

# Statement by Commissioner Vestager on Commission decision to fine Qualcomm for engaging in predatory pricing

\*Check against delivery\*

Before turning to today's decision, I would very much like to use this opportunity to congratulate Ursula von der Leyen on her election by the European Parliament on Tuesday. It is indeed historic. We now have the first female president elect of the Commission. I very much look forward to working with Ursula and I find a lot of inspiration in her guidance and what line she is setting for the new Commission.

I am here, though, to talk about a decision that we have taken.

Today, the Commission has decided to fine Qualcomm 242 million euros for anti-competitive behaviour that is illegal under EU antitrust rules.

Our case concerns baseband chipsets compliant with the 3G standard and mainly used in mobile broadband devices. Our investigation found that Qualcomm blocked competition by applying predatory prices to protect its dominance.

EU competition rules do not prevent dominant companies, like Qualcomm, from offering low prices to their customers. But dominant companies have a special responsibility not to impair competition in the internal market. They can sell at low prices but cannot sell below cost with the intention of eliminating a competitor. This is not competition on the merits.

While such predatory pricing can lead to lower prices in the short term, consumers are worse off in the long run, once the victim of the predatory strategy is marginalised or leaves the market. A dominant company that is no longer challenged by competition will try to recoup what it has lost by raising prices and slowing down investments and innovation to the detriment of consumers.

*What is today's decision about?*

You probably right now have a baseband chipset in your pocket or bag. They are in all the smartphones and tablets that we use every day.

Thanks to this vital component, mobile devices can connect to mobile networks, so that we can make phone calls and access the internet.

Baseband chipsets can also be part of external modules such as data cards, which are plugged into a device to connect it to the internet. These mobile broadband devices were among the first to offer high-speed mobile connectivity, allowing laptops and other devices to go online.

Between 2009 and 2011, 3G was the most advanced wireless technology standard. At the time, Qualcomm sold 60% of these chipsets worldwide. There are significant barriers to entry into this market. Chipsets are complex products, they require high investment in research and innovation.

The fact that Qualcomm dominated this market is not, as such, a problem under EU competition rules. We value companies for becoming successful due to their skills and innovation. The problem is when a dominant company distorts competition against the interests of consumers and the market as a whole.

Our case began with a complaint from a company called Icera. Icera was a small, growing start-up, which introduced its first baseband chipset to the market in 2006. Icera's chipsets became an attractive alternative to Qualcomm's baseband chipsets, in particular those for data cards.

And as a result, Qualcomm started seeing Icera as posing a "*real threat*" to its chipset business.

Our investigation showed that Qualcomm identified the threat as "*critical*" in 2010. By then, Qualcomm not only had concerns about the growing success of Icera's chipsets for data cards. It was also concerned that Icera would start offering 3G chipsets for smartphones.

Icera's success in the data card segment could serve as a springboard to allow it to compete in the far more significant and profitable segment of chipsets for smartphones.

To make sure that Icera's business could not reach a size that could endanger its market position, Qualcomm took what it described in internal documents as "*preventive actions*".

This meant offering very targeted price concessions to two strategically important customers, namely Huawei and ZTE. These were big customers of chipsets for data cards and they were essential for Icera to succeed in the market.

Our investigation found that, during two crucial years for Icera's development prospects, Qualcomm offered three of its leading edge chipsets at prices below cost to both these key customers. The prices set by Qualcomm did not allow it to cover its cost for developing and producing these chipsets.

The evidence we have seen shows that this was done on purpose to prevent Icera from gaining a foothold in the market, at a time when Icera was Qualcomm's main contender in the market segment of chipsets for data cards.

### *Impact of Qualcomm's illegal behaviour*

As a result of Qualcomm's conduct, Icera was prevented from gaining reputation and scale as a supplier of chipsets for data cards and, ultimately, from entering the larger smartphone segment.

Icera did not make it as a self-standing competitor in the chipset industry. In 2011 it was bought by Nvidia, which decided to abandon the baseband chipset market a few years later.

Qualcomm's abusive behaviour also had a negative impact on innovation. By choking off Icera's revenues from the 3G business, Qualcomm deprived Icera from the funds it needed to develop its chipsets for the next wireless generation, the 4G standard. Qualcomm did not demonstrate that its conduct created efficiencies that could justify it.

In short, Qualcomm's behaviour deprived consumers of a wider choice of technologies, and affected Icera's ability to develop chipsets for the next wireless technology generations.

### *Consequences of today's decision*

This is why we have fined Qualcomm 242 million euros. The fine reflects both the seriousness and the duration of the infringement.

Predatory pricing is not a common type of case – in fact, the last time the Commission imposed a fine for such behaviour was 16 years ago. But no matter how difficult and complex these cases are, we remain committed to fighting predatory pricing by dominant companies.

Moreover, our decision today will support any action for damages caused by Qualcomm's anti-competitive behaviour before national courts. In fact, in cases before national courts, a Commission decision is binding proof that the behaviour took place and was illegal.

But it is true that if you think that this case took some time for us to conclude. We opened our formal investigation and sent a Statement of Objections to Qualcomm already in 2015.

Since then, we sent Qualcomm a supplementary Statement of Objections, held two oral hearings and engaged in detailed exchanges with the company concerning additional information required for our investigation. Qualcomm has also appealed one of our information requests to the General Court and, after losing in the first instance it appealed the Decision to the European Court of Justice.

These procedural steps are a key part of the checks and balances that ensure the procedural fairness of our enforcement system. But they do take time. We have made progress in this mandate in expediting our anti-trust procedures. But that is a challenge that will also stay with us for the future.

### *Conclusion*

This is the second antitrust fine that we've imposed on Qualcomm. In 2018, we fined the company 997 million euros because it granted exclusivity payments.

In both that case and today's, Qualcomm's objective was the same: to protect its dominant position in relation to baseband chipsets to shut out rivals.

Similarly, the Commission's objective in these cases is always the same: to protect European consumers, to enable choice and ensure that they can enjoy the full benefits of competition that are so obvious, choice, affordable prices and innovation.