

The Essential Guide

to drafting documents on EU competition law

Article 101
(ex Article 81 TEC)

as incompatible with the internal market: all agreements, decisions of associations of undertakings and concerted practices which have as their object or effect the prevention, restriction or distortion of competition within the internal market, and in particular those which:

- fixing prices or any other trading conditions;
- limiting production, markets or technical development, or investment;
- making dissimilar conditions to equivalent transactions with other trading parties;

of these objectives,

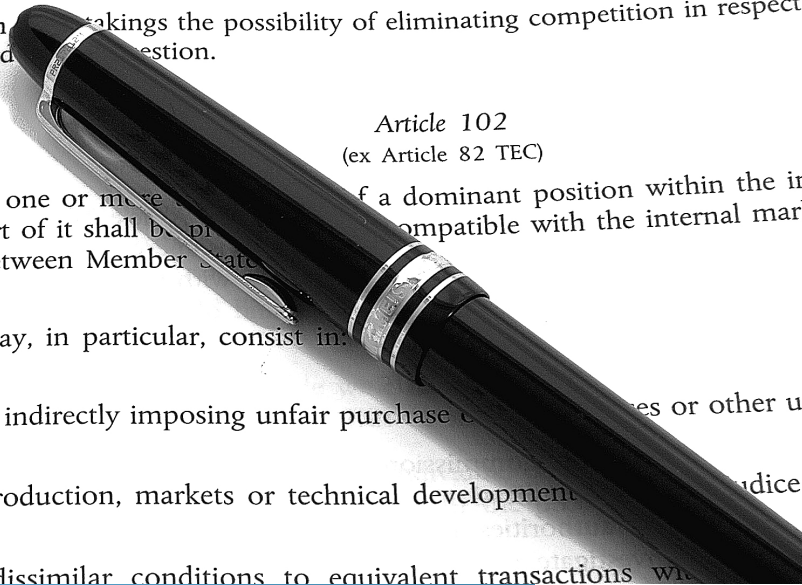
(b) afford such undertakings the possibility of eliminating competition in respect of a substantial part of the products in question.

Article 102
(ex Article 82 TEC)

Any abuse by one or more undertakings of a dominant position within the internal market which is likely to affect trade between Member States is prohibited in so far as it is incompatible with the internal market.

Such abuse may, in particular, consist in:

- (a) directly or indirectly imposing unfair purchase prices or other unfair trading conditions;
- (b) limiting production, markets or technical development to the prejudice of consumers;
- (c) applying dissimilar conditions to equivalent transactions with other trading parties, thereby placing them at a disadvantage.



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About this guide

Who is it for?

The guide is for anyone involved in drafting Commission documents on EU competition law.

Why use it?

First, good drafting enables everyone involved in drafting a document to cooperate more effectively. When a text is clear, concise and well structured, it is easier to understand, to review and to translate. This cuts down the time needed to process it and to send it back-and-forth among those concerned. If your document is in good shape from the start, it will save you time and trouble right down the line.

Second, good drafting can improve the quality and effectiveness of a document, thus strengthening it against challenges in court. Mistakes are less likely to be overlooked in well-drafted documents. And a well-drafted document is usually more persuasive.

Lastly, good drafting can improve the Commission's public image.

What kind of documents is it useful for?

This advice was compiled mainly with Statements of Objections in mind, but it also applies to other documents, including merger decisions and rejections of complaints. In fact, it's all common sense that works well for almost any Commission document.

Does it apply to all EU languages?

Yes. Though the advice and examples are in English, the principles apply whatever the language of your document.

Be concise

1. Avoid repetition

Repetition leads to overly lengthy documents. Say what you have to say, but say it only once.

When several people work together on a single document, repetition is likely to occur. To cut down on repetition in collaborative writing draw up a detailed outline of the document before anyone in the team starts writing. Then use the outline to divide up the work. Make sure that at least one team member is responsible for editing the entire document after each round of drafting.

If a section seems unclear or incomplete unless an earlier argument or explanation is repeated, it's probably because there is something wrong with the text's overall structure. Reorganise the text until you no longer need repetition.


