



## CISPE files application to contribute to federal antitrust proceedings against Microsoft in Germany

**Berlin, July 19, 2023** - CISPE (Cloud Infrastructure Services Providers in Europe) has applied in Germany to actively participate in the Federal Cartel Office's ongoing cartel proceedings against Microsoft. Representing the interests of European cloud infrastructure providers, CISPE advocates for fair competition and transparency in the cloud infrastructure sector. The German Federal Cartel Office has already opened an investigation against Microsoft to determine whether the company is of overriding importance for competition in the market pursuant to Section 19a of the Act against Restraints of Competition (GWB). Once identified as such, the Cartel Office has wide-ranging powers to prohibit any conduct that might endanger competition.

Rumours are circulating this week that the EU Commission is preparing antitrust proceedings against Microsoft. The reason is the linking of the video conferencing app Teams with the Office suite, which is indispensable for companies. CISPE's existing complaint against Microsoft, filed with the European Commission in 2022, already demonstrates how Microsoft exploits its dominant position in enterprise software to harm cloud customers and disadvantage cloud provider competitors. Through unfair software licensing terms that favour its own cloud services, Microsoft ensures that European businesses are either taxed to use its must have software in non-Microsoft clouds of their choice or are forced into dangerous over-dependence on a single provider; locked-in to a Microsoft monoculture.

In [research commissioned by CISPE](#), competition expert, Professor Jenny of ESSEC Paris, found that Microsoft's surcharges to use its software on customers' choice of independent cloud infrastructure added as much as 28% to the cost of software. For a single product (SQL Server) conservative estimates put the additional cost at over €1 billion per year.

CISPE considers it essential that fair competition conditions remain guaranteed in order not to harm the national economy and to protect fair choice of cloud for German customers.

If the application to be summoned to the ongoing proceedings is accepted, CISPE can request access to the file, comment, give suggestions on investigations and closely follow the proceedings.

**Christian Steinle, antitrust expert at Gleiss Lutz** raises the following concerns: *"CISPE's aim in applying to be joined in the ongoing antitrust proceedings against Microsoft is to prevent the software giant from exploiting its superior adjacent-market position in the closely interconnected markets for software products and cloud services to strengthen its own cloud service, Azure. Microsoft's approach impairs competition in Germany."*

To represent the disadvantaged companies, the association has already filed a complaint at the European level with the European Commission's Directorate General for Competition (DG Comp). The aim of this two-pronged approach is to repair the damage done to suppliers and customers alike by unfair software licensing practices. It is necessary because dependence on Microsoft is already so high that many companies do not dare to confront the corporation even at the national level.

**Francisco Mingorance, Secretary General of CISPE** commented: *"It is high time to investigate Microsoft's abuse in licensing its essential software for businesses to unfairly restrict choice and steer customers to its own Azure cloud. Relying on the goodwill, voluntary or secret agreements and unenforceable concessions of a dominant gatekeeper will not end these unfair practices. We can provide significant data and insight to the Federal Cartel Office in this matter and hope to be accepted as an official 3rd party in its vital investigation. The role of associations such as CISPE is especially important since we represent many SMEs whose dependence on Microsoft is such that they dare not participate in such investigations unilaterally."*