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European Union Fines Intel \$1.45 billion

A report posted on the [EU's website](#) quoted "Competition Commissioner" Neelie Kroes as stating: "Intel has harmed millions of European consumers by deliberately acting to keep competitors out of the market for computer chips for many years. Such a serious and sustained violation of the EU's antitrust rules *cannot be tolerated.*" (Emphasis added.)



"Intel awarded major computer manufacturers rebates on condition that they purchased all or almost all of their supplies, at least in certain defined segments, from Intel," the commission concluded.

How odd. A company giving it customers a financial incentive to purchase its products, rather than its competition's!

The report noted that the computer manufacturers concerned by Intel's conduct in the Commission's decision are: Acer, Dell, HP, Lenovo, and NEC. Acer, headquartered in Taiwan, acquired U.S.-based Gateway in 2007 and a controlling interest of 75 percent of Packard Bell in 2008. Lenovo (previously called the New Technology Developer Inc., the Legend Group) is a Chinese company that in 2005 acquired IBM's Personal Computing Division. NEC is an old Japanese corporation that was founded in 1899 and is the World's Third Largest Semiconductor Company. Both the Hewlett-Packard Company (HP), which is the largest technology company in the world in terms of sales, and Dell, the second-largest behind HP, are, of course, U.S.-based firms.

HP's revenue in 2008 was \$118.364 billion, compared to \$37.6 billion for Intel.

Intel president and CEO Paul Otellini said in a statement posted on the company's website:

Intel takes strong exception to this decision. We believe the decision is wrong and ignores the reality of a highly competitive microprocessor marketplace — characterized by constant innovation, improved product performance and lower prices. There has been absolutely zero harm to consumers. Intel will appeal.

The *Los Angeles Times* quoted David Balto, who looks favorably upon the decision. Balto, a senior fellow at the Center for American Progress (a liberal Washington think-tank that often serves as a mouthpiece of the liberal establishment) and a former antitrust official at the FTC and the Department of Justice, told the *Times*: "The relief that the Europeans imposed I think will provide *an excellent guide to U.S. enforcers* as they try to determine what to do about Intel's exclusionary conduct." (Emphasis added.)

The EU's investigation against Intel was prompted by a complaint made by rival chip manufacturer, Advanced Micro Devices, Inc. (AMD). With annual sales of \$5.81 billion, AMD is certainly no small player in the business, being second only to Intel. Coincidentally, AMD and Intel are headquartered only a few miles apart in California's Santa Clara County — in the heart of the Silicon Valley. So it may seem



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curious that the two should duke it out in the European Union.

There are many lessons to be learned from this incident for all who treasure the free-enterprise system.

We could start with the EU, itself, which started its life in 1951 as the European Coal and Steel Community (ECSC), whose name suggested that it was primarily a trade organization. However, the true intent of the founders of the ECSC and its successor organizations — the European Economic Community (EEC) and the European Union (EU) — were revealed in the Schuman Declaration, the proposal made on May 9, 1950 by then-French Foreign Minister Robert Schuman. (The date is considered so significant that May 9 is celebrated as Europe Day.) The declaration stated, in part:

Europe will not be made all at once, or according to a single plan. It will be built through concrete achievements which first create a *de facto* solidarity. The coming together of the nations of Europe requires the elimination of the age-old opposition of France and Germany....

It proposes that Franco-German production of coal and steel as a whole be placed under *a common High Authority*, within the framework of an organization open to the participation of the other countries of Europe. The pooling of coal and steel production should immediately provide for the setting up of common foundations for economic development as *a first step in the federation of Europe*, and will change the destinies of those regions which have long been devoted to the manufacture of munitions of war, of which they have been the most constant victims. (Emphasis added.)

The Schuman Declaration, as manifested in the ECSC, became the blueprint for supranationalism — a concept in which member states may retain nominal sovereignty, but gradually cede their independence to the supranational body. As the ECSC grew from a loose association of six nations to today's EU — a continental, supranational government composed of 27 members — national sovereignty has been all but erased.

Many of the arguments used to advance regional blocs modeled after the EU (most significantly, NAFTA) are based on the assertion that such associations create "free trade." But, as John F. McManus, the publisher of *The New American*, noted in this magazine for October 4, 1993: "According to both its name and its disingenuous promoters, NAFTA is supposed to be about freedom. But how can something containing 2,000 pages of regulations and controls have anything to do with freedom? The answer is that NAFTA is not about free trade; NAFTA is about setting up a supranational government bureaucracy to control what should not be controlled."

Because NAFTA is not as far along as its older prototype, the EU, it has not progressed as far as the EU in eliminating national borders and in eradicating a truly free market place. That perhaps explains why a computer chip manufacturer based in Santa Clara, County, California, would file a legal complaint against its competitor based in the same county not in the Santa Clara County courthouse, but with the European Commission in Brussels, Belgium. A tennis player who plays better on a grass court would rather play his opponent on grass, not on clay. And an organization that thinks it will fare better under the socialist rules imposed by the EU would rather challenge its competitor by appealing to a commission controlled by the supranational EU, rather than in an American court that still functions under the Constitution of the United States.

However, if the United States persists in signing so-called free-trade treaties and in becoming part of international organizations, our own courts (albeit in defiance of our own Constitution) may cite rulings from international tribunals as legal precedent. Note David Balto's observation: "The relief that the Europeans imposed I think will provide an excellent guide to U.S. enforcers they try to determine what



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to do about Intel's exclusionary conduct."

Foreign or international rulings are no longer irrelevant to U.S. law, since (as one example) Supreme Court Justice Anthony Kennedy, in writing the majority opinion in *Lawrence vs. Texas* in 2003, cited the European Court of Human Rights as precedent.

Considering the EU commission's ruling, what would happened if the United States were to cede its sovereignty, and all of its protections guaranteed by our Constitution, to NAFTA, or to a North American Union?

The answer, sadly, would be the end to those factors that make America, America. These are: our competitive free enterprise system, and the prosperity generated by that system; our national sovereignty, which has allowed the United States to function free of foreign influence and entanglements; and, most of all, our principles of freedom and rule of law, based on concepts extending back in time to the Magna Carta — concepts engrained in our common law, defined in our Declaration of Independence, and protected by our Constitution.

Who would think a dispute between two rival computer chip manufacturers in the Silicon Valley could highlight such weighty principles?



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