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## Antitrust: Commission confirms supplementary Statement of Objections sent to Intel

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Reference: MEMO/08/517 Date: 17/07/2008

HTML: EN

PDF: EN

DOC: EN

MEMO/08/517

Brussels, 17<sup>th</sup> July 2008

### **Antitrust: Commission confirms supplementary Statement of Objections sent to Intel**

*The European Commission can confirm that it has sent a supplementary Statement of Objections (SSO) to Intel on 17th July. The SSO reinforces the Commission's preliminary view outlined in a Statement of Objections of 26 July 2007 (see [MEMO/07/314](#)) that Intel has infringed EC Treaty rules on abuse of a dominant position (Article 82) with the aim of excluding its main rival, AMD, from the x86 Central Processing Units (CPU) market.*

In the SSO, the Commission outlines its preliminary conclusion that Intel has engaged in three additional elements of abusive conduct. First, Intel has provided substantial rebates to a leading European personal computer (PC) retailer conditional on it selling only Intel-based PCs. Secondly, Intel made payments in order to induce a leading Original Equipment Manufacturer (OEM) to delay the planned launch of a product line incorporating an AMD-based CPU. Thirdly, in a subsequent period, Intel has provided substantial rebates to that same OEM conditional on it obtaining all of its laptop CPU requirements from Intel. In

addition, the Commission has included in the SSO additional factual elements relating to a number of the objections outlined in the 26 July 2007 Statement of Objections.

Each of the conducts outlined in the 26 July 2007 Statement of Objections and the SSO is provisionally considered to constitute an abuse of a dominant position in its own right. However, the Commission also considers at this stage of its analysis that all the types of conduct reinforce each other and are part of a single overall anti-competitive strategy aimed at excluding AMD or limiting its access to the market.

Intel has eight weeks to reply to the SSO, and will then have the right to be heard in an Oral Hearing. If the Commission's preliminary views expressed in the SSO are confirmed, the Commission may decide to require Intel to cease the abuse and may impose a fine.

### **Background**

A Statement of Objections is a formal step in Commission antitrust investigations in which the Commission informs the parties concerned in writing of the objections raised against them. The addressee of a Statement of Objections can reply in writing to the Statement of Objections, setting out all facts known to it which are relevant to its defence against the objections raised by the Commission. The party may also request an oral hearing to present its comments on the case.

The Commission may then take a decision on whether conduct addressed in the Statement of Objections is compatible or not with the EC Treaty's antitrust rules. Sending a Statement of Objections does not prejudge the final outcome of the procedure.

# **EXHIBIT 2**



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## French consumer organisation UFC petitions US judge over Intel antitrust abuse

April 10, 2008: 10:16 AM EST

BRUSSELS, Apr. 10, 2008 (Thomson Financial delivered by Newstex) -- French consumer organisation UFC-Que Choisir said it has petitioned a US judge over the European Commission's case against Intel (NASDAQ:INTC) Corp. pertaining to alleged antitrust abuses in the computer chip sector.

The organisation, a third party to the commission's investigation, said in a statement that it petitioned a judge in the US state of Delaware, as part of a class action complaint against the US chip giant.

It said the petition will allow it to access 'useful' documents to assess the impact of Intel's conduct on millions of consumers in Europe.

In July last year, six years after the inquiry opened, the commission sent charges to Intel for alleged abuse of its market dominance over rival Advanced Micro Devices Inc. (NYSE:AMD) (AMD) in the computer processing units (CPU) sector.

The EU executive said then that it believes Intel provided 'substantial rebates' to various original equipment manufacturers (OEM) on the condition that they obtain all, or the great majority, of their CPU requirements from Intel.

The commission also claimed Intel made payments to induce an OEM to either delay or cancel the launch of a product line incorporating an AMD-based CPU. In addition, the commission believes Intel strategically offered CPUs at below-average cost to customers such as governments and educational institutions.

Santa Clara, California-based Intel has denied all the charges and said its practices are fair.

The group, which commands three-quarters of the worldwide microprocessor market -- the brains of personal computers --, has denied Sunnyvale, California-based AMD's allegations and defends its business practices as legal and beneficial to consumers.

Intel defended its practices at a two-day oral hearing with EU regulators and industry rivals here last month.