2. Delete irrelevant passages


You will have immersed yourself in the details of the case file before you start drafting. When you do start, remember that you are not expected to write a lengthy essay on the case. The purpose of your document is to set out the Commission's assessment clearly and convincingly. This means trying to get rid of all unnecessary material.

Non-essential details, peripheral case-law and boilerplate reasoning do not make your text more thorough or authoritative. On the contrary, they clutter it up. By concentrating on the relevant facts and arguments, you will make your document shorter and stronger.



3. Leave out needless words

Almost anyone can turn a short sentence into a much longer one that says the same thing. Most writers unconsciously lengthen their sentences in this way, something that can be avoided with a little thought and skill.


.....
 *It is not necessary that the Commission provides evidence of actual implementation of the anti-competitive agreement between the cartel participants to fix minimum prices, but only that the Commission proves the existence of such an agreement.*
.....


 *The Commission must prove that the cartel participants agreed to fix minimum prices, not that they implemented the agreement.*
.....

Aim for a matter-of-fact style: avoid flowery language and take care when using adverbs and adjectives. Make every word count.

| | |
|---|---|
|  |  |
| <i>clear evidence</i> | <i>evidence</i> |
| <i>actual knowledge</i> | <i>knowledge</i> |
| <i>actually implemented</i> | <i>implemented</i> |
| <i>including, but not limited to</i> | <i>including</i> |
| <i>to be aware of the fact that</i> | <i>to be aware that, to know that</i> |
| <i>by its very nature</i> | <i>inherently</i> |

Cutting out words that are not doing any work has many benefits. Your document will become shorter and easier to read. A text that is crisp and to the point is more credible.


.....
 *YinYang Optronics committed a breach of competition law of the most serious nature. It was actively involved in an illicit cartel formed between six of the world's leading producers of LCD-panels. The cartel's purpose was to maintain prices at their prevailing, elevated level. Over a long period of time (well over four years), the cartel participants held clandestine meetings, not sporadically, but frequently, which they did their utmost to conceal.*


.....
 *YinYang Optronics participated in a cartel together with five other producers of LCD-panels. Their aim was to keep prices high. For more than four years, the cartel participants frequently met in secret.*

4. Resist throat-clearing

Throat clearers are long-winded preambles at the beginning of a sentence. Common examples include: 'It is important to note that...'; 'It is evident that...' and 'It is established case-law that...'. Leave them out. They add little to the meaning of a sentence.

.....
 *It must be noted that Tetra Pak's behaviour caused consumer harm.*

.....
 *Tetra Pak's behaviour caused consumer harm.*

.....
 *The Commission notes that the arrangements in the United Kingdom and the Benelux pursued a single aim.*

.....
 *The arrangements in the United Kingdom and the Benelux pursued a single aim.*

There is one phrase of this kind — ‘The Commission considers that...’ — that you can use occasionally, provided you are clear about why you are doing so. While it can often be deleted without causing confusion, it can be useful in some contexts, e.g. in a merger decision: ‘Procter & Gamble argues... Unilever, however, maintains ... The Commission considers that ...’. In this example, the phrase sets the Commission’s findings apart from the views of third parties.

Copying and pasting

There is nothing inherently wrong with re-using text from another document. But if it’s done carelessly, copying and pasting can cause many problems. Common pitfalls include transposition mistakes or irrelevant or repetitive text.

Always adapt copied text meticulously to suit what you are drafting. Never recycle passages you do not understand. If you come across a confusing piece of text that seems relevant to your case, you are probably not the only one to find it confusing. Make sure you know exactly what the intended meaning is, then revise it to make it clearer before incorporating it into your document.





Be careful when using documents from third parties (e.g. complainants). If you copy extensively from third party submissions, this may give the impression that the Commission did not examine the case impartially. Avoid copying entire sentences or paragraphs unless they are particularly clear and pertinent, in which case you should consider quoting them (using quotation marks and a footnote reference).

Try paraphrasing rather than copying from third party submissions. The result is usually shorter and clearer than the original.



Keep it simple

5. Let the facts speak for themselves

The facts can do much of the work for you. State the facts accurately and dispassionately. Do not embellish or exaggerate.



