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**Introductory remarks on CFI ruling on
Microsoft's abuse of dominant market
position**

*Check Against Delivery
Seul le texte prononcé fait foi
Es gilt das gesprochene Wort*

Press conference

Brussels, 17th September 2007

Ladies and gentlemen

The European Commission welcomes the fact that the Court of First Instance has upheld the most crucial elements of a landmark Commission decision to give consumers more choice in software markets and to maintain incentives for all companies in these markets to innovate to the benefit of consumers.

That 2004 Decision set an important precedent in terms of the obligations of dominant companies to allow competition, in particular in high tech industries. The Decision upheld by the Court is particularly important because so many people use computers, be they individual consumers, schools, businesses or governments, and because 95% of the world's personal computers run Microsoft's Windows PC operating system.

The Court has confirmed that Microsoft cannot regulate the market by imposing its products and services on people. The Court has confirmed that Microsoft can no longer prevent the market from functioning properly and that computer users are therefore entitled to benefit from choice, more innovative products and more competitive prices.

In confirming the interoperability part of the Commission's decision, the Court has confirmed the importance of **interoperability** for consumer choice and innovation in high tech industries. If competitors are unable to make their products "talk to" or work properly with a dominant company's products, they are prevented from bringing new innovative products onto the market, and customers are locked into the products of the existing provider. Consumers want interoperable products, and companies that want to meet consumers' demands should be able to provide them.

In this case, the Court has confirmed that Microsoft has to make available indispensable interoperability information on reasonable and non-discriminatory terms to allow competitors to make workgroup server products that work properly and on an equal footing with Microsoft products. Consumers have a right to the increased choice and innovation, and the decreased prices that competition brings. Competition in this market requires interoperability.

Companies should not practice interoperability only where they are forced to compete in a particular market, because that increases its chances of winning market share. In confirming the bundling part of the Commission's decision, the Court has again confirmed the importance of consumer choice. Microsoft cannot abuse its Windows monopoly to exclude competitors in other markets. Microsoft can improve its products, but the Court confirmed that there was no technical benefit to building its media player into its operating system in the way that it did. Consumers did not benefit. Consumers only paid the price through reduced choice and less innovation on the market as a whole. This is an important precedent, not just for this particular product on this particular market.

The Court ruling is therefore welcome for its confirmation of the Commission's decision and its underlying policy, but nevertheless, it is bitter-sweet. Bitter-sweet because the Court has confirmed the Commission's view that consumers are suffering at the hands of Microsoft.

On the markets concerned by the decision, businesses and individuals are faced with no more choice than they were three years ago when the Commission adopted its Decision. Microsoft's market share has grown to 80% for work group servers – up from some 40% when the Commission's investigation began. Microsoft's media player format has, as a result of its conduct, come to dominate the market.

Recent years have certainly seen innovation in high technology markets - but largely in areas that Microsoft does not control.

Having worked in business for many years, I know the pernicious effects that the illegitimate actions of a dominant company can have. For start-ups, venture capital dries up as investors look for opportunities elsewhere, out of the grip of the monopolist. For established businesses, a lucrative settlement can appear a better option than continued head to head competition.

Today's Court ruling, and developments on the market in the last three years, show that the Commission was right to take its decision, and right to take firm action to enforce that decision. Microsoft must now comply fully with its legal obligations, and desist from engaging in anti-competitive conduct. The Commission will do its utmost to ensure that Microsoft complies swiftly.

I am sure many of you want to hear what I have to say about that part of the case where the Court did not support the Commission concerning the Trustee. I can say little, save that we will need to study the judgement carefully before drawing any conclusions from it. However, I already note that the Court has not questioned the legality of an independent trustee nominated by the Commission from a list provided by Microsoft in order to provide impartial technical advice on compliance.

Let us remember that the Court today has agreed with the Commission's view that businesses and consumers have been harmed by Microsoft's illegal actions on the Windows desktop market. Microsoft has illegally abused its market position. A finding now confirmed by courts both here and in the US.

You may hear scare stories about the supposed negative consequences of this ruling for other companies and for innovation on the market. The Commission notes that the Court itself has concluded that Microsoft failed to show that the decision would have a significant negative effect on its incentives to innovate. Let me be clear - there is one company that will have to change its illegal behaviour as a result of this ruling: Microsoft. Other companies will benefit from increased opportunities to compete, to the greater good of consumers.

I have worked at the top of companies, and I have taken part in investment decisions. I know that investment and innovation require a stable, fair, and restrained regulatory environment. I remain committed to delivering just that.

The Commission decision made clear that this was in many ways an exceptional case. Super-dominance like Microsoft's is rare. The Court has confirmed that. If there are companies who are concerned at the implications of this decision, my door is always open.

So what does this judgement mean for the future?

First, and most importantly, it sends a clear signal that super-dominant companies cannot abuse their position to hurt consumers and dampen innovation by excluding competitors in related markets.

In the same vein, the Court ruling confirms the clear principles which govern the conduct of such dominant companies, and which are designed to protect the competitive process and hence consumers.

Finally, as regards this specific case, the ruling confirms more than ever that Microsoft must comply with its remedy obligations. I will not tolerate continued non-compliance.