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Is Europe Unfairly Attacking Another U.S. High Technology Company?

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Body

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It is fashionable to characterize the European Competition Commission's July 17 antitrust charges against *Intel* as its most recent assault against a successful U.S. high technology *company*. As they have done so many times over the years, jealous European regulators are punishing a U.S. *company* for beating European high technology *companies* on the merits. *Intel* apparently is being accused of using discounts and rebates to sell products to PC users for --- too little! As *Intel* said: "The result will be higher computer prices because it prevents *Intel* from offering discounts..." In this *case* the European Competition Commission actually was secretly acting to protect such European *companies* as...

All of this would make a great story, if only it were true. Step back for a few minutes. Forget the technical details only a computer nerd truly can understand, the legal charges only an antitrust lawyer can fathom, and the immense complications. Consider the big picture of what is really going on in the *Intel case*.

First, there is no European *company* that competes with *Intel* in the affected market, X86 PC microprocessor chips. *Intel*'s only significant rival in the entire world, AMD, is also *American*.

Second, while some PCs purchased in *Europe* are made there, most are imported from Asia. If the Commission really is acting to help corporations, it can only be these mostly-Asian computer makers (or the United States-based AMD). How likely is this to be the Commission's true motive?

Third, the U.S. Federal Trade Commission is now investigating *Intel* for these same types of practices, as is the State of New York. Earlier, Japan and Korea found *Intel* liable for similar charges.

Maybe, just maybe, the Commission actually is trying to do what it said: protect competition and consumers from, among other things, paying monopoly prices.

In the Commission's "preliminary view", when all the sham discounts and fake rebates are carefully analyzed, *Intel* actually engaged in actions that will price its chips high, not low, in the long run. Is this really so intuitively implausible? *Intel*'s worldwide share of the chip market has fluctuated between 80% and 90%, and the prospects of new entry into this market are virtually nonexistent. Is it so surprising that a firm with a protected monopoly market share would price like a well, like a monopolist? AMD recently estimated these overcharges have totaled \$ 60 billion since 1996. Regardless whether this precise figure is accurate, how many monopolies in history have used their power to set prices no higher than the competitive level? Can *Intel* really expect us to assume that their ultimate objective is to give consumers prices lower than those dictated by the forces of competition?

Further, *Intel* allegedly paid a computer manufacturer to "delay the planned launch of a product line incorporating an AMD-based CPU". If there is anything that will harm European (and U.S. and developing world) PC consumers more than higher prices, it is reduced innovation. What will happen in the long run to innovation in the microprocessor chip industry if *Intel* succeeds either in eliminating its chief rival or foreclosing its opportunities to bring an innovative product to market?

Is Europe unfairly attacking another U.S. high technology company?

The Europeans have every right to tell any corporation that desires to do business in Europe how to behave. Conversely, it is only fair that any foreign company that wishes to sell within the United States has to compete by our rules.

Consider what happened, for example, to the international vitamins cartels, which were organized out of Switzerland. Every cartel member was a European or Japanese vitamin manufacturer. Together they raised the prices of most vitamins sold in the United States for much of the 1990s, by an average of more than 30%. After they were caught, one company Hoffman-La Roche, a Swiss company alone paid a \$ 500 million fine to the U. S. government. The cartel also was subjected to a swarm of private treble damage suits in United States courts by victimized United States consumers. Even though no other country in the world imposes treble damages on price fixers, these foreign cartelists were forced to pay more than \$ 4 billion to American consumers in these private lawsuits.

Was this fair? Of course. The cartel members sold vitamins in the United States, so it is only reasonable for them to be subjected to our laws against price fixing. It similarly is fair for Intel and every other company that wishes to operate in Europe to obey their laws.

The Intel cases are far from over, and Intel might ultimately prevail. But observers should not assume illegitimate motives to the European lawsuit or preliminary findings. The Commission's ultimate goal is neither to attack an American company nor to protect European firms. Their motive is simply to protect their consumers and to enforce their laws.