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## European Commission - Press release

### Antitrust: Commission sends Statement of Objections to Google on Android operating system and applications

Brussels, 20 April 2016

**The European Commission has informed Google of its preliminary view that the company has, in breach of EU antitrust rules, abused its dominant position by imposing restrictions on Android device manufacturers and mobile network operators.**

The Commission's preliminary view is that Google has implemented a strategy on mobile devices to preserve and strengthen its dominance in general internet search. First, the practices mean that Google Search is pre-installed and set as the default, or exclusive, search service on most Android devices sold in Europe. Second, the practices appear to close off ways for rival search engines to access the market, via competing mobile browsers and operating systems. In addition, they also seem to harm consumers by stifling competition and restricting innovation in the wider mobile space.

The Commission's concerns are outlined in a Statement of Objections addressed to Google and its parent company, Alphabet. Sending a Statement of Objections does not prejudge the outcome of the investigation.

Commissioner Margrethe Vestager, in charge of competition policy, said: *"A competitive mobile internet sector is increasingly important for consumers and businesses in Europe. Based on our investigation thus far, we believe that Google's behaviour denies consumers a wider choice of mobile apps and services and stands in the way of innovation by other players, in breach of EU antitrust rules. These rules apply to all companies active in Europe. Google now has the opportunity to reply to the Commission's concerns."*

Smartphones and tablets account for more than half of global internet traffic, and are expected to account for even more in the future. About 80% of smart mobile devices in Europe and in the world run on Android, the mobile operating system developed by Google. Google licenses its Android mobile operating system to third party manufacturers of mobile devices.

The Commission opened proceedings in April 2015 concerning Google's conduct as regards the Android operating system and applications. At this stage, the Commission considers that Google is dominant in the markets for **general internet search services, licensable smart mobile operating systems** and **app stores for the Android mobile operating system**. Google generally holds market shares of more than 90% in each of these markets in the European Economic Area (EEA).

In today's Statement of Objections, the Commission alleges that Google has breached EU antitrust rules by:

- requiring manufacturers to **pre-install Google Search and Google's Chrome browser** and requiring them to set Google Search as default search service on their devices, as a condition to license certain Google proprietary apps;
- preventing manufacturers from selling smart mobile devices **running on competing operating systems** based on the Android open source code;
- giving **financial incentives** to manufacturers and mobile network operators on condition that they exclusively pre-install Google Search on their devices.

The Commission believes that these business practices may lead to a further consolidation of the dominant position of Google Search in general internet search services. It is also concerned that these practices affect the ability of competing mobile browsers to compete with Google Chrome, and that they hinder the development of operating systems based on the Android open source code and the opportunities they would offer for the development of new apps and services.

In the Commission's preliminary view, this conduct ultimately harms consumers because they are not given as wide a choice as possible and because it stifles innovation.

#### The Commission's concerns

##### *Licensing of Google's proprietary apps*

The Commission's investigation showed that it is commercially important for manufacturers of devices using the Android operating system to pre-install on those devices the Play Store, Google's app store for Android. In its contracts with manufacturers, Google has made the licensing of the Play Store on Android devices conditional on Google Search being pre-installed and set as default search service. As a result, rival search engines are not able to become the default search service on the significant majority of devices sold in the EEA. It has also reduced the incentives of manufacturers to pre-install competing search apps, as well as the incentives of consumers to download

such apps.

Similarly, in its contracts with manufacturers Google also required the pre-installation of its Chrome mobile browser in return for licensing the Play Store or Google Search. Thereby, Google has also ensured that its mobile browser is pre-installed on the significant majority of devices sold in the EEA. Browsers represent an important entry point for search queries on mobile devices. Thus, by reducing manufacturers' incentives to pre-install competing browser apps and consumers' incentives to download those apps, competition in both mobile browsers and general search has been adversely affected.

#### *Anti-fragmentation*

Android is an open-source system, meaning that it can be freely used and developed by anyone to create a modified mobile operating system (a so-called "Android fork"). However, if a manufacturer wishes to pre-install Google proprietary apps, including Google Play Store and Google Search, on any of its devices, Google requires it to enter into an "Anti-Fragmentation Agreement" that commits it not to sell devices running on Android forks.

Google's conduct has had a direct impact on consumers, as it has denied them access to innovative smart mobile devices based on alternative, potentially superior, versions of the Android operating system. For example, the Commission has found evidence that Google's conduct prevented manufacturers from selling smart mobile devices based on a competing Android fork which had the potential of becoming a credible alternative to the Google Android operating system. In doing so, Google has also closed off an important way for its competitors to introduce apps and services, in particular general search services, which could be pre-installed on Android forks.

#### *Exclusivity*

Google has granted significant financial incentives to some of the largest smartphone and tablet manufacturers as well as mobile network operators on condition that they exclusively pre-install Google Search on their devices.

Google has thereby reduced the incentives of manufacturers and mobile network operators to pre-install competing search services on the devices they market. In fact, the Commission has evidence that the exclusivity condition affected whether certain device manufacturers and mobile network operators pre-installed competing search services.



#### **Background**

For further details please see Factsheet.

This investigation is distinct and separate from the Commission's ongoing formal investigation under EU antitrust rules of other aspects of Google's behaviour in the EEA, including on the favourable treatment by Google in its general search results of its own other specialised search services, and concerns with regard to copying of rivals' web content (known as 'scraping'), advertising exclusivity and undue restrictions on advertisers.

#### **Procedural background**

Article 102 Treaty on the Functioning of the European Union (TFEU) prohibits the abuse of a dominant position which may affect trade and prevent or restrict competition. The implementation of this provision is defined in the Antitrust Regulation (Council Regulation No 1/2003), which can be applied by the Commission and by the national competition authorities of EU Member States.

Today, the Commission adopted a Decision to initiate proceedings in the Google Android investigation also against Alphabet Inc., Google's parent company, which was created after proceedings had been initiated against Google. The Statement of Objections summarised above is addressed to both Google and Alphabet Inc.

A statement of objections is a formal step in Commission investigations into suspected violations of EU antitrust rules. The Commission informs the parties concerned in writing of the objections raised against them. The addressees can examine the documents in the Commission's investigation file, reply in writing and request an oral hearing to present their comments on the case before representatives of the Commission and national competition authorities. Sending a Statement of Objections does not prejudice the outcome of the investigation, as the Commission takes a final decision only after the parties have exercised their rights of defence.

There is no legal deadline for the Commission to complete antitrust inquiries into anticompetitive conduct. The duration of an antitrust investigation depends on a number of factors, including the complexity of the case, the extent to which the undertaking concerned cooperates with the Commission and the exercise of the rights of defence.

More information is available on the Commission's competition website, in the public case register under the case number 40099.

IP/16/1492

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## Photos



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## Documents

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