

Impartiality Integrity Independence

Ethics and good behaviour in DG COMP



Disclaimer

The information in this leaflet, inspired by a similar initiative of the Secretariat-General, is by no means exhaustive. It is meant as a concise guide for DG COMP staff to address their most frequently raised queries. For complete information, please consult the DG's Code on Ethics and Integrity or contact the Ethics and Compliance officer who is always pleased to answer your questions.

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European Commission
Competition Directorate General
Registry and Resources Directorate
B – 1049 Brussels

COMP-ECO@ec.europa.eu
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Foreword by Alexander Italianer

One of DG COMP's priorities is to ensure that its staff meets the highest possible professional and ethical standards. Competition policy and enforcement are areas where the stakes are high for all parties concerned, and DG COMP is entrusted with a great responsibility in this regard; accordingly, each of us has a duty to act with the utmost integrity at all times. This duty has taken on an even greater importance given the increased scrutiny to which DG COMP's activities have been subject in recent years by National Competition Authorities, national administrations, the Ombudsman, the European Institutions, the legal and business communities and the general public.

One cannot sufficiently stress the importance of all staff in DG COMP being familiar with the applicable rules regarding ethics and integrity in the Commission. These rules are meant to protect not only the Commission's interests but also its reputation. They also protect individual staff members and third parties from any malicious allegations or misrepresentations. In most cases, dealing correctly with ethics is above all a question of common sense and open communication.

In order to provide guidance and to assist you in identifying and resolving ethical issues, DG COMP has produced a **Code on Ethics and Integrity** which remains the reference document. The Code sets out and clarifies, in the specific context of working in DG COMP, the rules concerning ethics and integrity that are applicable in the Commission. This leaflet is meant to be a quick guide for COMP staff to address the most frequently raised queries.

The manner in which you do your job makes up the overall image of the Institution !



Ethical principles

The overarching principles guiding staff behaviour in the Commission are: **independence, impartiality, objectivity, loyalty** and **dignity**. They establish the boundaries of acceptable behaviour for Commission staff in a way that will bear the closest public scrutiny.

Your behaviour and your decisions must be governed by the determination to serve the European public interest and only the public interest. You are required to act solely with the interests of the European Union in mind, to carry out duties objectively, impartially and in keeping with the duty of loyalty, not to seek or take instructions from outside the Institution. These principles are not limited to your attitude and actions during working hours. Therefore, always bear in mind that you are the human face of the Commission and make sure that your professional conduct is beyond reproach by refraining from any action or behaviour that could harm your image and the reputation of the Institution (Article 12 of the Staff Regulations). This includes unacceptable forms of behaviour such as rudeness or arrogance.

In that context, and according to Article 1d of the Staff Regulations, discrimination of any kind is not acceptable.

Remember that the Commission has a firm commitment to providing high quality service to the European public. The **Code of Good Administrative Behaviour** details the related obligations that you must fulfil in your relations with the public.

Safeguarding Commission resources and assets

You must be aware that Commission resources, such as computers, e-mail and internet access systems, telephones, faxes, copy machines, are available **for work purposes**. Nonetheless, a sober and balanced use for private purposes is tolerated. Any other use is to be avoided and can be considered an abuse.

For instance, occasional private communication by telephone is allowed at the user's expense. You must use a personal PIN code available to this effect or indicate your private communications in GESTEL.

Remember that the e-mail system should not be used in any way contrary to the interests of the Commission, or in particular in any way that might be interpreted as insulting, disruptive or offensive by any other person, company or organisation.

Regarding the Internet, it should be remembered that the infrastructure that the Commission has to put in place in order to provide staff with access to the internet is costly. In addition, sexually-explicit, gambling, social networking and on-line gaming sites could threaten the system, while having absolutely no justification in the work place.

You should be aware that the Commission may monitor the use of Internet and other information and communication technologies to prevent and record abuses.

Administrative inquiries and disciplinary procedures

It is in your interest to be aware that the failure to comply with your obligations under the Staff Regulations and implementing provisions, whether intentionally or through negligence, can result in disciplinary sanctions and, possibly, in personal financial responsibility (Article 22 of the Staff Regulations). This can include conduct in your private life.

The Investigation and Disciplinary Office of the Commission (IDOC) is the body responsible for conducting impartial and independent administrative inquiries and disciplinary procedures.



Conflicts of interest

As mentioned before, a key ethical principle guiding staff behaviour is the principle of independence. For this reason you are prohibited, during the performance of your duties, from dealing with any matter in which you have a direct or indirect personal interest that has the potential to compromise your independence and, by extension, the Commission's interests (Article 11 of the Staff Regulations).

