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1,359.88

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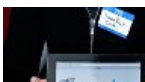
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By Karolina Slowikowska and Foo Yun Chee

WARSAW/BRUSSELS | Thu Sep 27, 2012 8:12am EDT

(Reuters) - Microsoft Corp will be charged for failing to comply with a 2009 ruling ordering it to offer a choice of web browsers, the European Union's antitrust chief said on Thursday, which could mean a hefty fine for the company.

U.S.-based Microsoft's more than decade-long battle with the European Commission has already landed it with fines totaling more than a billion euros (\$1.28 billion).

The Commission, which opened an investigation into the issue in July, is now preparing formal charges against the company, EU Competition Commissioner Joaquin Almunia said.

"The next step is to open a formal proceeding into the company's breach of an agreement. We are working on this," Almunia told reporters at a conference in Warsaw.

"It should not be a long investigation because the company itself explicitly recognized its breach of the agreement," he said.

This is the second time Microsoft has failed to comply with an EU decision. If found guilty of breaching EU rules, it could be penalized up to \$7.4 billion or 10 percent of its revenues for the fiscal year ending June 30, 2012.

U.S. chipmaker Intel holds the record for the biggest ever fine at 1.06 billion euros (\$1.36 billion), which was imposed in 2009 and represented 4.15 percent of its 2008 turnover.

Keen to avoid more regulatory problems, Microsoft, the world's largest software company, has blamed the latest run-in with the EU watchdog on a technical glitch.

Microsoft declined to comment on Thursday.

### MAKING AN EXAMPLE OF MICROSOFT

Antitrust experts said regulators may use the case to deter other companies which do not follow through on their commitments.

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long-running saga. The size of the fine could be fairly significant," said antitrust lawyer Rachel Bickler at Brussels-based Nabarro.

Market share of Microsoft's Internet Explorer in Europe has roughly halved since 2008 to 29 percent so far this year as it has lost clients mostly to Google's Chrome.

Chrome controls 29.3 percent of the European browsing market, while Mozilla's Firefox has 30.3 percent of the market, according to web research firm Statcounter.

Microsoft agreed nearly three years ago to allow European consumers better access to rival browsers in its Windows [software](#), settling an antitrust case and avoiding a penalty.

The company acknowledged its mistake in July, saying it was now distributing software with the browser option and also offered to extend the compliance period for an additional 15 months.

Almunia also warned Google of a lengthy legal process ahead if it does not do more to soothe concerns that it may have undermined competitors.

"If remedies offered by Google can eliminate our concerns, we will succeed in reaching an agreement. Otherwise, the legal road is a long one," he said on the sidelines of a forum on competition in the Polish capital.

Google is in talks with the Commission to resolve concerns about its [business](#) practices, following complaints from Microsoft and other rivals.

(Additional reporting by Tarmo Virki in Helsinki; Writing by Foo Yun Chee; Editing by David Holmes and Jane Merriman)

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