-
 *The overwhelming majority of respondents indicated...*
.....
-  *Eight of the twelve respondents indicated...*
.....
-  *Ms A's handwritten notes of the meeting in Copenhagen clearly show that the participants agreed to increase wholesale prices by 4% in November, in particular when those notes are read together with Birk Larsen's corporate statement.*
.....
-  *Ms A's handwritten notes of the meeting in Copenhagen mention 'us +4 nov'. Birk Larsen has stated that, at that meeting, the participants agreed to increase wholesale prices by 4% in November.*
.....


Describe the facts as precisely as you can. When possible, use exact figures instead of vague words like 'substantial', 'considerable' or 'significant'.


-
 *GeoTraffic has a substantial market share in a considerable number of Member States.*
.....
-  *GeoTraffic's market share is above 40% in seven Member States: Belgium (43%), the Czech Republic (51%), Ireland (49%), Italy (43%), Latvia (58%), Malta (74%) and Poland (46%).*
.....

6. Simplify wordy phrases



Lawyers (and economists) tend to use too many words to say even the simplest things. Resist that tendency. Simple language will not make you seem less learned or elegant: it will make you more credible.

-
 *Toyota is active in the car manufacturing industry.*
.....
-  *Toyota manufactures cars.*
.....

.....
 Without prejudice to the aforementioned caveats, ...
.....

 Nevertheless, ...
.....

The following checklist offers simpler alternatives to various wordy phrases.

|  |  |
|---|---|
| the majority of | most |
| conduct an investigation of | investigate |
| contains a discussion of | discusses |
| make a recommendation | recommend |
| reached an agreement | agreed |
| submit an application | apply |
| not unlikely | likely |
| not impossible | possible |
| not less than | at least |
| not unlike | similar |
| not able | unable |
| does not have | lacks |
| does not succeed | fails |
| in order to | to |
| because of the fact that | because |
| despite the fact that | although |
| due to the fact that | because |
| in light of the fact that | in light of |
| for the reason that | because |
| notwithstanding the fact that | although |
| on the ground that | because |
| aforesaid | before, this |
| as to | about, of, by, for, in |
| forthwith | immediately |
| in the event that | if |
| prior to | before |
| subsequent to | after |
| such | that, this, those, the |
| thereafter | later |
| therein | in it, in them, inside |
| a number of | several, many |
| a sufficient number of | enough |
| at the present time | now |
| at the time when | when |
| at this point in time | now |
| during the course of | during |
| in the near future | soon |
| is able to | can |
| on a daily basis | daily |

Footnotes

The main purpose of a footnote is to enable the reader to find a source you have used easily. This means that footnotes have to be precise. They should indicate the page or paragraph number where the source material can be found.

When you cite European Union documents or legislation, follow the rules for citations in the Interinstitutional Style Guide and the Joint Practical Guide. When you cite case-law, follow the format the General Court uses (in judgments that are in the language of your document).


If your source is a webpage, you must print or download that page and add it to the administrative file. Otherwise, your case may run into difficulties if the webpage is taken offline. For example:


Google, 'Good to Know: Your Data on Google', <http://www.google.com/goodtoknow/data-on-google/>, visited on 15 May 2012, ID 2381, p. 1.

Footnotes are not the right place for arguments. If an argument is relevant, it probably belongs in the body of your text. The same holds true for lengthy explanations. If your document is unclear or incomplete without them, try revising the main text instead of explaining matters in a footnote.

7. Write short sentences



Short sentences have more impact. Unnecessarily long sentences are harder to understand. Of course, not every sentence in a document has to be short. A good rule of thumb is to mix long and short sentences, while keeping to an average sentence length of 20 words.

.....
 *The Guidelines, which, the Court has held, form rules of practice from which the Commission may not depart in an individual case without giving reasons compatible with the principle of equal treatment, describe the criteria the Commission takes into account to set the amount of a fine.*
.....



.....
 *The Guidelines form rules of practice. They describe the criteria the Commission takes into account to set the amount of a fine. The Court has held that, when the Commission decides to depart from the Guidelines in an individual case, it must give reasons that are compatible with the principle of equal treatment.*
.....

8. Prefer the active voice



The active voice is usually preferable to the passive voice, because it is more direct, requires fewer words and avoids ambiguity.

