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EU Formally Ends Microsoft Antitrust Case

By Peppi Kiviniemi

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BRUSSELS--The European Commission Wednesday settled its remaining antitrust issues with Microsoft Corp., **MSFT 1.12% ▲** ending a decade-long battle over the software giant's monopolistic business practices.

The European Commission, the EU's executive arm, agreed to abandon its case against Microsoft over whether the software giant is illegally abusing its dominance in the Internet-browser markets in return for a legally binding commitment for Microsoft to market rival browsers alongside its own Internet Explorer.

Calling the decision a "Christmas present" for European Consumers, Competition Commissioner Neelie Kroes said that consumers will benefit by having a free choice in deciding which Web browser they use.

Microsoft General Counsel Brad Smith said the company was pleased with the commission's decision "which approves a final resolution of several longstanding competition law issues in Europe."

He added that Microsoft was looking forward to deepening the "trust" that has been established between Microsoft and the Commission in recent months.

The commission had accused Microsoft of crushing rivals and stifling innovation by including its own Internet Explorer browser in its dominant Windows operating system. Bundling the two products together gave Microsoft an artificial distribution advantage, which didn't reflect the merits of the browser, the commission said.



EU Competition Commissioner Neelie Kroes ILLUSTRATION: AFP/GETTY IMAGES

By asking Microsoft to deliver a ballot screen of browser choices to Windows users in Europe, the commission is expecting to increase the market share of rival browsers, which include Mozilla's Firefox, Google Inc.'s Chrome, Apple Inc.'s **AAPL 3.18% ▲** Safari and Opera Software ASA's browser.

Microsoft has committed to offer the choice of browsers for a five-year period. It will also allow computer manufacturers to pre-install competing Web browsers, or have the option to exclude Internet Explorer completely.

In return for these commitments, the commission will close its investigation without a fine. Microsoft must report to the commission every six months on the process, and may be asked to make some adjustments.

The commission also welcomed Microsoft's pledge to share technical information so rivals' products can work better with a range of Microsoft software including Windows, the Exchange e-mail system and the Office suite.

The offer comes after "intensive discussions" between the parties and will have an impact on the commission's pending investigation into interoperability issues, the commission said.

Microsoft has been fined over \$2 billion by the European antitrust regulator for various antitrust breaches, but Ms. Kroes said she hopes Wednesday's decision "closes a long chapter in Microsoft's sometimes uneasy relationship with the commission." Microsoft's commitments both on browsers and interoperability should be seen in very positive light, she said.

Mr. Smith, Microsoft's general counsel, said he was "very optimistic" that the commission would be able to conclude its interoperability investigation, as the company had worked hard to address the issues.

In an unexpected statement, the U.S. Department of Justice also commended the settlement, saying the solution to the longstanding dispute will "enhance competition and is designed to preserve industry participants' incentives and ability to compete going forward." The Department of Justice settled its own antitrust case over Microsoft browsers back in 2001, but that settlement was considered largely ineffective.

The European Committee for Interoperable Systems, or ECIS, which together with Opera was behind the browser complaint, said the settlement was "great news for consumers and competing browser developers."

Proper compliance with the decision "will provide consumers with a real and unbiased choice because installing a competing browser should not be any more cumbersome than selecting Internet Explorer," said ECIS lawyer Thomas Vinje. ECIS is a nonprofit organization whose members include a range of information and communications technology hardware and software providers.

Ms. Kroes said the commission hopes to formally close its interoperability investigation in early 2010, while Microsoft's court appeal over part of the fine imposed on it in early 2008 for noncompliance with an earlier European antitrust ruling remains on the agenda.