



EUROPEAN  
COMMISSION

Brussels, 6.5.2015  
C(2015) 3026 final

**COMMISSION DECISION**

**of 6.5.2015**

**initiating an inquiry into the e-commerce sector pursuant to Article 17 of Council  
Regulation (EC) No 1/2003**

**(HT.4607)**

**EN**

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# COMMISSION DECISION

of 6.5.2015

## initiating an inquiry into the e-commerce sector pursuant to Article 17 of Council Regulation (EC) No 1/2003

(HT.4607)

THE EUROPEAN COMMISSION,

Having regard to the Treaty on the Functioning of the European Union<sup>1</sup>,

Having regard to Council Regulation (EC) No 1/2003 of 16 December 2002 on the implementation of the rules on competition laid down in Articles 81 and 82 of the Treaty<sup>2</sup>, and in particular Article 17 thereof,

After consulting the Advisory Committee on Restrictive Practices and Dominant Positions,

Whereas:

- (1) According to Article 17 of Regulation (EC) No 1/2003, where the trend of trade between Member States, the rigidity of prices or other circumstances suggest that competition may be restricted or distorted within the internal market, the Commission may decide to conduct an inquiry into a particular sector of the economy or into a particular type of agreements across various sectors.
- (2) The e-commerce sector<sup>3</sup> in the Union has grown steadily over the last years. In 2014 approximately 50% of the population of the Union shopped online<sup>4</sup>. Despite this upwards trend, cross-border e-commerce remains, however, limited. For example, in 2014, only 15% of the population of the Union shopped online from a trader of goods or a provider of services based in another Member State<sup>5</sup>.

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<sup>1</sup> OJ C 115, 9.5.2008, p. 47.

<sup>2</sup> OJ L 1, 4.1.2003, p. 1. With effect from 1 December 2009, Article 81 and 82 of the EC Treaty have become Articles 101 and 102, respectively, of the Treaty on the Functioning of the European Union ("the Treaty"). The two sets of provisions are, in substance, identical. For the purposes of this Decision, references to Articles 101 and 102 of the Treaty should be understood as references to Article 81 and 82, respectively, of the EC Treaty when appropriate. The Treaty also introduced certain changes in terminology, such as the replacement of "Community" by "Union" and "common market" by "internal market".

<sup>3</sup> For the purpose of this decision, the e-commerce sector is defined as the online trade of goods and the online provision of services.

<sup>4</sup> See EUROSTAT data [http://ec.europa.eu/eurostat/data/database?node\\_code=isoc\\_bdek\\_smi](http://ec.europa.eu/eurostat/data/database?node_code=isoc_bdek_smi) ("Digital Single Market: promoting e-commerce for individuals")

<sup>5</sup> See EUROSTAT data available at <http://ec.europa.eu/eurostat/tgm/table.do?tab=table&init=1&plugin=1&pcode=tin00003&language=en>

- (3) There seem to be several reasons for the trend of trade between Member States relating to the e-commerce sector, including language barriers, consumer preferences and differences in legal frameworks between Member States. There are also indications that undertakings active in the e-commerce sector may be engaged in anti-competitive agreements, concerted practices or abuses of a dominant position.
- (4) In light of the above, it is therefore appropriate to conduct an inquiry into the e-commerce sector. In the course of that inquiry, the Commission may request the undertakings or associations of undertakings concerned to supply the information necessary for giving effect to Articles 101 and 102 of the Treaty and may carry out any inspections necessary for that purpose. The Commission may in particular request the undertakings or associations of undertakings concerned to communicate to it all agreements, decisions and concerted practices. Such undertakings include service providers, suppliers and distributors of goods, online market places and price comparison websites.
- (5) In the course of the inquiry, the Commission may also ask the governments and competent authorities of the Member States to provide it with all the necessary information for giving effect to Articles 101 and 102 of the Treaty.
- (6) The Commission may publish a report on the results of its inquiry and invite comments from interested parties.

HAS DECIDED AS FOLLOWS:

*Sole article*

An inquiry into the e-commerce sector in the Union is hereby initiated.

Done at Brussels, 6.5.2015

*For the Commission  
Margrethe Vestager  
Member of the Commission*