



Antitrust: Commission sends two Statements of Objections on exclusivity payments and predatory pricing to Qualcomm

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The European Commission has informed Qualcomm of its preliminary conclusions that the chipset company illegally paid a major customer for exclusively using Qualcomm chipsets and sold chipsets below cost with the aim of forcing its competitor Icera out of the market, in potential breach of EU antitrust rules.

EU Commissioner in charge of competition policy Margrethe Vestager said: *"Many consumers enjoy high-speed internet on smartphones and other devices – baseband chipsets are key components that make this happen. I am concerned that Qualcomm's actions may have pushed out competitors or prevented them from competing. We need to make sure that European consumers continue to benefit from competition and innovation in an area which is at the heart of today's economy."*

Consumers increasingly access the internet through mobile devices – therefore it is important that effective competition takes place for the supply of one of the key components of such devices: baseband chipsets process communication functions in smartphones, tablets and other mobile broadband devices. They are used both for voice and data transmission.

The Commission has sent two Statements of Objections to Qualcomm in separate investigations, outlining the Commission's preliminary view that the company has abused its dominant position in the worldwide markets for 3G (UMTS) and 4G (LTE) baseband chipsets, in breach of EU antitrust rules, in particular Article 102 of the Treaty on the Functioning of the European Union (TFEU).

Qualcomm is the world's largest supplier of baseband chipsets.

Under EU antitrust rules, dominant companies have a responsibility not to abuse their powerful market position by restricting competition. The sending of a statement of objections does not prejudice the outcome of the investigation.

Exclusivity payment Statement of Objections

The first Statement of Objections outlines that since 2011, Qualcomm has paid significant amounts to **a major smartphone and tablet manufacturer** on condition that it exclusively use Qualcomm baseband chipsets in its smartphones and tablets. The Commission takes the preliminary view that this conduct has reduced the manufacturer's incentives to source chipsets from Qualcomm's competitors and has harmed competition and innovation in the markets for UMTS and LTE baseband chipsets. The contract between Qualcomm and the manufacturer containing the exclusivity clauses is still in force.

Predatory pricing Statement of Objections

The second Statement of Objections takes the preliminary view that between 2009 and 2011 Qualcomm engaged in 'predatory pricing' by selling certain baseband chipsets at prices below costs, with the intention of hindering competition in the market. This conduct appears to have taken place at a time when Icera posed a growing threat to Qualcomm in the leading edge segment of the market, offering advanced data rate performance. In the Commission's preliminary view, Qualcomm reacted to that threat by selling certain quantities of its UMTS baseband chipsets to two of its customers at prices that did not cover Qualcomm's costs, with the aim of forcing Icera out of the market.

The Commission's investigations

In [July 2015](#), the Commission opened two formal antitrust investigations to assess concerns that Qualcomm may have abused a dominant position in the area of baseband chipsets through two separate conducts.

The Commission has informed Qualcomm and the competition authorities of the Member States that it

has issued Statements of Objections in these cases.

Qualcomm now has the opportunity to respond to the Commission's allegations outlined in the Statements of Objections within 3 months as regards the exclusivity payment objections and 4 months as regards the predatory pricing objections, and to ask for an oral hearing in each case.

Procedural background

Article 102 TFEU prohibits the abuse of a dominant position which may affect trade and prevent or restrict competition in the Single Market. The implementation of these provisions is defined in the Antitrust Regulation (Council Regulation No 1/2003), which can be applied by the Commission and by the national competition authorities of EU Member States.

A statement of objections is a formal step in Commission investigations into suspected violations of EU antitrust rules. The Commission informs the parties concerned in writing of the objections raised against them and the parties can examine the documents in the Commission's investigation file, reply in writing and request an oral hearing to present their comments on the case before representatives of the Commission and national competition authorities.

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.

More information on this case will be available under the case numbers 39711 and 40220 in the public case register on the Commission's competition website.

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