

On 2 April 2012, the Commission decided to initiate antitrust proceedings in case COMP/C-3/39.985 – Motorola – Enforcement of ETSI standard essential patents within the meaning of Article 11(6) of Council Regulation No 1/2003 and Article 2(1) of Regulation No 773/2004.

The opening of proceedings means that the Commission will examine the case as a matter of priority. It does not prejudge the outcome of the investigation.

The Commission will investigate whether Motorola Mobility Inc. has failed to honour the commitment it gave to the European Telecommunications Standards Institute (ETSI) that it would license patents it declared essential to certain ETSI standards (SEPs) on fair, reasonable and non-discriminatory (FRAND) terms. In particular, the Commission will investigate whether Motorola Mobility Inc. has infringed the competition rules in licensing negotiations, including by seeking and enforcing injunctions in national courts in relation to some of its ETSI SEPs.

If confirmed, this conduct may constitute an infringement of Article 102 of the Treaty on the Functioning of the European Union and of Article 54 of the EEA Agreement.