A conflict of interest can be defined as any situation that compromises or might compromise your independence or that is perceived or might be perceived as compromising your independence. It is very important to underline the nuance of **external perception**. A perceived **conflict of interest** is a situation where there is a personal interest which might reasonably be thought by others to influence your duties, although there is not, in fact, such an undue influence. This means it is not enough that you know you have no personal interest in the issue; it must be evident to others that you are completely objective. The overriding idea behind avoiding any appearance of conflict of interest is to avoid possible accusations of bias and partiality in decision-making. This is essential if we are to maintain the Commission's independence and credibility.

Direct or indirect interest which may compromise or be perceived to impair your independence when performing your duties may derive for example from family ties, personal friendships; accepting gifts, favours and donations; external activities and remunerations; political and ideological affinities and national influences. The most relevant situations in DG COMP are personal interests deriving from:

- financial interests in companies involved in the competition investigation you have been assigned to;
- activities of your spouse/partner who might be involved in the competition case on behalf of the company concerned, a law firm, consultancy firm, government body deciding on aid, etc; or
- involvement in the competition case in your previous employment.

In order to raise awareness and to help identify possible conflicts of interest situations at an early stage, you are requested to fill in a specific in-house declaration form depending on your assignment (case/horizontal task declaration, inspection declaration and annual declaration). Both your hierarchy and the Ethics and Compliance Officer (ECO) may assist you in

assessing whether your personal interest is of such magnitude as to impair your independence.

However, if you ever find yourself in such a situation or are in any doubt as to whether your circumstances could reasonably lead to allegations of bias or partiality, in light of your personal interests, you should notify the Appointing Authority (in this case the Director-General) immediately. You can do so by filling in the appropriate declaration form.

The Appointing Authority is responsible for deciding whether there is a conflict of interest situation and for taking the appropriate measures to avoid/remove the conflict (e.g. by assigning you to a different case or task).

Insider dealing

It goes without saying that you should in no circumstances make a profit or assist others to make a profit on the sale or purchase of shares (or derived financial products) by using confidential or unpublished information you come across in the performance of your duties.

In DG COMP, in order to be able to trace back information flows in the event of an allegation of insider dealing, case managers have an obligation to establish a **«who knew what and when» document** covering some specific steps in the procedure (the preparatory phase of inspections, the setting of the level of fines in antitrust and the pre-notification stage of sensitive 'not yet-announced' acquisition plans in mergers). Further details on these forms can be found in the Manual of Procedures concerned.

Insider dealing is a criminal offence in most national laws. The Belgian Act on insider dealing is also applicable to EU officials and lays down penal sanctions for infringements.



Gifts and favours

The overarching principle laid down in the Staff Regulations (Article 11) is that you should not accept gifts, favours or payments from any source without obtaining prior permission from the Appointing Authority (in this case the Director-General*). Equally, honours and decorations cannot be accepted without having received authorisation in advance.

You are advised to be particularly careful about accepting offers made in relation to your work at the Commission. As a general rule, it is recommended that you decline all such offers that have more than merely symbolic value (such as diaries, calendars, small desk items, etc.).

In any case, if you are offered any gifts, favours or donations **with a combined value of more than € 50** given by the same source in any given year and you want to accept them (e.g. lunch or dinner invitations), you must apply for permission from the Appointing Authority.

When deciding on such matters, the Appointing Authority will take into consideration the intention behind the gift, favour or payment, its value and the possible consequences for the Commission's interests.

**) Except for Senior Management where the Appointing Authority for the permission to accept payment is the Director-General for Human Resources and Security.*

More expensive gifts (over € 250), or those which you do not want to keep, which according to the Appointing Authority raise no conflict of interest may be accepted and retained as Commission property, or donated by the Commission to charity.

Since in practice it may not always be obvious whether you can accept a gift, favour or payment you should always seek guidance from your hierarchy or the ECO. If, given the context, you cannot consult them, it is strongly recommended, if possible, to decline diplomatically, while referring to the obligations you are subject to. In any case, always report to the Appointing Authority.



Communication and Relations with the public



Freedom of expression

As a staff member you enjoy the right to **freedom of expression**. However, the freedom that you have to express personal opinions, orally or in writing, notably regarding EU policies, is subject to certain **conditions**:

- you must make it absolutely clear that these are your personal opinions and do not necessarily reflect the views of the Commission and/or DG COMP;
- you must show restraint and caution in expressing personal opinions and avoid creating confusion or uncertainty when making public statements (you should avoid discussing any case or policy matter on which the Commission has not adopted an official position);
- you have an obligation not to disclose, without authorisation, information to which you have been exposed in the course of your work (whether it concerns business secrets of a company or details of the internal decision-making processes of the Commission), unless that information has already been made public or is accessible to the public (Article 17 of the Staff Regulations).

