

T-201/04 Microsoft v Commission, judgment of 17 September 2007

Facts: Microsoft Corp. is a company established in the USA which designs, develops and markets a wide variety of software products for different kinds of computing devices, including operating systems for client personal computers. The Commission had addressed a decision to Microsoft stating that it had infringed Art. 102 TFEU by abusing its dominant position.

Firstly, it had refused to supply its competitors with interoperability information. Secondly, it made the availability of its operating system conditional on the simultaneous acquisition of the Windows Media Player software, the consequence of which is the restriction of competition in the multimedia player market. In parallel, Microsoft was facing an investigation for violation of US antitrust legislation.

With respect to the EU legislation, Microsoft sought to annul the decision, arguing that it based on a manifest error of assessment, and that it fell foul of the principle of proportionality.

Held: On the argument that the Commission had made a manifest error of assessment, the Court concluded that the Commission had conducted complex economic analyses, and that in any event the Court did not have a wide-enough mandate to conduct rigid economic analysis into the Commission's methodology.

The decision also did not fall foul of the principle of proportionality, as that principle, in the context of EU competition law, entailed ensuring that the burdens imposed on undertakings in order to bring an infringement to an end did not exceed what was appropriate and necessary to attain the objective sought, namely re-establishment of compliance with the rules infringed.