



Accessing information located in foreign jurisdictions

# The EU's enforcement jurisdiction in competition cases

**Torben TOFT**

International Relations Unit  
European Commission,  
Directorate-General for Competition

The views expressed in this presentation are personal  
and do not necessarily reflect the official position of the European Commission

# The EU's jurisdiction – a distinction

## Subject matter jurisdiction:

- Articles 101 and 102 TFEU are applicable only if  
*'effect trade between EU Member States'*
- Guidelines on the effect on trade concept

[http://eur-lex.europa.eu/legal-content/EN/TXT/PDF/?uri=CELEX:52004XC0427\(06\)&from=EN](http://eur-lex.europa.eu/legal-content/EN/TXT/PDF/?uri=CELEX:52004XC0427(06)&from=EN)

## Enforcement jurisdiction:

- Principle of state sovereignty in international law limits the European Commission to the EU territory, unless:
  - International agreements (presently only the European Economic Area Agreement)

# Written requests for information

- Simple requests: Reg. 1/2003, Art. 18(2)
- Requests by decision: Reg. 1/2003, Art. 18(3)

## Compulsion ?

- Academics argue Commission has power to impose sanctions for of incorrect or misleading information
- Commission's policy choice: simple requests without indicating the possibility of imposing fines
  - Respect of state sovereignty
  - Blocking statutes
  - Reciprocity

## Practical solution to overcome limited jurisdiction

- Address requests to subsidiaries located in the EU

# Thank you for your attention!

See all EU laws, Regulations, Guidelines and Notices, decisions, press releases etc. on:

**[http://ec.europa.eu/competition/index\\_en.html](http://ec.europa.eu/competition/index_en.html)**