

## CALL FOR EVIDENCE FOR AN IMPACT ASSESSMENT

This document aims to inform the public and stakeholders on the Commission's future legislative work so they can provide feedback on the Commission's understanding of the problem and possible solutions, and give us any relevant information that they may have, including on possible impacts of the different options.

<b>TITLE OF THE INITIATIVE</b>	EU antitrust procedural rules (revision)
<b>LEAD DG (RESPONSIBLE UNIT)</b>	DG COMP – A1
<b>LIKELY TYPE OF INITIATIVE</b>	Impact assessment
<b>INDICATIVE TIMETABLE</b>	Q3-2026
<b>ADDITIONAL INFORMATION</b>	<a href="https://competition-policy.ec.europa.eu/antitrust-and-cartels/legislation/regulation-12003_en">https://competition-policy.ec.europa.eu/antitrust-and-cartels/legislation/regulation-12003_en</a> <a href="https://ec.europa.eu/info/law/better-regulation/have-your-say/initiatives/13431-EU-antitrust-procedural-rules-evaluation/public-consultation_en">https://ec.europa.eu/info/law/better-regulation/have-your-say/initiatives/13431-EU-antitrust-procedural-rules-evaluation/public-consultation_en</a>

*This document is for information purposes only. It does not prejudice the final decision of the Commission on whether this initiative will be pursued or on its final content. All elements of the initiative described, including its timing, are subject to change.*

### A. Political context, problem definition and subsidiarity check

#### Political context

Rigorous and effective enforcement of EU competition rules protects businesses and consumers throughout the EU, boosting competitiveness.

The procedural framework for the enforcement of EU competition rules is set out in Regulation (EC) No 1/2003 ('Regulation 1/2003') and its implementing act, Regulation (EC) No 773/2004 (together 'the Regulations'). The Regulations have been in force for over 20 years, however. During this time, there have been changes to the economy, including digitalisation of businesses, that have tested the existing tools and procedures that were designed for paper-based investigations. In addition, the experience of parallel enforcement of EU competition rules with national competition authorities, while overwhelmingly positive, may also benefit from certain improvements.

For the Regulations to remain fit for purpose, a legislative revision would be necessary to address the issues identified in the evaluation of the Regulations, which was completed in September 2024 with the publication of a [staff working document](#). A revision would aim to increase effectiveness of EU competition law enforcement, while making Europe simpler and faster, in line with the Commission's priorities<sup>1</sup>.

#### Problem the initiative aims to tackle

The evaluation showed that the Regulations have been largely effective and efficient in their objective of applying Articles 101 and 102 in an effective and uniform manner.

However, taking account of the digitalisation of businesses that has led to data inflation in Commission investigations and increased administrative burden for the Commission and businesses that are involved in the Commission's investigations and the increasing complexity of investigations resulting from this data inflation and the consequent impact on resources, the evaluation suggested that certain aspects of the Commission's procedures are not as efficient as they should be and may hamper the Commission's ability to apply Articles 101 and 102 effectively.

Furthermore, the evaluation revealed certain concerns as to whether the system of partial convergence for competition laws on unilateral conduct is still fully able to ensure the coherent enforcement of available competition law instruments to safeguard the integrity of the internal market, in light of the increase in the number of stricter

<sup>1</sup> See *Communication from the Commission to the European Parliament, the Council, the European Economic and Social Committee and the Committee of the Regions: A simpler and faster Europe: Communication on implementation and simplification*, 11.2.2025 COM(2025) 47 final

