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## Intel's Alleged Schemes Affected U.S. Consumers

Robert H. Lande<sup>1</sup>

The European Commission's July 26 charges against Intel for monopoly abuses were not just decisions by a far-off body to prevent a corporate giant's foreign excesses from harming Europeans. It actually was a watershed event - one likely to benefit consumers everywhere in the world where personal computers are used or might be used.

The Commission's "preliminary view" is that Intel violated the European anti-monopoly law by abusing its "dominant position with the aim of excluding its main rival, AMD..." from the X86 microprocessor chip market. Intel was charged with giving discriminatory payments or discounts to computer makers to induce them to boycott Intel's only significant rival. The Commission also came to the "preliminary view" that Intel engaged in predatory pricing and paid firms not to carry its rivals' chips. As the Commission observed, this was "bad news for competition and consumers." Indeed, AMD asserts these abuses enabled Intel to overcharge consumers by \$60 billion over the last decade.

One might, however, put a question to the Commission: if Intel offered discounts, payments, etc. to computer makers not to carry its rivals' products, didn't this money eventually get passed to consumers? Regardless of their effects on competitors, isn't Intel's July 27 Statement that its payments, etc. have been "beneficial to consumers" correct? The problem is that Intel's payments/discounts were shams. They lowered prices only after raising them. Their only purpose was to hinder an equally efficient competitor. Although the Commission did not give detailed examples of the misconduct it is investigating, here's how some of the alleged discounts work.

Imagine that Acme Computer buys 10 chips a month from Intel at \$8 each. Suppose AMD wanted to sell chips to Acme, and offered to sell it 2 chips at \$5 each. These lower AMD prices certainly would be beneficial for competition and consumers.

Suppose, however, that when Acme turned to Intel for the

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remaining 8 chips it needed, Intel replied that its prices had increased to \$10 per chip, but that if Acme purchased all 10 chips from Intel, their price would still only be \$8 each.

Acme would quickly calculate that  $\$8 \times 10 = \$10 \times 8$ . In other words, under Intel's new pricing plan it is giving away the last two chips for free. It would make no sense for Acme to purchase any chips from AMD for \$5 each, or even for 1¢ each. From Intel's perspective it still gets the same \$80 from Acme Computer. In addition, its carefully designed "discount" has excluded its would-be competitor.

This highly stylized rendition of part of the European Commission's case shows how sham discounts can block entry and put even equally efficient rivals out of business. Now, consider these other allegations. An article in the British publication, "MicroScope," cites a source close to Intel who reveals that Intel's customers "received a pool of marketing money" to help them bid against other computer suppliers that use AMD chips. Also, in a lawsuit filed in the U.S. this year, Dell shareholders assert that Intel paid Dell \$1 billion a year to boycott AMD. Further, in 2005 the Japan Fair Trade Commission ordered Intel to stop payments to Sony, Toshiba, NEC, Fujitsu, and Hitachi, to restrict severely their purchases from AMD. Intel agreed, but without admitting or denying the charges. Now the Korea Fair Trade Commission is investigating Intel's conduct in its country. These, along with the European Commission's case, are all worthy inquiries.

No one knows why the Bush-appointed U.S. antitrust enforcers have not also filed a case against Intel. Regardless, chips are sold in a worldwide market, so if the European Commission succeeds in its case the European remedy almost certainly will have beneficial effects on chip sales in the United States. This remedy is likely to cause lower prices in the \$33 billion/year chip market. This will especially benefit people outside the industrialized world, where there are vast numbers of people—including one billion children—for whom a computer is a luxury beyond reach. With more competition in the microprocessor market they—who have the most pressing needs for communications and computing power—will more easily be able to afford to connect to the global village.

The long term consequences of a successful European case, moreover, are likely to be even more important. If Intel is permitted to succeed in its anticompetitive campaign one of

the world's most critical industries might soon be monopolized completely and for the foreseeable future. In the long term Intel's only true rival could be weakened so much that it no longer would be able to invest the immense amounts required to engage in the innovation and production facilities required to produce the next generation of chips. Moreover, without the spur of a rival, Intel's incentives to innovate would fall substantially, and a dynamic industry could turn into a lazy monopolist. Consumers in the United States should be thankful the Europeans have taken this law enforcement action.