

Brussels, 13 May 2009

Antitrust: Commission imposes fine of 1.06 billion euros on Intel for abuse of dominant position; orders Intel to cease illegal practices - questions and answers

(see also [IP/09/745](#))

What must Intel do to comply with EU law?

The Decision sets out how Intel has breached EU antitrust law by engaging in two types of practices which have harmed competition. First, Intel gave wholly or partially hidden rebates to computer manufacturers on condition that they bought all, or almost all, their x86 central processing units (CPUs) from Intel. Intel also made direct payments to a major retailer on condition it stock only computers with Intel x86 CPUs. Second, Intel made direct payments to computer manufacturers to halt or delay the launch of specific products containing a competitor's x86 CPUs and to limit the sales channels available to these products. Intel is obliged desist from the specific practices identified in this case and not to engage in these or equivalent practices in the future.

What is the geographic scope of the remedy?

This is a worldwide market. Within this context, Intel is obliged not to engage in any abusive practices that have an effect within the European Economic Area (EEA).

How will this Decision help innovation in the market?

Intel limited consumer choice and stifled innovation by preventing innovative products for which there was a consumer demand from reaching end customers. Such practices deter innovative companies which might otherwise wish to enter and compete in the market. By ordering Intel to end its abusive practices, competition on the x86 CPU market will play out on the merits with the effect that innovation to the benefit of the consumer can flourish.

Does the Commission seek to limit companies' ability to provide customers with discounts?

No. This case is about the **conditions** associated with Intel's rebates and payments, not the rebates and payments themselves. What is at stake here are loyalty or fidelity rebates, granted on condition that a customer buys all or most of its requirements from the dominant undertaking, thereby preventing that customer from purchasing from competitors. Intel also paid clients to delay or not launch computers incorporating a competitor's CPUs, a conduct which is not linked at all to a company's ability to provide customers with discounts.

Does the Commission’s Decision seek to protect competitors?

No, the Commission acts in the interests of consumers. The Commission does not look at the specific interests of individual companies, but is charged with ensuring that competition on the merits is safeguarded. This creates an environment where consumers can benefit and where innovation can flourish.

What is the case-law underpinning the Commission’s case?

The legal underpinning of the Commission’s case is based on a consistent pattern of Court jurisprudence, including Case 85/76 *Hoffmann-La Roche v Commission*, Case T-203/01 *Michelin v Commission*, Case C-95/04 *British Airways v Commission*, Joined Cases T-24/93 and others, *Compagnie Maritime Belge v Commission* and Case T-228/97, *Irish Sugar*.

Has the Commission applied its Guidance Paper on its enforcement priorities in applying Article 82?

Formally, the Guidance Paper does not apply to this case since proceedings were initiated before it was issued. The Decision is nevertheless in line with the orientations set out in the guidance paper, and includes a rigorous, effects-based analysis which has demonstrated that Intel’s conduct has reduced consumer choice and limited innovation in the market.

Intel is a US company. What gives the European Commission authority to decide whether its behaviour is legal or not?

Intel sells its products *inter alia* in the European Union, which is one of its main markets in the world. It must therefore respect EU antitrust rules in the same way that European companies must respect US law when operating on the other side of the Atlantic.

Did the Commission co-operate with the United States on this case?

The Commission and the United States Federal Trade Commission have kept each other regularly and closely informed on the state of play of their respective Intel investigations. These discussions have been held in a co-operative and friendly atmosphere, and have been substantively fruitful in terms of sharing experiences on issues of common interest.

Does Intel have to pay the fine immediately?

The fine must be paid within three months of the date of notification of the Decision.

Where does the money go?

Once final judgment has been delivered in any appeals before the Court of First Instance (CFI) and the Court of Justice, the money goes into the EU’s central budget, thus reducing the contributions that Member States pay to the EU.

Does Intel have to pay the fine if it appeals to the European Court of First Instance (CFI)?

Yes. In case of appeals to the CFI, it is normal practice that the fine is paid into a blocked bank account pending the final outcome of the appeals process. Any fine that is provisionally paid will produce interest based on the interest rate applied by the European Central Bank to its main refinancing operations. In exceptional circumstances, companies may be allowed to cover the amount of the fine by a bank guarantee at a higher interest rate.

What percentage of Intel's turnover does the fine represent?

The fine represents **4.15 %** of Intel's turnover in 2008. This is less than half the allowable maximum, which is 10% of a company's annual turnover.

How was Intel able to exercise its rights of defence?

Intel has been provided full access to the Commission's file, with the exception of legitimate claims relating to business secrets of other companies and internal Commission documents. Intel has been able to fully comment on the evidence on which the Commission has based its Decision. The file in this case comprises several hundred thousand pages and the Decision is based on a broad range of contemporaneous evidence from a variety of sources.

How long is the Decision?

The Decision is 542 pages long.

When is the Decision going to be published?

The Decision in English (the official language version of the Decision) will be made available as soon as possible on DG Competition's website (once relevant business secrets have been taken out). French and German translations will also be made available on DG Competition's website in due course. A summary of the Decision will be published in the EU's Official Journal L series in all languages (once the translations are available).