-
-  *Concerns were raised by customers about a potential lock-in effect.*
-
-  *Customers raised concerns about a potential lock-in effect.*
-

When you use the active voice, your writing becomes clearer because you are obliged to name the agent — the person, organisation or thing that is carrying out the action.

| | |
|---|---|
|  |  |
| <i>Requests for information were sent to...</i> | <i>The Commission requested information from...</i> |
| <i>Proceedings were opened on...</i> | <i>The Commission opened proceedings on...</i> |
| <i>It is argued by the complainant that...</i> | <i>The complainant argues that...</i> |
| <i>A meeting was held on...</i> | <i>A, B and C held a meeting on...</i> |
| <i>Prices were discussed...</i> | <i>A, B and C discussed prices...</i> |


In a Statement of Objections, it is important to name the agent because this often determines who may be held liable for the alleged infringement.


-
-  *Commercially sensitive information was exchanged on 24 February 2000.*
-
-  *On 24 February 2000, Degussa and Atofina exchanged commercially sensitive information.*
-


While it is often preferable to use the active voice, there are sometimes good reasons for using the passive voice.


Generally, the passive voice allows you to focus the reader's attention on the subject and the action, instead of on the agent ('Mr Smith was arrested by the police', 'the parent company must be held liable'). The passive voice can also be useful when the agent is unknown ('the seal had been broken') or when you want to be deliberately vague ('mistakes were made', 'your file has been lost').

One good reason for using the passive voice is to ensure that one sentence flows smoothly into the next — by naming the subject and the action first and the agent later.


.....
 *The complainant is relying on the General Court's judgment in Alrosa. The Court of Justice, however, set aside that judgment.*
.....


 *The complainant is relying on the General Court's judgment in Alrosa. That judgment, however, was set aside by the Court of Justice.*
.....

 *Microsoft offered commitments. The Commission adopted a decision under Article 9 of Regulation No 1/2003 that made those commitments binding.*
.....

 *Microsoft offered commitments, which were made binding by a decision of the Commission under Article 9 of Regulation No 1/2003.*
.....

You should also consider using the passive voice when you only need a few words to describe the agent ('the European Parliament') but many words to describe the subject ('a consortium of consumer groups, non-governmental organisations and small and medium-sized enterprises'), especially if it is the first time that you are mentioning the subject. This is because large pieces of new information are easier to digest when they are at the end of a sentence.

.....
 *A consortium of consumer groups, non-governmental organisations and small and medium-sized enterprises petitioned the European Parliament.*
.....

 *The European Parliament was petitioned by a consortium of consumer groups, non-governmental organisations and small and medium-sized enterprises.*
.....


In these particular circumstances, mentioning the subject before the agent makes your writing clearer. The passive voice, however, is not the only way of switching the agent and the subject around. You can often reach the same result, while retaining the active voice, by using a slightly different construction: 'The European Parliament received a petition from a consortium of consumer groups, non-governmental organisations and small and medium-sized enterprises'.


9. Rephrase unnecessary jargon

In a legal document that is meant to be read by lawyers, it is acceptable to use standard legal terminology. Your reader is likely to understand expressions such as ‘joint and several liability’ or ‘ne bis in idem’.


Just because your case involves complex issues does not mean that you need to use complex vocabulary. It is more important to be readily understood than to appear sophisticated.


Be particularly careful when using non-legal jargon. Specialist terms often express common-sense notions that can also be expressed in plain language.

.....
 *TravelAdvisor enriches its service by utilising the information it receives from its users. The interaction between the service provided by TravelAdvisor and the data provided by its users thus constitutes a positive feed back loop.*
.....

 *TravelAdvisor receives information from its users. It uses that information to make its service more attractive. The result is a snowball effect: the more users TravelAdvisor attracts, the more attractive its service becomes, which in turn attracts more users, and so forth.*
.....

If a particular term cannot be avoided because, for example, it is convenient shorthand for a complicated concept that occurs regularly in your document, explain what it means when it occurs for the first time.

.....
 *The Commission took into account Correktall's debt/EBITDA ratio of 9.7.*
.....

 *To evaluate Correktall's ability to pay off its debts, the Commission took into account the undertaking's debt/EBITDA ratio. This ratio gives the approximate amount of time that would be needed to pay off all debt, ignoring the factors of interest, taxes, depreciation and amortisation. Correktall's debt/EBITDA ratio is high (9.7), which strongly suggests that the undertaking may not be able to service its debts.*
.....

