

Antitrust Law Blog

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EC Imposes \$1.45 Billion Antitrust Fine on Intel

On May 13, the European Commission (EC) imposed a fine of €1.06 billion (approximately \$1.45 billion) on Intel Corporation for allegedly violating EC Treaty antitrust rules on the abuse of a dominant market position (Article 82) by engaging in anticompetitive practices to exclude competitors from the market for computer chips called x86 central processing units (CPUs), which are considered to be "the main hardware of a computer." The EC also ordered Intel to cease the alleged illegal practices immediately to the extent that they were still ongoing.

The EC alleged that Intel engaged in two specific illegal practices between October 2002 and December 2007, when the EC found that the company held a dominant position in the worldwide x86 CPU market with at least 70% market share. First, the EC alleged that Intel gave wholly or partially hidden rebates to computer manufacturers on condition that they bought all, or almost all, their x86 CPUs from Intel. The EC also alleged that Intel made direct payments to a major retailer on condition it stock only computers with Intel x86 CPUs. The EC concluded that such rebates and payments effectively prevented customers - and ultimately consumers - from choosing alternative products. The EC acknowledged that while rebates can lead to lower prices for consumers, those rebates that are conditional on buying less of a rival's products, or not buying them at all, are abusive according to settled case-law of the European Community Courts unless the dominant company can put forward specific reasons to justify their application in an individual case.

Second, the EC alleged that Intel made direct payments to computer manufacturers to halt or delay the launch of specific products containing competitors' x86 CPUs and to limit the sales channels available to these products. The EC alleged that these practices constituted abuses of Intel's dominant position on the x86 CPU market that harmed consumers throughout the EU. The EC reasoned that by undermining its competitors' ability to compete on the merits of their products, Intel's actions undermined competition and innovation. The EC acknowledged that while many of the conditions alleged to be illegal in its antitrust decision were not made explicit in Intel's contracts, the EC had obtained proof from a broad range of contemporaneous documents such as emails obtained from unannounced on-site inspections, and responses to formal requests for information and formal statements by other concerned companies.

In a related memorandum, the EC denied that the its decision was aimed to protect Intel's competitors. The EC explained that it "does not look at the specific interests of individual companies but is charged with ensuring that competition on the merits is safeguarded [because]

this create an environment where consumers can benefit and where innovation can flourish." At a related press conference, EC Competition Commissioner, Neelie Kroes, explained that the EC favors strong, vigorous price competition, including by dominant companies. However, she added that Intel went beyond normal price competition, "Intel has harmed millions of European consumers by deliberately acting to keep competitors out of the market for computer chips for many years. Such a serious and sustained violation of the EU's antitrust rules cannot be tolerated."

In response, Intel issued a statement denying any wrongdoing, "We do not believe our practices violated European law... Intel takes strong exception to this decision. We believe the decision is wrong and ignores the reality of a highly competitive microprocessor marketplace – characterized by constant innovation, improved product performance and lower prices. There has been absolutely zero harm to consumers." Intel stated that it intends to appeal the EC's Decision.

The EC's Decision has not been published and will be made available as soon as possible on DG Competition's website once relevant business secrets have been removed. The EC's Press Release can be found at: [EC Press Release](#)

Intel's News Release can be found at: [Intel Press Release](#)

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