If charges are confirmed, the commission could impose a fine of up to 10 percent of Intel's global annual sales.

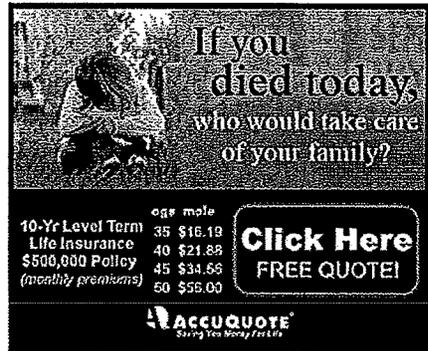
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# **EXHIBIT 3**

March 11, 2008

## Pace of Change Too Slow to Keep Entrepreneurs in France

By **JOHN TAGLIABUE**

LONDON — Four years ago, Caroline Sivilia, a Parisian who worked for the ad agency Publicis Groupe, left France to start a magazine for French people living in London.

“I was young, I wanted to create, I came with nothing, no English,” said Ms. Sivilia, 34.

Now, she employs eight people and a team of freelancers and her magazine, London Macadam, is available at 300 distribution points in London and 50 in Paris. She is among the legions of entrepreneurial refugees who have survived and thrived in England even as France’s president, Nicolas Sarkozy, has been pushing forward a pro-capitalist agenda.

Ms. Sivilia says she would consider returning to France but probably not as a business owner.

“I’d do like the English,” she says with a laugh. “I’d buy a house in the south of France. But while I’m in my entrepreneurial phase, I want to be here.”

Such views add to the uphill battle that Mr. Sarkozy faces as he struggles to transform the economic soul of France. Sarkonomics, as the news media have called Mr. Sarkozy’s brand of economic changes, has yet to meet expectations.

Mr. Sarkozy’s poll numbers are falling. A series of transportation strikes last year greeted his proposals to change the government pension system. Thus far this year, taxi drivers and air traffic controllers have also held strikes.

Mr. Sarkozy’s outspoken nature and colorful personal life have also made him vulnerable to criticism. But he has pressed ahead with his views of how France’s generous cradle-to-grave entitlements should change.

In December, Mr. Sarkozy said he was considering 100 measures that included ways to streamline France’s bureaucracy and provide more consumer-friendly services to business and the public. The proposals included cutting the cost of red tape on business by 25 percent.

Many French entrepreneurs are continuing to push for still more changes. Olivier Cadic, 44, started a computer manufacturer in France in 1982 called Info Elec and moved it to Kent in 1997. He later sold that company and started another, Cinebook, which translates comic books like Lucky Luke and Asterix and sells them in markets like the United States and Australia. In 2007, Mr. Cadic ran for and won one of 12 seats in the French Senate reserved for representatives of French expatriate voters, and he does not mask his

enthusiasm for Mr. Sarkozy and his policies.

Economists, however, say France will have to make much deeper changes to its culture's attitude toward capitalism if it intends to keep young entrepreneurs at home.

Access to start-up financing remains difficult and markets in many industries are often monopolized by large conglomerates, said Elie Cohen, a leading French economist.

Moreover, legislation limiting the workweek to 35 hours hurts small businesses more than large. Contrasting France with Germany and Italy and their networks of robust — often family-run — multinational companies, he said, “We don't have a fabric of small and midsize enterprises; it's an essential weakness.”

“The rules are made for the big enterprises, not for the small,” Mr. Cohen added.

There are now an estimated half a million French men and women living and working in England, most of them under 35. The waves of refugee entrepreneurs fleeing to England shows no signs of abating.

Today, amid the sheep meadows and the hop gardens in Kent County, more than 5,200 people, a mix of French and English, work at more than 75 French companies.

“Change may come, but France is not a country of evolution, but of revolution,” said Jean-Claude Cothias, who left France a decade ago to found Eikos, a consulting company. “Something has to go, to collapse, then you fix it,” Mr. Cothias, 34, said. “England fixes things all the time.”

As France struggles to redefine its approach to capitalism, the British are benefiting from policies that they themselves officially oppose: the free movement of capital and workers across European borders.

Throughout much of Britain, resistance to some aspects of the European Union remains strong. For instance, the country continues to reject adoption of the euro or the Schengen Accord, which eliminated border controls among most European Union countries, including France, Spain and Germany.

