



## Antitrust: Commission opens formal investigation against Google in relation to Android mobile operating system

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The European Commission [has opened formal proceedings against Google](#) to investigate in-depth if the company's conduct in relation to its Android mobile operating system as well as applications and services for smartphones and tablets has breached EU antitrust rules. The Commission will assess if, by entering into anticompetitive agreements and/or by abusing a possible dominant position, Google has illegally hindered the development and market access of rival mobile operating systems, mobile communication applications and services in the European Economic Area (EEA). This investigation is distinct and separate from the Commission investigation into Google's behaviour in internet search.

Since 2005, Google has led the development of the Android mobile operating system. In recent years, Android has become the leading operating system for smart mobile devices in the EEA, to the extent that today, the majority of smartphones in Europe are based on Android. Other mobile operating systems include Apple's iOS (which is proprietary to Apple and runs only on iPhones and iPads) and Windows Phone (which is used on Microsoft's and other manufacturers' smartphones and tablets).

Android is an open-source mobile operating system, meaning that it can be freely used and developed by anyone. The majority of smartphone and tablet manufacturers, however, use the Android operating system in combination with a range of Google's proprietary applications and services. In order to obtain the right to install these applications and services on their Android devices, manufacturers need to enter into certain agreements with Google.

### ***The scope of the Commission's formal investigation***

Following the receipt of two complaints, as well as an initial investigation carried out by the Commission on its own initiative, the Commission has now opened a formal investigation to assess if certain conditions in Google's agreements associated with the use of Android and Google's proprietary applications and services breach EU antitrust rules.

More specifically, on the basis of the information currently available to the Commission, the investigation will at this stage focus on the following three allegations:

1. whether Google has illegally hindered the development and market access of rival mobile applications or services by requiring or incentivising smartphone and tablet manufacturers to **exclusively pre-install Google's own applications or services**;
2. whether Google has prevented smartphone and tablet manufacturers who wish to install Google's applications and services on some of their Android devices from developing and marketing **modified and potentially competing versions of Android** (so-called "Android forks") on other devices, thereby illegally hindering the development and market access of rival mobile operating systems and mobile applications or services;
3. whether Google has illegally hindered the development and market access of rival applications and services by **tying or bundling certain Google applications and services** distributed on Android devices with other Google applications, services and/or application programming interfaces of Google.

The opening of formal proceedings does not prejudice the outcome of the investigation.

### ***Procedural background***

Article 101 of the Treaty on the Functioning of the European Union (TFEU) prohibits anticompetitive agreements and decisions of associations of undertakings.

Article 102 TFEU prohibits the abuse of a dominant position, which may affect trade and prevent or restrict competition. The Antitrust Regulation (Council Regulation No 1/2003) sets out how the Commission and the national competition authorities apply this provision.

Article 11(6) of the Antitrust Regulation provides that once the Commission has opened proceedings the national competition authorities can no longer apply the EU competition rules to the practices concerned. Moreover, Article 16(1) of the Antitrust Regulation provides that national courts must not

take any decision, which would conflict with a decision contemplated by the Commission in the context of formally opened proceedings.

There is no legal deadline to complete inquiries into anti-competitive conduct. The duration of an antitrust investigation depends on a number of factors, including the complexity of the case, the extent to which the undertaking concerned cooperates with the Commission and the exercise of the rights of defence.

The Commission has informed Google and the national competition authorities that it has opened proceedings in this case.

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