

EU approves Microsoft's takeover of Activision Blizzard

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The EU has approved Microsoft's \$69bn (£55bn) acquisition of the Call of Duty creator Activision Blizzard, in a move that drew immediate pushback from its UK counterpart, which has already blocked the gaming mega-deal. The EU accepted Microsoft's concessions on cloud gaming, the same problem that led the Competition and Markets Authority (CMA) to block the transaction last month. The proposed deal aims to bring together Microsoft, the maker of the Xbox console, with the video game developer whose hit titles also include World of Warcraft, Hearthstone, Candy Crush Saga and Overwatch. The approval by the European Commission, the bloc's executive arm, will revive Microsoft's hopes for the deal as it prepares to appeal against the CMA's decision. The Federal Trade Commission (FTC) in the US has also come out against the takeover and is suing to block it. The commission's preliminary investigation had found that the deal could harm competition in cloud gaming, which allows users to stream video games stored on remote servers on to their devices, and in the supply of rival PC operating systems. It was concerned that if gamers could stream Call of Duty only via a Windows-exclusive streaming service then they may be less likely to switch to other operating systems such as Mac OS or Linux. However, the commission said on Monday it had accepted Microsoft's proposed remedies. The compromise involves Microsoft offering free licences over a 10-year period allowing European consumers who purchase Activision PC and console games to stream them on other cloud gaming services. The EU's competition commissioner, Margrethe Vestager, said the decision would bring Activision's games to "many more devices and consumers than before thanks to cloud game streaming". She added: "The commitments offered by Microsoft will enable for the first time the streaming of such games in any cloud game streaming services, enhancing competition and opportunities for growth." The CMA said it stood by its decision to block the deal. "Microsoft's proposals, accepted by the European Commission today, would allow Microsoft to set the terms and conditions for this market for the next 10 years," said Sarah Cardell, the CMA's chief executive. The EU decision will help Microsoft if the US tech firm succeeds in overturning the CMA in the UK's competition appeal tribunal, said Anne Witt, a professor of antitrust law at the EDHEC business school in France. Otherwise, the UK's objection could still force the abandonment of the transaction, Witt added. "It makes a difference if they manage to get the decision overturned in the UK competition appeal tribunal. But if Microsoft loses in the UK, it's still game over, unless Microsoft decides to withdraw from the UK market," she said. The FTC is seeking to block the Activision acquisition, although some legal experts argue that, based on historical precedent, the regulator might struggle to prevail against Microsoft. Both the UK and European Commission agreed on the substance of the concerns; each regulator confirmed that there was little danger of the large and competitive market

for console games being warped by the acquisition, but much greater risk in the nascent industry of cloud gaming being dominated by Microsoft. The two regulators differed, however, in whether or not Microsoft's proposed remedies would be sufficient to reduce that risk. Where the commission said they were, the UK's CMA instead argued that it was impossible to provide a useful remedy, since the market was in such flux that Microsoft could not know what promises it had to make to preserve competition. What is more, the CMA added last month, the very act of Microsoft making such promises could itself warp the market, by forcing the development of future competitors to align with the commitments that Microsoft had made. Activision indicated that the UK's objection could scupper the deal in a notice to shareholders in March in which it said the transaction could be terminated if "any action has been taken by any governmental authority of competent jurisdiction, that ... prohibits, makes illegal or enjoins the consummation of the merger and has become final and non-appealable." Activision's chief executive, Bobby Kotick, who lambasted the CMA's decision last month as evidence that the UK was "closed for business", said the EU had "conducted an extremely thorough, deliberate process to gain a comprehensive understanding of gaming". The Microsoft president, Brad Smith, said: "The European Commission has required Microsoft to license popular Activision Blizzard games automatically to competing cloud gaming services. This will apply globally and will empower millions of consumers worldwide to play these games on any device they choose."