

Ask The Analyst

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Question: What is Future Horizons analysis of the recent EU/Intel anti-trust ruling?

Answer:

Whatever the legal or rights and wrongs of the case, the fact that Intel has now been found guilty of abusing its dominant market position and of anti-competitive practices by the competition authorities in Japan, Korea and now the EU speaks volumes. The message is clear and frankly common sense. “With size and market supremacy comes increased professional responsibility”.

Whilst Intel obviously clearly believed it had behaved within the letter of the law, although equally clearly the EU, Japan and Korea authorities felt otherwise, it ought to have been clear to them that they were sailing close to the boundaries of acceptability, if not the law. They broke the most fundamental laws of marketing ... Rule 1 the customer is always right; Rule 2 if proved wrong, Rule 1 applies. Rule 3 never ignore what your customers are telling you, especially when your ‘customers’ are the world’s top competition authorities.

What might be an acceptable market practice with a sub-20 percent market share is almost certainly not acceptable at an 80 plus percent level. That means it is no longer acceptable to plead: “What we are doing is not illegal”. Market dominance requires firms to act, and be seen to be acting, well within the boundaries and spirit of the law, even if this seems to give away a potential competitive advantage. Compliance with the letter of the law is no longer acceptable.

In reality, ironically many of the potentially abusive practices actually become irrelevant once a dominant market position has been reached. A dominant firm’s very size and cost efficiency makes its market position secure, unless they really screw up, which takes time.

The underlying moral of this story? Far better for Intel to have headed this off at the pass, defending a case of this size and importance by sparring on points of law and legal interpretations was madness. It was also unnecessary. Intel is one of only a handful of chip firms that really understands the semiconductor business and the need to keep on innovating. And although they were sometimes beaten to the innovation punch by AMD, their dominant market position was never ever in jeopardy.

To have lost this case against the European Commission shows a degree of arrogance and immaturity that does not befit such a fine company as Intel. The forthcoming US anti-trust investigations and class-action lawsuits are now going to be an awful lot tougher to defend. A spectacular and clearly avoidable own goal.