

ECIS Press Statement

The following is a statement by ECIS Legal Counsel & Spokesman, Thomas Vinje, commenting on both today's decision by the European Commission to formally approve a settlement with Microsoft which should put an end to Microsoft's anti-competitive practices in the market for browsers and Microsoft's announcement of a unilateral public undertaking addressing ECIS concerns over interoperability.

Brussels – 16 December 2009 – "ECIS welcomes the browser settlement as an important milestone in our fight to ensure a competitive, open and interoperable internet. This is great news for consumers and competing browser developers. We are confident that effective compliance will provide consumers with a real and unbiased choice because installing a competing browser should not be any more cumbersome than selecting Internet Explorer (IE).

"ECIS commends the Commission for its tenacity and speed in reaching this deal – resolving the complaint filed by Opera Software in December 2007¹.

"We stress however that implementation that effectively delivers choice for consumers and a level-playing field for competitors, depends on robust and sustained monitoring and enforcement of the settlement.

"Our emphasis on enforcement is based on years of familiarity with Microsoft's inadequate commitments and broken promises. EU and US experience demonstrates that only very clear obligations followed by effective compliance verification will lead to the changes in Microsoft's behaviour needed to redress the damages resulting from many years of abusive practice.

"For this reason ECIS particularly applauds the provisions in the settlement that require Microsoft to report after six months and regularly thereafter on the effect of the choice screen, and on complaints received. Periodic reports will allow the Commission to require amendments to the remedy if needed to ensure effective consumer choice.

On Interoperability

"ECIS also commends the Commission for obtaining a potentially significant broad undertaking from Microsoft on interoperability with its interlocking Windows and Office monopolies.

Whether third parties will in fact be able to obtain the information necessary to create software that is fully interoperable with Microsoft's dominant products will depend on how this commitment is applied by Microsoft and enforced by the Commission. Past experience is not promising; future experience alone will tell.

We believe that the patent arrangements intended for open source software developers require further study. These are complex arrangements and their effectiveness will depend in part on

¹ On 15 January 2009 the Commission's DG Competition issued a Statement of Objections (SO) against Microsoft for abuse of a dominant position over the allegedly illegal tying of IE to Windows. This SO followed a complaint by Opera, the Norwegian browser developer in December 2007 regarding Microsoft's long-standing practice of tying IE to Windows which creates artificial and illegal advantages for IE completely unrelated to its comparative merits.

how they are interpreted and applied by Microsoft as well as third parties. Whether the public undertaking will create a more level competitive playing field where open source software is not subject to Microsoft patent FUD, as has been the case in the past, is not yet clear.

ECIS therefore appreciates the Commission indication that it will monitor compliance closely to make the interoperability undertaking truly effective, and ECIS offers its support in that respect.

For more information see the ECIS website: <http://www.ecis.eu/index.html>.

About ECIS

ECIS is an international non-profit association founded in 1989 that strives to promote market conditions in the ICT sector allowing vigorous competition on the merits and a diversity of consumer choice. ECIS has actively represented its members on many issues related to interoperability and competition before European, national and international bodies, including the EU institutions and WIPO. ECIS' members include large and smaller information and communications technology hardware and software providers Adobe, Corel, IBM, Nokia, Opera, Oracle, RealNetworks, Red Hat, and Sun Microsystems.

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