using EU Send and to those delivered to the Commission on 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⁾. Only QES are explicitly recognised to have legal effect equivalent to that of hand-written signatures in all Member States. Therefore, other types of electronic signatures, such as scanned signatures or Advanced Electronic Signatures as set out in the eIDAS Regulation, that do not meet the requirements of QES, are not accepted.

⁽¹⁾ OJ L 119, 5.5.2023, p. 22.

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

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

⁽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

7. The format of the QES must comply with one of the formats referenced in Commission Implementing Decision (EU) 2015/1506 ⁽⁷⁾ or their latest specifications as these are published by the European Telecommunications Standards Institute.
8. Qualified Trust Services may be obtained from Qualified Trust Service Providers (QTSPs) as set out in the eIDAS Regulation. QTSPs are commercial service providers and qualified members of the EU's Trust Scheme. QTSPs are listed in the Trusted List Browser ⁽⁸⁾.
9. Any digital or hardware equipment used to implement a QES, such as qualified electronic certificates and qualified electronic signature devices, must be purchased by and remain 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 paid qualified validation service ⁽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 or any confidential or case-specific information.
11. Signed documents must not be encrypted or contain any certificates, other than QES-related certificates.
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 with 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. Modifying a signed document will invalidate any existing electronic signatures. The document therefore should not be modified after introducing one or more QES.
14. Documents electronically signed using a QES must not be locked or password-protected. This will enable the Commission's dedicated software to access the document and verify the validity of the QES.

3. Technical specifications of documents submitted electronically

15. This section sets out technical specifications for documents submitted electronically, including transmissions sent using EU Send and those delivered on external storage devices.
16. All documents submitted in electronic format must be scanned for and free of viruses before submission. The Commission will delete any infected files and dispose of any infected external storage media. Deleted or disposed files may make the submission invalid or incomplete.
17. Documents submitted using EU Sign must not be encrypted. For documents delivered on external storage devices, encryption is strongly encouraged. Encryption should be implemented only on the storage device. Individual documents stored on the device should not be password-protected. Decryption passwords should be sent separately.

⁽⁷⁾ 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).

⁽⁸⁾ QTSPs by Member State are listed here: <https://esignature.ec.europa.eu/efda/tl-browser/#/screen/home>. Only QTSPs with the tag 'QCert for ESig' can provide a qualified certificate for electronic signature, which is required for QES.

⁽⁷⁾ QTSPs by Member State are listed here: <https://esignature.ec.europa.eu/efda/tl-browser/#/screen/home>. QTSPs indicated as 'QVal for QESig' can provide qualified validation service for qualified electronic signature.

⁽⁸⁾ The Commission's Digital Signature Services web application: <https://ec.europa.eu/cefdigital/DSS/webapp-demo/validation>

18. All documents must be in Portable Document Format (PDF) or spreadsheet (XLSX) format (subject to point 21 below). Documents in PDF must be searchable, either as digitally created PDFs or by having been scanned for optical character recognition (OCR). Documents in XLSX format must be submitted with all underlying data unredacted and all underlying formulas and algorithms intact.
19. The filename of documents should be defined so that the relevant section in the Form CO, Short Form CO, Form RS or Form RM is easily identifiable. Each document filename should also contain the number of the proceeding for which the submission is made. Document filenames must not include special or non-Latin characters, and the complete path must be limited to 250 characters.
20. Every page in a PDF must be marked with corporate identification and consecutive document control numbers (e.g. ABC-00000001).

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 converted into PDF to be submitted to the Commission as part of the Form CO).
22. Emails and other files must be submitted as separate 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 unredacted. All underlying metadata must be intact. No deduplication or email threading software may be used.

5. Alternative methods to sign and submit documents to DG Competition

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

6. Date of applicability

27. The instructions in this communication will be applicable as of the day of the entry into force of the Implementing Regulation.
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