

ECIS Press Statement

Too Little, Too Late

After 13 Years of Abusive Tying Practices, Microsoft Must Do More to Undo Entrenched Network Effects and End Consumer Harm. The European Commission Should Insist on Real Consumer Choice. Its Ballot Screen Remedy Is Still Needed.

Brussels – 12 June 2009 – “Microsoft offers to unbundle IE and Windows 7. The current Microsoft announcement is too little, too late. Such a move would have been appropriate in 1997, but further action is needed to undo the effects of a decade of abuse,” said Thomas Vinje, Legal Counsel and Spokesman to ECIS. Microsoft must give users real choice, and this should include not just buyers of new computers, but also existing users.

For ECIS Microsoft’s announcement is lacking because:

- Abuses continue. Windows 7 will only be released later this year. No measures are announced to address ongoing abuses or the installed base of IE on over 90% of personal computers which Microsoft has built up over the last decade through its illegal tying practices even though rival products were better.
- Reports indicate that Microsoft does not intend to offer this remedy on a worldwide basis, continuing to deprive consumers in other regions of a choice of browsers and further deepening anti-competitive network effects that will impact European users.
- Microsoft has a history of vitiating measures designed to promote competition. Microsoft must commit to giving personal computer manufacturers (OEMs) and consumers a real choice and not replace the illegal tie with other actions or financial incentives meant to replace the technical tying of IE and Windows.
- Microsoft must refrain from using its super-dominant Windows platform to replace the illegal tie with other leveraging practices. Microsoft must also put an end to its practice of overriding user default preferences for other browsers, calling up IE code even when users have chosen to uninstall IE or using its Windows update function to distribute IE to the detriment of alternative browsers.
- Microsoft must commit to finally putting an end to its illegal tying practices for all separate products, not just WMP and IE. After foreclosing competition in the media player and browser markets, Microsoft should not eliminate competition for other applications through similar tying practices.
- Commitments are needed to avoid circumvention of the illegal IE tie by tying other Microsoft products such as Silverlight.

“For the above reasons, the Commission’s proposed ballot screen remedy which provides consumers with a REAL choice remains necessary,” Vinje stressed. This remedy would mean that buyers of new PCs be provided with the preloaded ballot screen or an alternative browser other than IE as selected by the OEMs. For the installed base of IE users, Windows updates and IE updates would come preloaded with other browsers and a ballot screen. The ballot screen with a choice of at least five preloaded browsers should also be provided to customers who buy Windows through the retail channel to upgrade their PCs.

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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