Cases of unauthorised disclosure of information concerning any aspect of our work, whether intentional or not, will be investigated and may, ultimately, lead to disciplinary action and/or financial claims for serious neglect, in application of the relevant procedures.

Publications and speeches

A distinction has to be made between publications and speeches on professional and **EU matters**, and publications and speeches without any link to these areas.



If you are planning to make a public speech (unless instructed by your hierarchy as part of your duties), to publish an article or book, to submit a post on the web (non-anonymously), etc. on anything connected to your work or on EU matters, you have an obligation to inform your Appointing Authority (the Director-General) in advance, as stipulated in the Staff Regulations (Article 17a).

You must provide the Appointing Authority with information on what you intend to publish, in particular a copy, in electronic form, and a summary in one of the Commission's working languages. Within 30 days of receipt of this information, the Appointing Authority has to inform you of its position. Should it fail to provide an answer within this time, you may assume that there are no objections.

For publications or speeches on **non-EU matters**, freedom of expression applies, with due respect to the principles of loyalty and impartiality, and you do not need any authorisation to publish.

You should bear in mind that the publication or speech, regardless of whether it relates to EU matters or not, could be considered an external activity, notably when it is paid or performed under contract. In that case you have to request prior authorisation from the Appointing Authority.

It is also worth noting that royalties received for publications to which the Appointing Authority raised no objections, are not subject to the net annual ceiling of € 4500 that applies to work you are authorised to undertake outside the Commission.

Contacts with the media

Contacts with the media should be handled carefully by all DG COMP staff. If contacted by a journalist you should refer the journalist directly to the **Spokespersons' Service**, which is responsible for relations with the media.

Whenever necessary, the Spokesperson may also re-direct questions from journalists to staff in DG COMP. You may answer them subject to prior authorisation by your hierarchy.

When participating in conferences or other work-related events, the possibility of spontaneous requests from the media should be anticipated. You should agree upon a line to take with your hierarchy and/or the Spokespersons' Service.

Any time you make a public statement, you are acting de facto as a spokesperson for the Commission. It is therefore important to ensure that the message conveyed is accurate and consistent. Avoid discussing any case or policy area which is still at the preparation or discussion stage and on which the Commission has not adopted an official position. Except for matters on which the Commission has already taken a line, any statements to be made to the media need to be approved by your hierarchy.

Relations with citizens

When citizens contact you directly, the best attitude is to **treat them the way you would like to be treated yourself**. Do not forget that we are here to serve citizens, and that this is more than just a slogan.



For **written correspondence**, a substantive answer or at least a holding response should be provided within 15 working days. When replying, use the language of the citizen, provided it is one of the EU official languages.

When answering telephone calls, identify yourself and treat the caller in a courteous manner. When dealing with enquiries within your field of responsibility, verify if the information is already accessible to the public. If it is not, check with your hierarchy whether you can make it public yourself or explain why you cannot disclose the information. For subjects outside your competence, direct the caller to the appropriate service.

E-mails should be treated as promptly as a phone call, but if by their nature they are equivalent to a letter, they should be handled according to the guidelines on written correspondence.

Interest groups – lobbies

Commission staff has a wide discretion in deciding whom to meet, and the Commission should remain an open, accessible Institution, on the basis of the important principle of **equality of treatment**.

You are advised, however, to refuse any invitations from interest representatives which could put the Institution in a delicate situation. In any case, you should be transparent with your hierarchy whenever you are in contact with lobbyists, as management is responsible for supervising the activity of staff.

You may also want to document and record, where possible, any substantive contact and how it may affect Commission policy (information received and given).

Last but not least, if you are approached by unregistered interest representatives, you should invite them to sign up to the **Register for Interest Representatives**.



External activities

If you wish to undertake any type of activity, paid or unpaid, outside the Commission, you must first obtain permission from your Appointing Authority (in this case the Director-General).

It is important to underline that external activities are not a priori considered negative in this context. Permission may only be refused if the work is liable to compromise your independence or prejudice the work of the EU. In any case, such an external activity should not:

- be so **time-consuming** as to affect negatively your work at the Commission, or constitute a job in itself; and
- give rise to any possible appearance of a **conflict of interest** or be in some other way discreditable, so as to risk bringing the Commission into disrepute.

However, you will not be allowed, for example, to carry out the following types of work:

- outside work, whether paid or unpaid, in a liberal profession (e.g. lawyer, economist, consultant, IT professional; etc);

**) Except for Senior Management where the Appointing Authority is the Director-General for Human Resources and Security*

- work in private companies, even if it is unpaid and the role is merely nominal (e.g. non-executive director, unpaid adviser, etc);
- teaching or other pedagogical work, whether paid or unpaid, for more than 100 hours per academic year, unless such work is deemed beneficial to the Commission.