national laws on unilateral conduct.
<b>Basis for EU action (legal basis and subsidiarity check)</b>
<b>Legal basis</b>
Regulation 1/2003 was adopted under Article 103 TFEU. A revision of Regulation 1/2003 would use the same legal basis.
<b>B. Objectives and policy options</b>
<p>The general objective of Regulation 1/2003 is to provide the procedural framework for an effective and uniform application of Articles 101 and 102 TFEU to ensure that competition in the internal market is not distorted. This objective remains the focus of the revision. At the same time the revision will seek to reduce, where possible and without undermining the objectives of efficient enforcement, the administrative burden on businesses and on the Commission.</p> <p>The baseline scenario against which the options will be assessed leaves the current procedural framework unchanged.</p> <p>The two main areas for which the evaluation indicated that a revision of the Regulations may be warranted concerned (A) certain aspects of the Commission's procedures; and (B) the risks of fragmented competition law enforcement in relation to stricter national laws on unilateral conduct.</p> <p>The policy options currently identified are described under each of these areas, below:</p> <p><b>A) <u>Improving the effectiveness, including the speed, of certain aspects of the Commission's procedures in digitised and complex investigations</u></b></p> <p>i) <u>Adapting the Commission's investigative tools to the digital world</u></p> <p>The evaluation identified concerns about the effectiveness of the Commission's investigative tools, particularly because of digitalisation. The Commission's powers to conduct inspections and request information no longer enable it to investigate in an as effective (including speedy) manner in a world where the number of physical records is reducing and digital data is exploding. In the context of complex and data intensive investigations, it is also important for the Commission to an effective power to take statements in order to handle investigations in a focused and targeted way.</p> <p>The following options are currently considered as potentially addressing the challenges investigations face due to digitisation:</p> <p><b>Option 1:</b> Introduce an independent and self-standing power for the Commission to adopt decisions ordering the preservation of digital and physical information.</p> <p><i>and/or</i></p> <p><b>Option 2:</b> Adapt the existing Commission inspection power so that it is independent from the power to enter physical premises and means of transport, and adapt the power to conduct inspections so that it covers all business records, regardless of the storage location of the data.</p> <p><i>and/or</i></p> <p><b>Option 3:</b> Enable the Commission to summon persons and ask them questions.</p> <p>ii) <u>Improving decision-making procedures to allow for effective (and faster) enforcement</u></p> <p>The evaluation identified some concerns about the Commission's decision-making powers, particularly regarding their contribution to an efficient enforcement of Articles 101 and 102.</p> <p><b>Interim measures</b> represent an important tool for the enforcement of EU competition rules. The effective use of this tool presupposes that the Commission can act quickly in cases that require prompt intervention. The procedure for imposing interim measures at the moment prevents the Commission from imposing interim measures in situations of 'extreme' urgency. Moreover, there is a perception that the substantive legal test for imposing interim measures prevents a more effective use of the tool.</p> <p>The <b>use of Article 9 commitment proceedings</b> is viewed as a tool for swift intervention, that also saves time and resources for the Commission and the parties involved. While the evaluation was positive about the commitments procedures, it also pointed to these having a relatively long duration.</p>

The following options are currently being considered as potentially addressing this problem:

**Option 1:** amend the Commission's power under Article 8 of Regulation 1/2003 to allow for faster interventions when necessary.

**Sub-option 1:** Change the legal test for imposing interim measures to allow for the effective use of interim measures.

and/or

**Sub-option 2:** Change the procedural requirements for imposing interim measures to allow for faster proceedings.

and/or

**Option 2:** adapt the Commission's power to make commitments binding under Article 9 of Regulation 1/2003 by imposing a deadline for the submission of binding commitment offers on the investigated parties to ensure faster outcomes.

iii) Improving access to file procedures that are currently resource-intensive and time-consuming

Access to the Commission's (non-confidential) file during a competition investigation is one of the fundamental elements of the rights of defence and a cornerstone of the Commission's administrative system.

The evaluation highlighted that the process for protecting confidentiality and granting access to the file is, however, inefficient, with many resources being spent on confidentiality discussions. The burden has been increased with digitisation that leads to voluminous Commission files.

In order to reduce the burden on the Commission and the parties of time spent on the process of creating and granting access to a non-confidential file, a possibility would be, following the adoption of the statement of objections, to provide external advisors of addressees of statements of objections access to the accessible confidential file, under conditions of confidentiality. There would be a possibility for these advisors to request access to non-confidential versions of documents in the file for their client if it could be demonstrated that this access is indispensable for the rights of defence. The external advisors could prepare a (partly) confidential reply to the statement of objections. The following options are currently being considered in this context:

**Option 1:** A system under which (a) addressee(s) of the statement of objections are granted access to non-confidential versions of all the documents mentioned in the statement of objections; and (b) a limited number of external advisors of the addressees of the statement of objections are provided with access to all accessible documents in the file under conditions of confidentiality.

or

**Option 2:** A system under which access is granted by providing all accessible documents in the file to a limited number of external advisors of the addressee(s) of the statement of objections under conditions of confidentiality.

iv) Simplifying the procedure for the participation of complainants and third parties in competition investigations

Information from complainants is important for the Commission to detect potential infringements. Under Regulation 1/2003, natural or legal persons with a 'legitimate interest' can lodge a formal complaint with the Commission about the conduct of (an) undertaking(s). The evaluation of the Regulations revealed that the current system of formal complaints is resource-intensive for both complainants and the Commission, particularly as regards the process to reject complaints in cases that will not be prioritised. In addition, the evaluation found that the different categories of rights that third parties have in competition investigation as a potential lack of effectiveness and a source of complexity in the Commission's investigations.

