

Analysts warn that FTC suit could damage Intel

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The Federal Trade Commission's lawsuit against Intel Wednesday -- the most far-reaching in a string of recent regulatory actions -- poses a huge threat to the Santa Clara, Calif., chip giant and could reshape the semiconductor industry, according to Wall Street analysts and other experts.

While repeating claims by others that [Intel](#) has pursued unfair pricing policies in its core [microprocessor](#) market, the FTC leveled new accusations that Intel has tried to hinder competitors as Intel seeks a foothold in the market for graphics chips. The agency signaled its action was aimed in part at any future Intel effort to monopolize the graphics-chip business, noting that its suit is based on a statute designed "to stop in their incipency" acts that later might violate antitrust laws.

The federal agency's suit "is sweeping and breathtaking in its scope," said Robert Litan, a former federal prosecutor involved with the first Microsoft antitrust investigation who is consulting with Intel on its antitrust issues. "If the FTC prevailed on all these allegations, it could have a major impact on the way Intel does business going forward."

The FTC went so far as to suggest that it could require Intel to license some of its chip technology to others.

Other analysts said the growing regulatory pressure on Intel was likely to help Silicon Valley chip-makers Nvidia and [Advanced Micro Devices](#), which have been battling Intel, while encouraging other companies to

compete in Intel's markets.

"This could result in a dramatic change in the [computer chip industry](#)," said David Balto, former policy director for the FTC's bureau of competition. "If the FTC is successful, we're going to see more Nvidias and AMDs in the market."

Nvidia and AMD issued statements praising the FTC's action, but Intel called the suit "misguided" and inadequately researched. Although Intel said it tried to settle the FTC's investigation out of court, it claimed that effort failed because the agency insisted on forcing the company to make changes "that would make it impossible for Intel to conduct business."

Intel has come under increasing fire from regulatory authorities around the world since AMD sued it in 2005, alleging Intel had used anti-competitive pricing practices and intimidation to maintain its 80 percent control of the market for x86 microprocessors, the brains in most personal computers.

Besides being accused of antitrust violations by Japanese and South Korean authorities, as well as by New York Attorney General Andrew Cuomo, Intel was fined \$1.45 billion by the European Commission in May and agreed last month to pay AMD \$1.25 billion to settle the two companies' legal squabbles.

At the heart of many of those cases is the claim that Intel used customer rebates and discounts to unfairly discourage computer makers from using AMD's microprocessors. In addition, some of the regulatory bodies have accused Intel of threatening and bribing businesses to use only its chips.

The FTC suit makes similar claims, alleging among other things that

Intel offered computer makers using its chips "a slush fund of hundreds of millions of dollars" to compete against computer makers using AMD's chips, and that Intel secretly sold software that degraded the performance of computers equipped with AMD's products.

If these abuses aren't curbed, the FTC alleged, "consumers will have fewer choices, prices will be higher than they would be in competitive markets and quality and innovation will be diminished."

But the FTC's suit goes farther by also accusing Intel of trying to inhibit sales of graphics-oriented chips, known as graphics processing units or GPUs, which are sold by Nvidia and AMD. Among other things, Intel -- which has been having trouble developing its own GPU -- has denied Nvidia the ability to connect its GPUs with Intel's latest chips, the FTC claimed.

Having the FTC order Intel to stop meddling in the GPU market, "is a huge win for Nvidia and obviously AMD," said Hans Mosesmann of Raymond James & Associates. He added that the FTC's focus on GPUs appears to be a preemptive effort to keep Intel from eventually monopolizing that market.

The FTC's suit, which is expected to go to trial in September before an administrative law judge, demands only that Intel change its practices and doesn't seek monetary damages. Nonetheless, the FTC could try to have Intel fined for contempt of court if it is found guilty and fails to abide by the decision, according to the agency's spokesman Mitchell Katz. And some experts noted that the FTC -- whose prosecution of Microsoft resulted in what many experts believe has been a much more competitive software market -- has the power to make life extremely difficult for a company.

Intel -- which has steadfastly maintained that its rebates and other

business practices are legitimate -- contends the agency only recently notified it about the GPU issues, making it impossible for the company to adequately respond to the allegations. And in a prepared statement, Intel claimed resolving the FTC's case -- which is expected to take a couple of years -- "will cost taxpayers tens of millions of dollars to litigate."

Of particular concern to Intel is an FTC demand that Intel make its chip technology available to other companies through licenses or other means "upon such terms and conditions as the commission may order." The suit was vague about what technologies might be involved and how that would work.

Along with the FTC's other demands, that provision "has significant risks for us," given how much Intel invests in developing its proprietary technology, said company spokesman Chuck Mulloy.

But others say opening up Intel's technology would be a boon to other companies, including those trying to make GPUs or other chips that work with Intel's microprocessors.

"It's basically compulsory licensing" of technology, said Stacy Rasgon, an analyst with Sanford and Bernstein. "This is what Nvidia is looking for."

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