But in these parts, politicians and business leaders alike speak about the benefits of trade.

Ashford, in Kent, is the first stop in England on the Channel Tunnel train, less than an hour from Lille and London and less than two hours from Paris.

“From down here you can look out and see Northern France,” said Alan Marsh, responsible for international relations in the Kent County Council. “It's very comforting.”

Among the first young entrepreneurs to reach Kent, Mr. Cothias founded Eikos in 1998 after the French company that had employed him refused to let him establish a subsidiary in Britain. To register his company in Britain cost him £1, or about \$2. In France, his parents would have had to mortgage the family home to pay the applicable fees, he said.

He also learned that while an employer in France must pay pension, unemployment and social security charges that add up to 48 percent of an employee's salary, British employers pay only about 10 percent.

He says he believes that such differences reveal a deeper philosophical divide. "The economy is viewed here as something needed, one of the most important parts of society, if you want everyone to be clothed and fed," Mr. Cothias said. "This creates a totally different environment for business."

The complaints of businessmen like Mr. Cothias have not gone unheeded in the halls of government in Paris. Three years ago, he was invited with several other émigré business owners to meet a government minister. One change that resulted from their criticism was a reduction in the fee for registering a new company in France to one euro, about \$1.53.

Even the British know they will not hold onto all the French that come, and they say that is good for both Britain and France. "They get qualifications that they can then repatriate in the French language," said Paul Wookey, the chief executive of Locate in Kent, a marketing organization that encourages foreign investment in the county. "That's what pushes the French economy along."

Some business experts caution French businesses that Britain does not always guarantee success in offering the benefits that businesses seek. Patricia Goodenough, whose agency, Advent UK, helps young French entrepreneurs migrate, said that only about one in four of the French citizens she sent to Britain had actually made it in business. "Some didn't do well," she said. "The dreamers, not the doers."

In Paris, at the headquarters of the Center for Young Business Leaders, an organization that encourages entrepreneurship, Thomas Chaudron, the president, said that business success in any country was arduous.

He said that since the late 1990s, when much of the migration to England occurred, the number of start-ups in France had consistently risen. In 2007, the number rose almost 6 percent over 2006, to 339,957. Since 1997, the figure has increased about 26 percent.

Mr. Chaudron, 34, started a business near Chartres, France, in 1997 making office partitions. It now has 35 employees and \$10 million of revenue. In any country, entrepreneurship faces challenges, regardless of the government's support, he said.

"It's not like buying a baguette," he said. "It's an adventure."

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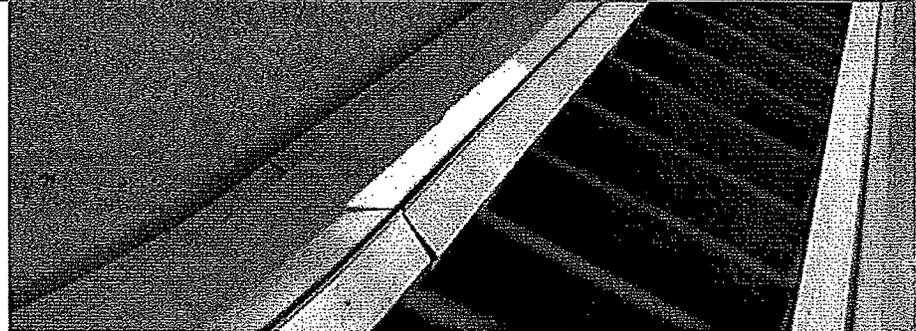
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## Commission leads by example and sues elevator cartel for damages

08 July 2008

The European Commission has apparently decided to blaze a trail in the relatively untested area of private damages actions.

It has filed cases with the Brussels commercial court, claiming damages from a lift and escalator cartel that it had previously fined a record €992 million. The Commission's claim covers work carried out at its own buildings and those of other European institutions in Brussels and Luxembourg.

According to the Commission, it has mixed motives for acting. Since European taxpayers will ultimately have footed the bill for overpriced work carried out by the cartellists, the Commission considers itself duty bound to seek damages.

But Commissioner Kroes also placed the case firmly at the forefront of the drive to encourage private damages claims. "The Commission is doing its utmost to encourage and facilitate actions for damages before national courts by victims of anticompetitive behaviour. In this case, we are leading by example", she said.