Be aware that drafting texts (e.g. books, articles, speeches, etc.) on whatever topics may constitute an outside activity, for instance, if you are paid, you draft the text under a contract, or when the drafting takes a significant amount of your time. In case of doubt please consult the ECO who will assess the particular situation. Remember that publications on EU matters also have to be notified to the Appointing Authority in advance.

The **maximum net annual remuneration** you may receive for all authorised external activities is **€ 4500** (after taxes). Anything over this amount must be turned over to the Commission.

Requests should be submitted two months before you plan to start the activity in question. Permission granted to perform an external activity is valid for a maximum of one year from the date of the decision. If you wish to extend or renew your permission, you must submit a new application. Requests must be made via the Ethics module in Sysper2.

Political activities

You may take part in the life of a political party insofar as you have a neutral and independent position in the execution of your duties and respect the obligations of the Staff Regulations (see notably Articles 11, 17 and 17a).

If you wish to stand for **public office** (either at municipal, regional, national or European level), or if you have been elected or appointed to public office, you must notify the Appointing Authority (the Director-General for Human Resources and Security). In both cases, the Appointing Authority will decide whether and under what modalities you may continue to work or whether you must apply for leave on personal grounds (Article 15 of the Staff Regulations).



Missions

Activities such as giving speeches, making presentations or participating in conferences, when carried out in the framework of a mission, are not considered external activities. Before going on mission, your hierarchy (normally your Director) must check that there are no potential conflicts of interest.

You must not accept any payment offered in exchange of the work done in the framework of a mission. However, you should, whenever possible, ask for the costs of the mission (e.g. accommodation, transport) to be reimbursed by the organizer or at least part of them.

Where accepting reimbursement of the costs by the organizer may lead to a perceived conflict of interest, you should not ask for or, if offered, should refuse reimbursement. You should consult with your immediate superior to assess whether this may be the case. Several factors will be taken into consideration such as the purpose of the event, the nature of the body organizing it and the interest of the Directorate General in participating. In any event, there must be a clear added value to the Commission.



**Staff on leave
and former staff**

Remember that when you are on **leave (personal grounds/ CCP, maternity, parental, ...)**, you are subject to the same obligations as staff members in active employment.

Professional activity is allowed during a CCP, but it must be authorised in advance by the Appointing Authority (in this case the Director-General). The Appointing Authority may make the permission subject to any conditions which it considers necessary to ensure that officials comply with their obligations (e.g. restrictions not to work in particular companies or on specific cases).

Furthermore, in order to avoid the appearance of conflict of interest situations, **you may not participate in meetings or have contacts of a professional nature with DG COMP for a period of 6 months** (1 year if you occupied a managerial function).

When you have **definitively left the service** you continue to be bound by the duty to behave with integrity and discretion as regards the acceptance of certain appointments or benefits. In addition, you remain under the obligation to refrain from any

unauthorised disclosure of information received in the line of duty, unless that information has already been made public or is accessible to the public (Articles 16 and 17 of the Staff Regulations).

If you want to engage in a professional activity, whether paid or unpaid, **before the expiry of two years after leaving the Commission**, you must ask for prior authorisation from the Appointing Authority (in this case the Director-General for Human Resources).

The Appointing Authority will decide whether the intended occupation could conflict with the legitimate interests of the Commission. **If the proposed activity is related to the work you carried out during the last three years**, the Appointing Authority may either forbid you from undertaking the proposed activity or impose specific conditions in light of the particular circumstances of the case.

In principle, as a general rule, you should not be involved in activities related to pending competition cases on which you have worked as part of the case-team, or for which you have otherwise been directly responsible in the last three years of your performance at DG COMP.

**) Except for Senior Management where the Appointing Authority is the Director-General for Human Resources and Security*

Be aware that a conflict of interest situation may emerge before you leave the Commission (either on CCP or definitively) if you enter into negotiations with a potential future employer. In case of doubt, you may discuss it with your hierarchy or the ECO. Also, be aware that once you intend to leave the service of the Commission, this situation may require the adoption of internal instructions as regards your daily work at DG COMP.

If you are aware of a situation where you may participate in a meeting with former members of DG COMP staff, you should inform your immediate superior. This will allow for an assessment of whether a sensitive situation exists and whether appropriate measures are needed as regards the organisation of the meeting.



Contact

Sometimes circumstances are complex, information is incoherent or you have never faced a similar dilemma... You want to do the right thing, but you are unsure which path to follow. Rather than take a risk and potentially make the wrong choice, start by consulting our dedicated website on the COMP intranet.

If you do not find the answer you are looking for there, if you still have doubts as to how to proceed or if you simply need additional information, feel free to talk, in all confidentiality, to **your Ethics and Compliance Officer** in the Registry and Resources Directorate.

COMP-ECO@ec.europa.eu