Organise your material


11. State the Commission's case first


A document is more persuasive when it starts by setting out the Commission's case positively. This requires a conscious effort. The parties to an administrative investigation often try to influence the Commission by advancing their arguments at almost every step of the proceedings. As a result, your writing instinctively becomes defensive: you concentrate your energy and attention on countering the arguments of the parties. Those arguments will end up taking centre stage in your document, leaving the reader with the impression that the Commission has a weak case.

Of course, you must deal with counter-arguments and counter-evidence responsibly, but you must keep the Commission's case in the foreground. The best way to achieve this is to present the Commission's line of argument first and deal with counter-arguments next. If they deserve an extended discussion, give them a section of their own and make it clear that the purpose of that section is to assess the counter-arguments of the parties. Do not devote too much space, though, to counter-arguments that are unsubstantiated or easy to rebut: give them short shrift to signal to the reader the strength of the Commission's case.

12. Present the facts in chronological order

The most natural and straightforward way to present the facts is in chronological order. Non-chronological narratives can be difficult to follow.

.....
 *The cartel participants, after having tried unsuccessfully, in April 2010, to revive the market sharing agreement drawn up in December 2009, which they failed to implement, adopted a new strategy in September 2010 that focused on bid rigging. The initial plan to fix prices semi-annually had been abandoned two months earlier.*
.....

 *The cartel participants initially planned to fix prices semi-annually. In December 2009, they drew up a market sharing agreement, which they failed to implement. Attempts in April 2010 to revive this agreement were unsuccessful. In July 2010, the cartel participants abandoned their price-fixing arrangements. Two months later, they adopted a new strategy that focused on bid rigging.*
.....

You need to balance the need for chronology with the need to keep related material together. For instance, when one Statement of Objections deals with two distinct infringements, it can be useful to write a separate timeline for each infringement.

The general rule for the facts section is: the need for chronology outweighs the need to keep related material together. The opposite applies to the sections that set out the Commission's legal assessment.

13. Don't argue the case in the facts section

If your document has a facts section, make sure this is a sober and accurate account of all the legally relevant facts, no more, no less.

The facts section sets out the Commission's view of what happened, but it is not the right place to argue the Commission's case. For example, in a Statement of Objections, the following observations do not belong in the facts section:

- *In 2009, Antenna Telekom worsened its abusive conduct by increasing the prices for the use of its network.*
- *ChemiCorp failed to attend two consecutive meetings, which is insufficient to conclude that it had distanced itself from the cartel.*
- *Daedalus A.E. owns all the shares in Icarus E.P.E. and presumably exercised decisive influence over it.*

Such observations go beyond mere statements of fact. They belong in the sections that set out the Commission's legal assessment.

It can be difficult to draw the line between the facts and the legal assessment, but the general principle is straightforward: the facts section describes the relevant facts, based on the evidence. Subsequent sections cite the applicable law and apply it to the facts.

Judicial review

The Commission must often defend its decisions in court. You need to count judges among the most important readers of your document.

Judges have many cases to deal with and numerous documents to read. They will appreciate it if the Commission's decision is concise and if it is written in a way that facilitates judicial review.

Bear in mind that judges have to go through the process of 'building a case' in reverse:

- First, they must identify the legal claims in the Commission's decision that are challenged by the applicant (for example, the claim that the undertaking to which the applicant belongs, Spotless, and two other undertakings, UniClean and Brightwash, 'agreed to restrict competition').
- Second, the judges will check if the Commission's legal claim correctly characterises the facts described in the decision ('Spotless, UniClean and Brightwash allocated customers between them at a meeting in Vilnius').
- Third, the judges will verify if the Commission has proven those facts by examining the evidence cited in the decision ('UniClean's leniency statement and two handwritten notes of the meeting').

From the judges' perspective, a decision is well-written when it allows them to go through this process easily.

process easily

From the judges' perspective, a decision is well-written when it allows them to go through this process easily.

evidence cited in the decision ('UniClean's leniency statement and two handwritten notes of the meeting').

14. Think ‘syllogistically’

The sections that set out the Commission’s legal assessment must follow a logical structure. The most rigorous form of logic, and the most persuasive, is the syllogism.

