



Antitrust: Commission accepts commitments from Amazon on e-books

Brussels, 4 May 2017

The European Commission has adopted a decision that renders legally binding the commitments offered by Amazon. The commitments address the Commission's preliminary competition concerns relating to a number of clauses in Amazon's distribution agreements with e-book publishers in Europe.

Commissioner Margrethe **Vestager**, in charge of competition policy, said: "*Today's decision will open the way for publishers and competitors to develop innovative services for e-books, increasing choice and competition to the benefit of European consumers. Amazon used certain clauses in its agreements with publishers, which may have made it more difficult for other e-book platforms to innovate and compete effectively with Amazon. We want to ensure fair competition in Europe's e-books market worth more than 1 billion euros.*"

With today's decision Amazon will no longer enforce or introduce these clauses in agreements with publishers. These commitments will contribute to fair competition in the platform economy.

The Commission opened an investigation in [June 2015](#) because it had concerns about clauses included in Amazon's e-books distribution agreements that could have breached EU antitrust rules. These clauses, sometimes referred to as "most-favoured-nation" clauses, required publishers to offer Amazon similar (or better) terms and conditions as those offered to its competitors and/or to inform Amazon about more favourable or alternative terms given to Amazon's competitors. The clauses covered not only price but many aspects that a competitor can use to differentiate itself from Amazon, such as an alternative business (distribution) model, an innovative e-book or a promotion.

The Commission considered that such clauses could make it more difficult for other e-book platforms to compete with Amazon by reducing publishers' and competitors' ability and incentives to develop new and innovative e-books and alternative distribution services. The clauses may have led to less choice, less innovation and higher prices for consumers due to less overall competition in the European Economic Area (EEA) in e-book distribution.

Amazon has sought to address the Commission's concerns by offering not to enforce, introduce or to change the terms of its agreements with publishers. It amended its proposal following feedback received from [interested parties](#) on the suitability of Amazon's originally proposed commitments.

Today, the Commission has concluded that the amended final version of the commitments offers a timely, effective and comprehensive solution to the competition concerns it had identified. They will help ensure that innovation for e-books by publishers and other third parties can benefit companies other than Amazon and protect effective competition for e-books to the benefit of consumers.

More specifically, Amazon has offered the following commitments:

- Not to enforce (i) relevant clauses requiring publishers to offer Amazon similar non-price and price terms and conditions as those offered to Amazon's competitors or (ii) any such clauses requiring publishers to inform Amazon about such terms and conditions. The commitments cover in particular provisions related to alternative/new business models, release date and catalogue of e-books, features of e-books, promotions, agency price, agency commission and wholesale price.
- To allow publishers to terminate e-book contracts that contain a clause linking discount possibilities for e-books to the retail price of a given e-book on a competing platform (so-called Discount Pool Provision). Publishers are allowed to terminate the contracts upon 120 days' advance written notice.
- Not to include, in any new e-book agreement with publishers, any of the clauses mentioned above, including Discount Pool Provisions.



The commitments apply for a period of 5 years and to any e-book in any language distributed by Amazon in the EEA.

If Amazon were to breach the commitments, the Commission could impose a fine of up to 10% of Amazon's total annual turnover, without having to find a violation of the EU competition rules.

Background

[Article 102 of the Treaty on the Functioning of the European Union](#) (TFEU) and [Article 54 of the EEA Agreement](#) prohibit the abuse of a dominant position which may affect trade and prevent or restrict competition.

The Commission opened a formal antitrust investigation into such arrangements in [June 2015](#). The Commission took the preliminary view that Amazon may have abused its dominant position on the markets for the retail distribution of English and German language e-books to consumers by requesting parity conditions in its e-books agreements with publishers. The Commission invited comments from interested parties on a previous version of the commitments offered by Amazon on [24 January 2017](#).

Article 9 of the EU's Antitrust Regulation ([Regulation 1/2003](#)) allows the Commission to conclude antitrust proceedings by accepting commitments offered by a company. Such a decision does not reach a conclusion on whether EU antitrust rules have been infringed but legally binds the company to respect the commitments. A policy brief on commitment decisions under Article 9 is available [here](#).

More information, including the full version of the commitments is available on the Commission's [competition website](#), in the [public case register](#) under the case number [40153](#).

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