

On 2 April 2012, the Commission decided to initiate antitrust proceedings in case COMP/C-3/39.986 – Motorola – Enforcement of ITU, ISO/IEC and IEEE 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 prejudice the outcome of the investigation.

The Commission will investigate whether Motorola Mobility Inc. has failed to honour the commitments it gave to the International Telecommunication Union (ITU), the International Organisation for Standardisation/International Electrotechnical Commission (ISO/IEC) and the Institute of Electrical and Electronics Engineers (IEEE) that it would license patents it declared essential to certain ITU, ISO/IEC and IEEE 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 injunctions in national courts in relation to some of its ITU and ISO/IEC 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.