EUROPEAN COMMISSION - PRESS RELEASE

Mergers: Commission approves acquisition of Motorola Mobility by Google

Brussels, 13 February 2012 - The European Commission has cleared under the EU Merger Regulation the proposed acquisition of Motorola Mobility, a developer of smartphones and tablets, by Google, the world's largest internet search and search advertising company and developer of Android, one of the most popular mobile operating systems. The Commission approved the transaction mainly because it would not significantly modify the market situation in respect of operating systems and patents for these devices.

Joaquín Almunia, Commission Vice President in charge of competition policy, said: *"We have approved the acquisition of Motorola Mobility by Google because, upon careful examination, this transaction does not itself raise competition issues. Of course, the Commission will continue to keep a close eye on the behaviour of all market players in the sector, particularly the increasingly strategic use of patents".*

All smartphones and tablets need an operating system. The Commission considered whether Google would be likely to prevent Motorola's competitors from using Google's Android operating system. The Commission's investigation showed Android helps to drive the spread of Google's other services. Consequently, given that Google's core business model is to push its online and mobile services and software to the widest possible audience, it is unlikely that Google would restrict the use of Android solely to Motorola, a minor player in the European Economic Area (EEA)[1], as compared to operators such as Samsung and HTC.

All smartphones also need to adhere to certain telecommunications standards such as 3G or 4G/LTE. Motorola, as some other market participants, holds patents that are essential for these standards to operate. Access to such "standard essential" patents is therefore crucial for players on the smartphone market. However, the Commission concluded that the proposed transaction would not significantly change the existing market situation in this respect.

Finally, the Commission also examined whether Google would be in a position to use Motorola's standard essential patents to obtain preferential treatment for its services, including search and advertising. The Commission found that Google already had many ways in which to incentivise customers to take up its services and that the acquisition of Motorola would not materially change this.

The Commission therefore concluded that the transaction would not significantly impede effective competition in the EEA or any substantial part of it.

Today's decision is without prejudice to potential antitrust problems related to the use of standard essential patents in the market in general. However, any such issues would not arise specifically as a result of the proposed transaction.

[1] The EU plus Iceland, Liechtenstein and Norway.

The proposed transaction was notified to the Commission on 25 November 2011. In its review, the Commission cooperated with a number of competition authorities and in particular with the U.S. Department of Justice.

Standard essential patents

Access to standard essential patents is crucial for all market players. It is for this reason that standard setting organisations require the holders of standard essential patents to license these patents to any interested third parties on fair reasonable and non-discriminatory ("FRAND") terms. The absence of such licences would hinder competitors or indeed the entire industry to the detriment of consumers and innovation. The Commission's guidelines on horizontal cooperation agreements adopted last year (see IP/10/1702 and MEMO/10/676) make clear that commitments to license on FRAND terms are crucial to ensure access to standardised technology for all interested parties.

Companies

Google is a provider of internet search and online advertising services. It also provides a number of additional online services and software products. Google's revenue is mostly derived from online advertising and to a certain extent from mobile online advertising. Google also develops and makes available an open source mobile operating system called Android, and is the leading member of the Open Handset Alliance ("OHA"), an alliance of 84 mobile and technology companies.

Motorola is a supplier of mobile devices, TV set-top boxes (STBs), end-to-end video solutions and cable broadband access solutions.

Merger control rules and procedures

The Commission has the duty to assess mergers and acquisitions involving companies with a turnover above certain thresholds (see Article 1 of the Merger Regulation) and to prevent concentrations that would significantly impede effective competition in the EEA or any substantial part of it.

The vast majority of mergers do not pose competition problems and are cleared after a routine review. From the moment a transaction is notified, the Commission generally has a total of 25 working days to decide whether to grant approval (Phase I) or to start an in-depth investigation (Phase II).

More information on the case is available at:

http://europa.eu.int/comm/competition/mergers/cases/index/m83.html#m_6381

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