

Opinion of the Advisory Committee on restrictive agreements and dominant position given at its meeting of 11 December 2009 at 15.00 regarding a draft decision relating to Case COMP/39.350 — Microsoft

Rapporteur: France

(2010/C 36/04)

1. The Advisory Committee shares the Commission's concerns as to the compatibility with Article 102 TFEU and Article 54 of the EEA Agreement of Microsoft's behaviour as expressed in the draft decision communicated to the Advisory Committee.
 2. The Advisory Committee agrees with the Commission that the proceedings can be concluded by means of a decision pursuant to Article 9(1) of Regulation (EC) No 1/2003.
 3. The Advisory Committee agrees with the Commission that the commitments offered by Microsoft are suitable, necessary and proportionate in order to meet the concerns expressed by the Commission in its draft decision.
 4. The Advisory Committee agrees with the Commission that in the light of the commitments offered by Microsoft and the observations submitted by interested third parties, there are no longer grounds for action by the Commission, without prejudice to Article 9(2) of Regulation (EC) No 1/2003.
 5. The Advisory Committee recommends the publication of its opinion in the *Official Journal of the European Union*.
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