

# [Antitrust: Commission consults stakeholders on guidance for national courts when handling disclosure information](#)

The European Commission is inviting comments on a draft communication to assist national courts in dealing with requests to disclose confidential information in proceedings for the private enforcement of EU competition law. Stakeholders can send their contributions until 18 October 2019.

The [Antitrust Damages Directive](#) helps citizens and companies claim damages if they are victims of infringements of EU antitrust rules.

In this regard, national courts are likely to receive requests for disclosure of evidence containing confidential information. The Antitrust Damages Directive obliges Member States to ensure that national courts have the power to order disclosure of this evidence if a number of criteria are met. At the same time, Member States need to ensure that national courts have at their disposal effective measures to protect such confidential information.

National laws may differ largely as regards access to and protection of confidential information. It is very important that national courts strike the right balance between the claimants' right to access information and the right of information owners to protect confidential information.

To support national courts in this task, the Commission has drafted a communication seeking to provide practical guidance to national courts in selecting effective protective measures, for instance considering the specific circumstances of the case, the type and the degree of sensitivity of the confidential information.

The draft communication presents a number of measures available to disclose relevant information while protecting confidentiality, and highlights the elements that courts could consider for choosing the most effective, within the boundaries of their national procedural rules.

The communication will not be binding for national courts and does not aim at modifying or bringing about changes to the procedural rules applicable to civil proceedings in the different Member States.

Responses to the consultation can be submitted until 18 October 2019. The Commission will carefully review all input before finalising the communication.

The consultation document is available [here](#).

## **Background**

Infringements of EU competition law such as cartels or abuses of dominant market positions cause very serious harm, not only to the economy as a whole but also to particular businesses and consumers. They may suffer harm, for example, because of higher prices or lost profits due to foreclosure from a market.

These victims are entitled to compensation for this harm. They can obtain such compensation by bringing an action for damages before a national court. The [Antitrust Damages Directive](#), which Member States had to implement in their legal systems by 27 December 2016, makes it [easier for victims of anti-competitive practices to obtain damages](#). More information on antitrust damages actions is available [here](#).