



EUROPEAN COMMISSION

Competition DG

The Director General

Brussels, 15.01.04 - 0215  
COMP/C-3/NB/vb D(2004)\*D16



**NOTE TO:**

**MR. PETITE, DIRECTOR GENERAL, LEGAL SERVICE**

**MR. SCHAUB, DIRECTOR GENERAL, DG MARKT**

**MR. MINGASSON, DIRECTOR GENERAL, DG ENTR**

**MR. COLASANTI, DIRECTOR GENERAL, DG INFSO**

**Subject: Case COMP/C-3/37792 Microsoft: inter-service consultation**

Please find enclosed the draft Decision in the above-mentioned case for your comment.

As you will be aware, the Commission has addressed three Statements of Objections in this case to Microsoft.<sup>1</sup> In addition, an Oral Hearing took place on 12-14 November 2003. The attached draft is the result of an exhaustive analysis of all the evidence on the file. In this regard, I should make clear that by 30 January, Microsoft is scheduled to provide comments on a letter of facts which draws its attention to specific documents on which the Commission may rely.<sup>2</sup> These comments will naturally be taken into account.

Please could you ensure that your comments on the draft are provided within 3 weeks, i.e. by close of business on **Thursday 5<sup>th</sup> February**. Without prejudice to the inter-service meeting which is provisionally scheduled for Monday 2<sup>nd</sup> February, given the nature and length of the document, I would also encourage bilateral meetings between your services and the DG COMP case team during the consultation period. This will facilitate the most effective treatment of issues that you may wish to raise, and in this regard, please do not hesitate to contact the case team.<sup>3</sup>

It goes without saying that the content of the draft Decision is highly confidential, and that it would be extremely damaging if the document were to end up outside the

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<sup>1</sup> In August 2000, August 2001 and August 2003.

<sup>2</sup> In light of the recent TACA jurisprudence relating to due process.

<sup>3</sup> In this respect, please contact Mr. Cecilio Madero Villarejo (x 60949), the case manager.

Commission. I would therefore be grateful if you could ensure that the appropriate treatment is afforded to the document.

Thank you in advance for your co-operation, *particularly on the confidentiality of this procedure.*

*Bernardo* 

Philip LOWE

Copies: Mr. Rocca, Mr. Paulis, Mrs. Williams, Mrs. Olivi

Enclosure