The following are currently being considered as potentially addressing this problem:

**Option 1:** Abolish formal complainants' right to a rejection decision.

and/or

**Option 2:** Harmonise the rights of non-investigated parties in competition proceedings so that complainants and interested third persons would have the same rights (for example, the right to be informed of the nature and subject matter of the proceedings, the right to a non-confidential version of the statement of objections and to request participation in an oral hearing).

**B) Policy options addressing risks of fragmented competition law enforcement in relation to stricter national laws on unilateral conduct**

The evaluation showed that Member States have made increasing use of the possibility to adopt and apply stricter national laws on unilateral conduct within the meaning of Article 3(2), second sentence of Regulation 1/2003. Some stakeholders have expressed concerns in that regard, suggesting that enforcement of different national rules on

unilateral conduct may pose challenges from an internal market perspective.

The following are currently being considered as potentially addressing this problem:

**Option 1:** Adapt the existing coordination and information exchange mechanisms between competition authorities under Regulation 1/2003 so that these cover the application of stricter national laws on unilateral conduct in order to ensure the coherent, effective and complementary enforcement of available competition law instruments.

or

**Option 2:** Discontinue the current system as described here under section B.

The different policy options considered above are only preliminary at this stage.

In addition to the above policy options, the Commission will explore whether related Notices should be adapted and whether additional guidance should be provided for any of the options above.

The Commission also intends to incorporate recent case law of the Court of Justice of the European Union into the Regulations.

Lastly, it will explore the possibility of simplifying and clarifying the rules where possible, including in areas where the evaluation identified a need for clarification.

## C. Likely impact

### Likely economic impact

A revision of the Regulations aims to have an impact on the objective of ensuring efficient and effective competition law enforcement and will likely have an impact on legal costs for companies and on administrative costs. More effective enforcement will have a positive impact on a competitive European economy that delivers benefits to consumers.

### Likely social impact

The initiative is not expected to have a direct social impact.

### Likely environmental impact

The initiative is not expected to have a direct environmental impact.

### Likely impact on fundamental rights and equality

The initiative is not expected to have a negative impact on fundamental rights or equality. It may have an impact on the way procedural fundamental rights are exercised in antitrust proceedings.

### Likely impact on simplification and/or administrative burden

The considered policy options aim to simplify the current procedures for efficient and effective enforcement to the extent possible, while ensuring the effective protection of fundamental rights of defence.

The initiative aims to ensure that time and human resources that could be spent in antitrust cases are reduced and handled more efficiently, without undermining the effectiveness of EU antitrust enforcement.

## D. Better regulation instruments

### Impact assessment

The revision of the Regulations will be informed by an impact assessment, which will analyse in detail the proposed policy options. The Commission aims to publish an impact assessment report by Q3 2026.

### Consultation strategy

To gather feedback on the proposed policy options, the Commission is launching a 12-week open public consultation. The consultation questionnaire will be published on its [Have Your Say](#) website in the three working languages of the Commission (English, French and German). Stakeholders may reply in any of the 24 official EU languages. The contributions received will be published on [Have Your Say](#), together with a factual summary of the main findings. The contributions will also be published [on a dedicated webpage of the Directorate-General for Competition](#).

The Commission will consult the competition authorities of the EU Member States via the European Competition Network and bilaterally where appropriate.

The Commission plans to organise a stakeholder workshop focusing on particular issues, depending on the feedback received from other consultation activities.

<b>Why we are consulting?</b>
The Commission seeks the views of stakeholders on policy options for the revision of the Regulations.
<b>Target audience</b>
The stakeholders primarily affected by the revision of the Regulations are companies and associations of companies, law firms and consultancies with experience in antitrust procedures and who may be involved in antitrust procedures under the scope of the Regulations. The impact assessment will also benefit from the experience of competition authorities in EU Member States in applying the Regulations. Other interested stakeholders could be business or consumer organisations, consumers and academics with a focus on EU competition law and antitrust enforcement.