Europe Fines Intel a Record $1.45 Billion in Antitrust Case

By JAMES KANTER

BRUSSELS — The European Commission fined Intel a record €1.06 billion on Wednesday for abusing its dominance in the computer chip market to exclude its only serious rival, Advanced Micro Devices.

The European Union’s competition commissioner, Neelie Kroes, said the penalty against Intel, the equivalent of $1.45 billion, was justified because the company had skewed competition and denied consumers a choice for chips.

Ms. Kroes said Intel had “used illegal anticompetitive practices to exclude its only competitor and reduce consumers’ choice — and the whole story is about consumers.” She said Intel’s practices had “undermined innovation.”

The previous record fine for similar abuses in the European Union was €497 million imposed on Microsoft in March 2004 for blocking competition in markets for server computers and media software.

The fine also is the largest ever imposed for any breach of competition law in the European Union, beating by a significant margin previous record amounts of hundreds of millions of euros levied on chemical and cement companies over the past decade.

Paul Otellini, chief executive of Intel, said the company would appeal.

“We believe the decision is wrong and ignores the reality of a highly competitive microprocessor marketplace,” Mr. Otellini said. “There has been absolutely zero harm to consumers.”

Giuliano Meroni, president of A.M.D.’s operations in Europe, said the decision would “shift the power from an abusive monopolist to computer makers, retailers and above all PC consumers.”

Ms. Kroes said Intel had pursued a strategy aimed mainly at excluding A.M.D. by paying computer makers and retailers to postpone, cancel or avoid A.M.D. products entirely.

The European Commission, which is the E.U.’s executive arm, also found that Intel “went to
great lengths to cover up its anticompetitive actions,” Ms. Kroes added.

She ordered the company to stop offering rebates to computer makers that had helped it maintain a share of about 80 percent of the market for microchip sales. She said that had blocked A.M.D. from increasing its share of that market beyond about 20 percent.

Under the order, Intel must change its business practices immediately pending its appeal, although it can ask for an injunction. The company must pay the fine right away, though the money will be held in a bank account until appeals are exhausted, a process that could take years.

The commission can levy fines of up to 10 percent of a company’s annual global sales. Intel’s sales were $37.6 billion in 2008; thus, the company could have faced a maximum penalty of close to $4 billion. Money collected in antitrust cases is added to the trade bloc’s annual budget of around €130 billion.

“Now they are the sponsors of the European taxpayers,” Ms. Kroes said.

On Tuesday, speaking to investors gathered for an annual meeting at the company’s headquarters in Santa Clara, California, Mr. Otellini had vowed that Intel would continue spending vast sums of money toward advancing its manufacturing lead over rivals. Intel has long embraced a strategy of keeping its research and development investments high during downturns as a means of applying more pressure on competitors when better times return.

The decision to impose a severe fine on Intel is another reminder of the emergence of European regulators as some of the world’s most activist enforcers of antitrust law, and it is an additional sign that the authorities worldwide are raising the stakes for the biggest technology companies.

Last year, the U.S. Federal Trade Commission stepped up its inquiries into Intel, opening a formal investigation.

This week, the head of the antitrust division of the U.S. Justice Department, Christine A. Varney, made clear that regulators would return to an aggressive enforcement policy against companies that abused their market dominance, after more relaxed policies under President George W. Bush. While Mr. Bush was in office, many small companies chose to take their complaints to regulators in Europe and Asia.

The European Union began stepping up its pursuit of possible violations, and particularly cases in the technology sector, early this decade, when the Bush administration backed away from pursuing its toughest penalties against Microsoft, deciding to settle the case instead.

E.U. regulators first began investigating Intel in 2001, after A.M.D. filed a complaint a year before in Brussels.
In two sets of charges, in 2007 and 2008, the commission accused Intel of abusing its dominant position in computer chips by giving large rebates to computer makers, by paying computer makers to delay or cancel product lines and by offering chips for powerful server computers at prices below actual cost.

The commission also charged the company with paying retailers not to sell personal computers using A.M.D. chips.

Intel has repeatedly said it did nothing wrong and that its rebates and discounts were legal and a commonly used way of rewarding companies for purchasing very high volumes of its products.

Intel also has suggested that E.U. officials have imperiled its rights of defense during the investigation.

Mr. Otellini said Wednesday that E.U. investigators had “ignored or refused to obtain significant evidence that contradicts the assertions in this decision.”

Critics of the approach in Europe say it has little concrete effect on technology markets and has done little to lessen the dominance of entrenched companies like Microsoft.

Since 2004, Microsoft has paid additional penalties in Europe of nearly €1.2 billion for failing to comply with the commission’s administrative orders. And in January, the commission issued yet more charges against Microsoft for again leveraging its nearly ubiquitous Windows operating system to promote other applications, this time its Web browser.

The Intel decision is likely to be closely scrutinized for its effectiveness, in particular for signs that orders to cease rebate practices will make the microchip market more competitive.

Those orders could have a far greater effect on Intel’s prospects than the fine. The orders also are a strong signal to other technology companies under investigation that additional decisions are probably on the way.

Lawyers in Brussels say that Ms. Kroes, before her term ends this year, is eager to reach conclusions in ongoing inquiries into other U.S. companies, including Rambus, which holds patents on memory chips, and Qualcomm, which develops wireless technology for phones.

E.U. regulators are also questioning Cisco Systems, the world’s largest maker of networking equipment, about whether it restricts competition for network maintenance services.

I.B.M., which settled a long-running antitrust case with the commission in the 1980s, faces a new antitrust complaint. And Google, the industry’s newest giant, is also coming under closer scrutiny, in particular for its domination of advertising over the Internet.

Nokia, the Finnish mobile phone giant, has filed a complaint with the commission against a German company, IPCom, over its patenting policy, according to news reports. That would...
German company, IPCom, over its patenting policy, according to news reports. That would make Nokia one of the few major European technology companies to bring a case in Brussels.