

CISPE Files Complaint Against Microsoft with European Commission

EMBARGOED until 00.01 9th November 2022, Brussels. Today, Cloud Infrastructure Service Providers in Europe (CISPE) filed a formal competition complaint against Microsoft with the European Commission's Directorate-General for Competition (DG Comp). CISPE supports its two members, OVHcloud and Aruba, which have already filed a separate complaint against Microsoft. With its own complaint, CISPE takes into account serious unresolved issues and represents the wider European cloud infrastructure sector. It seeks remedies that will benefit customers and vendors in a vibrant marketplace for cloud infrastructure services.

Recent announcements, blogs and FAQ documents published by Microsoft in an effort to head-off market investigations have not provided the detail, clarity or assurance that it truly intends to bring a swift end to its anti-competitive licensing practices. On the contrary, the new contractual terms imposed unilaterally by Microsoft on 1st October 2022 add new unfair practices to the list. Microsoft's ongoing position and behaviours are irreparably damaging the European cloud ecosystem and depriving European customers of choice in their cloud deployments. CISPE feels it has no option but to become a formal complainant and to urge the European Commission to act.

In its complaint, CISPE suggests simple remedies that can be quickly and efficiently implemented across the sector. It sets out an auditable control framework to test compliance with the Ten Principles of Fair Software Licensing. The Ten Principles, devised and launched with Cigref, the French association of leading digital customers, in 2021, have since been endorsed by multiple vendor and customer associations across Europe and beyond. They represent a fair and equitable set of best practices that ensure the software licenses of any dominant software vendor cannot be used to self-preference, discriminate or otherwise lock-in customers to their own cloud ecosystems.

CISPE calls upon the European Commission to open a formal investigation without further delay of Microsoft's behaviour in these areas and to consider using CISPE's Control Framework for Fair Software Licensing Principles as a tool to assess any proposed remedies and ensure fair software licensing terms for cloud customers. The CISPE complaint also suggests the creation of an independent European Observatory to undertake periodic audits of software licensing terms of any dominant software company.

"CISPE members represent the vibrant, autonomous and independent foundations of Europe's digital transformation and growth. We have filed this sector complaint to rectify the harms suffered by vendors and customers alike as a result of unfair software licensing practices," said Francisco Mingorance, Secretary General of CISPE. *"Leveraging its dominance in productivity software, Microsoft restricts choice and inflates costs as European customers look to move to the cloud, thus distorting Europe's digital economy. DG Comp must act swiftly to open a formal*

investigation with a statement of objections against Microsoft's software licence abuses to defend the robust cloud ecosystem Europe needs and deserves."

CISPE hopes that DG Comp will fully consider its complaint and act quickly to deliver a Statement of Objections and open a formal case against Microsoft. These matters are critical to the survival of a competitive market for cloud infrastructure in Europe.