

Antitrust Ruling Against Intel Unlikely to Have Lasting Effect

Martin Reynolds

The European Commission has fined Intel for engaging in anticompetitive activities. Gartner believes Intel's recent dominance is due to market forces at work and not because the company has engaged in illegal practices.

Event

On 13 May 2009, the European Competition Commission fined Intel 1.06 billion euros, the equivalent of \$1.41 billion, and ordered the company to stop offering rebates to computer makers conditioned on buying less of a rival's products, or not buying them at all. The Commission said Intel had used "illegal anticompetitive practices to reduce its only competitor and reduce customers' choice." The fine is the largest imposed for alleged breach of competitive law in Europe. Intel has said it strongly disagrees with the decision and will appeal.

Analysis

The commission's decision claims Intel engaged in worldwide anticompetitive activities, and cites rebates and payments structured to lock out Advanced Micro Devices (AMD) products as well as alleged secret payments to retailers. The record-setting fine presumably reflects the European impact of those activities. The Commission also cites deliberate coverups of the activity, which presumably were a factor in determining the scale of the fine.

For remediation, the commission requires that Intel cease using loyalty rebates, because of its dominant market share (defined by the European Union as 70% or greater). Because the purchase, rebates and manufacturing may have occurred in another country, this decision has global implications for Intel. The substantial commission fines will encourage compliance. The commission also notes that its investigations did not turn up contractual restrictions. Instead, it claims that Intel exerted its influence through sales relationships with its customers. The only evidence to back up these assertions came from the commission's skillful penetration of Intel's alleged coverups.

Intel has advised Gartner that its customer-facing employees are regularly trained in how to deal with competitive situations within the law. Intel also says it believes that the commission ignored key evidence that contradicts its findings and that it will appeal the decision.

AMD says that it believes that the decision enables sweeping change in the IT industry, advances long-term innovation and will broaden consumer choice. The company plans to introduce a new generation of products in 2011.

Gartner believes the x86 processor market is dominated by market forces, which demand successful technology investments. We believe that, during 2005 and 2006, Intel had weaker products, discouraging users from upgrading their machines and enabling AMD to succeed in growing market share, revenue and profits of \$1.3 billion at Intel's expense. We believe that from 2007 through 2008, however, AMD's weak response to Intel's Core2 product caused the company to lose in excess of \$1 billion. Microprocessor prices dropped in response to market conditions, and AMD is broadly present as a buyer choice in every market segment where it has competitive products. In the competition between Intel and AMD, market forces appear to be working. These demonstrable results raise questions about the logic behind the commission's decision. We hope that the eventual publication of the commission's report enables us to better understand its thinking.

The commission's decision is unlikely to bring about any significant change in market conditions. AMD does not receive any money from the fine, which accrues to the European Union tax budget. Intel's and AMD's market shares will likely remain roughly aligned with manufacturing capacity, adjusted for technology capabilities. Gartner believes Intel will pay its fine and carefully

inspect its sales relationships to protect against risk. Intel's greatest challenge will remain market growth, not market share.

RECOMMENDATIONS

- **Enterprises:** You need not take action as a result of this news. Continue to select systems based on features, price and performance.
- **Vendors:** Be aware of regulatory standards in Europe. U.S.-based technology vendors are at risk of turning into chronic antitrust offenders.

RECOMMENDED READING

- "Dataquest Insight: x86 Server Forecast Outlook and Intel's and AMD's Market Share, Worldwide, 2008-2013" — Although Intel has dominated the market for x86 server CPUs for many years, since 2005, AMD has been gaining market share with competing products. **By Errol Rasit**
- "Vendor Rating: Intel" — Intel's strategy is its greatest strength as well as its greatest weakness, making it difficult for the vendor to adapt to changing market conditions or enter new markets. **By Leslie Fiering and others**

(You may need to sign in or be a Gartner client to access the documents referenced in this First Take.)

REGIONAL HEADQUARTERS

Corporate Headquarters

56 Top Gallant Road
Stamford, CT 06902-7700
U.S.A.
+1 203 964 0096

European Headquarters

Tamesis
The Glanty
Egham
Surrey, TW20 9AW
UNITED KINGDOM
+44 1784 431611

Asia/Pacific Headquarters

Gartner Australasia Pty. Ltd.
Level 9, 141 Walker Street
North Sydney
New South Wales 2060
AUSTRALIA
+61 2 9459 4600

Japan Headquarters

Gartner Japan Ltd.
Aobadai Hills, 6F
7-7, Aobadai, 4-chome
Meguro-ku, Tokyo 153-0042
JAPAN
+81 3 3481 3670

Latin America Headquarters

Gartner do Brazil
Av. das Nações Unidas, 12551
9º andar—World Trade Center
04578-903—São Paulo SP
BRAZIL
+55 11 3443 1509