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# **EXHIBIT 5**

## **Cohen Milstein advertises for BA-Virgin price fix claimants**

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US class action firm Cohen Milstein Hausfeld & Toll is to launch an advertising campaign to encourage people affected by the British Airways and Virgin price fixing scam to make a claim.

The US firm reached a settlement in a US price fixing class action brought against British Airways (BA) and Virgin Atlantic in February (TheLawyer.com, [15 February 2008](#)).

The £100m settlement gave eight million customers who paid for a transatlantic ticket between 11 August 2004 and 23 March 2006 the right to claim for compensation.

Of the £100m settlement, £73.5m was allocated for paying claims brought by those who brought tickets in sterling.

Cohen Milstein has so far received 1,200 registrations for compensation, from businesses ranging from SMEs to blue chip firms as well as 100,000 registrations from individuals.

However, it is thought many thousands more could be entitled to a financial reward.

The marketing campaign has been sanctioned by the US District Court for the Northern District of California as part of its preliminary approval of the settlement.

Cohen Milstein partner Anthony Maton (pictured) said: "In granting its approval the US Federal Court has taken into account the fact that UK businesses and consumers are unlikely to have previously come across a settlement of this type.

"It has therefore sanctioned a robust, multi-pronged notification programme designed to deliver plain and easy to understand information about the settlement. The programme is estimated to reach almost 90 per cent of those passengers who are entitled to make a claim."

The advertisements, which will be funded by BA and Virgin, will run in national newspapers and travel booking websites such as Expedia and Lastminute.

BA and Virgin will also publish the marketing campaign in their in-flight publications, High Life and Seatback respectively.

Section: TL News  
Author: 96234

Date: 4-Jul-2008  
Source: The Lawyer

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## Members

Just like the EU itself, BEUC's membership has grown, and in 2008 our members include 41 well respected, independent national consumer organisations from some thirty European countries (EU, EEA and applicant countries). BEUC acts as a sort of "embassy" for these organisations in Brussels and our main task is to represent our members and defend the interests of all Europe's consumers.

### General Assembly

The General Assembly is composed of all BEUC members. It meets twice a year and determines our objectives, priorities and political options.

### Executive

BEUC is managed by an Exécutive composed of 10 representatives from our member organisations, who are elected by the General Assembly for two years and meet at regular intervals throughout the year. The Executive appoints the BEUC Director, proposes policy objectives and a work programme approved by the General Assembly and co-ordinates General Assembly meetings.

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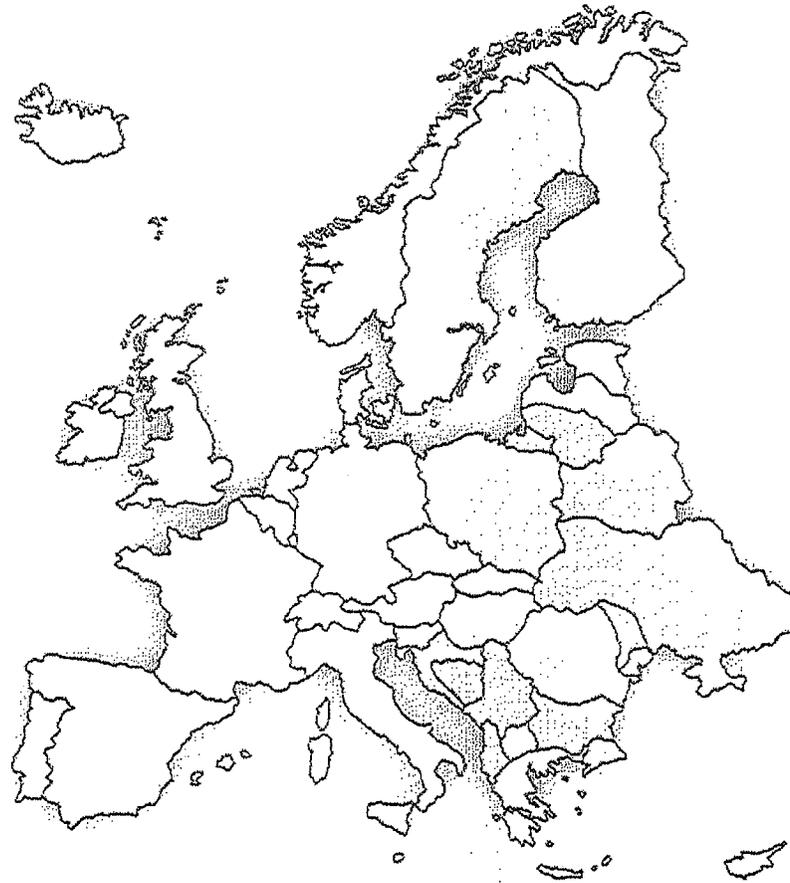