Some syllogisms are positive:

| | |
|----------------------|--|
| <i>Major premise</i> | <i>When a legal entity exercises decisive influence over another legal entity, both entities can be held jointly and severally liable.</i> |
| <i>Minor premise</i> | <i>Stora exercises decisive influence over Kopparfors.</i> |
| <i>Conclusion</i> | <i>Stora and Kopparfors can be held jointly and severally liable.</i> |

Some are negative:

| | |
|----------------------|--|
| <i>Major premise</i> | <i>A breach of the principle that a decision must be adopted within reasonable time can constitute a ground for annulment only where the undertaking concerned demonstrates that the excessive duration of the proceedings has adversely affected its rights of defence.</i> |
| <i>Minor premise</i> | <i>Technische Unie has failed to demonstrate that the long duration of the proceedings adversely affected its rights of defence.</i> |
| <i>Conclusion</i> | <i>The decision against Technische Unie cannot be annulled on account of the long duration of the proceedings.</i> |

Others are mixed:

| | |
|----------------------|--|
| <i>Major premise</i> | <i>The Commission can hold a parent company jointly and severally liable with its wholly-owned subsidiary, unless the parent company proves that its subsidiary acted independently on the market.</i> |
| <i>Minor premise</i> | <i>Akzo NV has failed to prove that its wholly-owned subsidiary, Akzo BV, acted independently on the market.</i> |
| <i>Conclusion</i> | <i>The Commission can hold Akzo NV and Akzo BV jointly and severally liable.</i> |

Not all arguments are as straightforward as these. Nevertheless, most legal reasoning is essentially syllogistic, even when the rules and the relevant facts are more complicated. Arrange your text accordingly. The clearer the syllogistic progression, the better.

Undertakings and legal entities

Articles 101 and 102 TFEU apply to undertakings. Words like ‘company’, ‘concern’ or ‘group’ do not have a fixed legal meaning in EU competition law. It is generally preferable, therefore, to use the terms ‘undertaking’ and ‘legal entity’. Always bear in mind the distinction between these concepts. An undertaking commits the infringement. A legal entity is held liable for the infringement committed by the undertaking.

Use a name for the undertaking (e.g. ‘Samsung’) that is different from the names of its legal entities (‘Samsung Electronics Co. Ltd.’, ‘Samsung Electronics Holding GmbH’, etc.). If you apply these names consistently throughout the document, you will avoid confusion between the undertaking and its various legal entities.

Methodically describe each undertaking. Who are the relevant individuals? Which legal entity employed them at which time? How do this entity and other legal entities fit into the corporate structure? Then apply the principles on liability to the facts, and explain which entity can be held liable for the undertaking.

Liability of a legal entity arises most commonly because:

- the legal entity employed the individual(s) that carried out the anti-competitive activities on behalf of the undertaking;
- the legal entity exercised decisive influence over the legal entity that employed the individual(s) that carried out the anti-competitive activities on behalf of the undertaking.

Where possible, avoid speaking of ‘participation’ of legal entities in an infringement, because it wrongly suggests that legal entities are infringing Article 101 or 102 TFEU (they are not; undertakings commit infringements). Similarly, try to avoid the terms ‘direct’, ‘indirect’ or ‘derived liability’, because they wrongly depict liability as a chain in which each link (each legal entity) can only be held liable if the Commission has also held each previous link in the chain liable: the Commission regularly decides, for practical reasons, to disregard legal entities that form part of the infringing undertaking (intermediate subsidiaries for instance).

the jurisdictional jurisdiction (jurisdictional jurisdiction of justice)
Commission regularly decides for business reasons to disregard legal entities that form part of the infringing undertaking (intermediate subsidiaries for instance)

Revise

15. Align the facts section and the legal assessment

There is a difference between establishing the facts and applying the law to the facts. The distinction is not watertight, but it is reliable enough to serve as a guiding principle.

To write the facts section you need to appraise the evidence and establish the facts. Sometimes a piece of evidence is self-explanatory and the facts follow almost automatically. For example, a set of notes entitled 'Minutes of the meeting of Wednesday 8 June 2011' is evidence that there was a meeting on 8 June 2011. But appraising the evidence is not always straightforward: if the notes mention 'y.t.d. +5%', what does that say about what happened at the meeting? Once you have appraised the evidence (perhaps together with other pieces of evidence), you may conclude that someone at the meeting reported an increase in sales volumes of 5% between January and June 2011. If your conclusion is convincing enough to withstand judicial scrutiny, you can present it as a fact.

