



## File-access rules in antitrust cases may warrant rethink, Laitenberger says

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### IN BRIEF

Competition enforcers and practising lawyers should rethink the way companies are granted access to information held in investigative files, one of the EU's most senior officials said. Johannes Laitenberger, the director general of the EU's competition department, noted that access to a file can be "time consuming for everyone" and in the long run a "more fundamental development" may be needed.

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In Europe, companies under investigation have a right to see the information that antitrust enforcers have gathered against them in the course of an enquiry.

This guarantees that those under suspicion have a chance to rebut claims and contest facts that may have been gathered by investigators from other members of a cartel, for example.

But the process can be lengthy. Typically, lawyers for companies are allowed access to a confidential "data room" where they trawl through the information in the file.

Laitenberger said his team had tried to make this process more efficient, issuing formal guidance on using data rooms and returning unused documents.

"We are constantly reflecting on refinements that can be added to our toolbox," Laitenberger said at a forum\* in St. Gallen, Switzerland last week.

"But in the long run, we should probably reflect with the competition community on a more fundamental development of our access to file systems in the interest of all parties concerned," he said, according to the text of his speech.

Laitenberger noted that while access to a file was "time consuming for everyone," it is a "vital component of a company's rights of defence."

The director general also stressed the need to ensure enforcers can advance investigations with sufficient speed to ensure justice isn't delayed.

*\*St. Gallen International Competition Law Forum, April 27-28, 2017  
The full text of the speech is attached.*

**Related case file(s)**

EC antitrust best practices

**File Attachment(s)**

20170502-181450\_St Gallen 27 4 - final clean.docx.pdf