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**Austria**  
**Autriche**

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BEUC activities are partly funded from the EU budget



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# **EXHIBIT 7**



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**ABOUT US** | **CCIA MEMBERS**

- [CCIA in Brief](#)

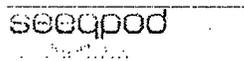
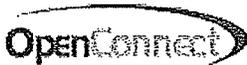
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- [Staff Contacts](#)

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CCIA's mission is to further our members' business interests by being the leading industry advocate in promoting open, barrier-free competition in the offering of computer and communications products and services worldwide.

# **EXHIBIT 8**



**Computer & Communications  
Industry Association**

OPEN MARKETS. OPEN SYSTEMS. OPEN NETWORKS.  
FULL, FAIR, AND OPEN COMPETITION.

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**NEWS + EVENTS**

**CURRENT**

**NEWS**

2008

**News Outlets, CCIA Ask For Information in Intel Antitrust Case**  
File Under: News, 2008, AntiTrust  
Aug 21, 2008

2007

Washington, DC — A long-standing gag order on a major antitrust case needs to be lifted, according to a motion filed today by news organizations and the Computer & Communications Industry Association.

2006

2005

CCIA along with the New York Times, The Register, Dow Jones, the Washington Post and the Reporters Committee for Freedom of the Press asked a federal court in Delaware to unseal records in the AMD Intel lawsuit.

**EVENTS**

2008

Intel is accused of illegally operating a monopoly on microprocessors and using a rebate program to coerce customers into avoiding competitors' products. The judge in the Delaware case issued a protective order, but CCIA and others argue that it has been so broadly interpreted that it has resulted in no documents in the case being available to the public or the media. While certain parts of some document may need to be censored to protect trade secrets, it is important to the public interest that the evidence related to the charges be open, CCIA and others argue in the motion to intervene.

2007

2006

2005

This case has taken on greater significance now that the FTC is investigating Intel and South Korea and Japan have already found Intel guilty of the charges alleged in this suit. The EU is investigating and expected to rule by September.



Open Source And Industry Alliance  
www.osaia.org

OSAIA is a project of CCIA

Monopolies cost consumers because they keep prices high and cost the national economy when innovators are blocked from competing. Intel has captured 80 percent of the units sold and 90 percent of the revenue in the microprocessor market. If they are abusing this supra-dominant position illegally, the public, competitors, shareholders and regulators need to know.

"We trust the court can find a way to protect the companies' trade secrets, without blocking all information on the allegations in this case. Intel has already been fined \$25 million in South Korea for engaging in this illegal, anticompetitive rebate program. We would hope evidence related to that illegal behavior and business practice would not be something anyone would want to or could afford to emulate. We'd also hope that in reviewing our motion the court decides that providing trade secret protection to evidence related to illegal business practices and behavior would be adverse to the public interest," said Ed Black, President & CEO Computer & Communications Industry Association.

CCIA's attorney David Finger at Finger & Stanina filed the motion. "The public has a well-established right to observe what is going on in our courts, whether it is a criminal trial or a business dispute. Each in its own way has an important impact on society, and public access promotes confidence that justice is being done fairly," Finger said.

Also, because the presiding judge's calendar is overwhelmed, the parties asked for the court to refer the motion to another judge in order to expedite resolution of the request.

[Click Here for Motion](#)

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#### **About CCIA**

CCIA is an international, nonprofit association of computer and communications industry firms, representing a broad cross section of the industry. CCIA is dedicated to preserving full, fair and open competition throughout our industry. Our members employ more than 600,000 workers and generate annual revenues in excess of \$200 billion.

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by being the leading industry advocate in promoting open,  
barrier-free competition in the offering of computer  
and communications products and services worldwide.