To write the legal assessment you need to apply the law to the facts. Now you can draw conclusions such as (in a cartel case): the actions of the parties amounted to an agreement; the agreement was capable of affecting trade between the Member States and of restricting competition within the internal market; the arrangements between the parties formed part of a single and continuous infringement; each party was aware of the overall objective; and so forth. You should be able to support these conclusions by relying on the case-law and by referring to the corresponding recitals in the facts section.

The facts section and the legal assessment work hand-in-glove. This means that, once you have written the legal assessment, you need to review the facts section and verify two things.

- First, make sure that the facts section mentions all legally relevant facts (and that you do not introduce new facts in the legal assessment).
- Second, scrutinise the facts section for unnecessary information. If a fact is not relevant to the legal assessment, delete it.

The result will be a concise and coherent document, in which the facts section and the legal assessment are perfectly aligned.

16. Edit your work systematically

Writing is editing. It is impossible to get an entire document right immediately. Even the most experienced and talented writers spend much time editing, refining and restructuring their work.

While you write, ask yourself: What am I trying to say? Is this the clearest way to say it? A good way to check whether a particular point is clear is to read it aloud. If it sounds unnatural, revise it.

Read through your writing several times. When you make a change, the chances are that it might affect other parts of your document. Keep an eye on the whole: Is the overall structure still logical? Is the terminology consistent? Have I addressed all the relevant points? Is each passage in the document still legally relevant?

Before you send your draft to anyone else, check carefully if you have:

- avoided repetition (1);
- cut out irrelevant passages (2);
- left out needless words (3);
- deleted throat-clearers (4);
- turned passive sentences into active ones (5);
- simplified wordy phrases (6);
- mixed long and short sentences (7);
- removed unnecessary jargon (8);
- avoided multiple negatives (9); and
- allowed the facts to speak for themselves (10).

Make sure that:

- the Commission's case is presented first (11);
- the facts section is a sober and accurate account of all the relevant facts in chronological order (12-13);
- the Commission's reasoning follows a logical structure (14);
- the facts section is consistent with the legal assessment (15).

If you can tick all these boxes, your document should be in good shape.

Acknowledgements

This guide draws on sources including:

- European Commission, How to write clearly, available at: http://ec.europa.eu/translation/writing/clear_writing/how_to_write_clearly_en.pdf, p. 10 ('Prefer active verbs to passive...')
- Garner, B.A., Legal writing in plain English (The University of Chicago Press 2001), p. 17 ('Omit needless words'), p. 19 ('Keep your average sentence length to about 20 words')
- Parrish, A.L., and Yokoyama, D.T., Effective lawyering. A checklist approach to legal writing & oral argument (Carolina Academic Press 2007), p. 7 ('Resist throat clearing')
- Pinker, S., The sense of style. The thinking person's guide to writing in the 21st century (Viking Penguin 2014), Chapter 3 ('The Curse of Knowledge')
- Scalia, A., and Garner, B.A., Making Your Case. The art of persuading judges (Thomson/West 2008), p. 41 ('Think syllogistically')

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The views expressed in this guide are the author's and cannot be attributed to the European Commission.

Written documents are the Commission's 'core products'. Drafting them and ensuring their quality is an integral part of almost any Commission official's daily responsibilities.

This guide will help you write clear and concise Commission documents on EU competition law. It provides:

- easy-to-apply do's and don'ts;
- practical advice for avoiding the most common drafting pitfalls; and
- realistic examples of how to put this advice into practice.

Felix Ronkes Agerbeek is a member of European Commission's Legal Service. From April 2008 to November 2014, competition law was his main area of expertise. His work spanned many topics and business sectors including: sports; energy; chemicals; ebook publishing; banks and finance; betting and gambling; standard essential patents; and internet search. He has reviewed the drafts of numerous antitrust and merger decisions with a view to strengthening them against challenges in court. He regularly represents the Commission before the Court of Justice and the General Court of the European Union.

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