Apple Inc

Apple must pay €13bn in back taxes, top EU court rules

European Court of Justice confirms Ireland provided 'unlawful aid' via tax deal and overturns a lower court decision

Margrethe Vestager, during her decade in charge of the EU's competition policy, has taken on high-profile cases targeting the biggest technology companies © Simon Wohlfahrt/Bloomberg

Javier Espinoza in Brussels, **Jude Webber** in Newry and **Emma Agyemang** in Copenhagen
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Apple has suffered a significant defeat after the EU's top court ruled the iPhone maker must pay €13bn in back taxes, overturning an earlier decision in the Big Tech group's favour.

The ruling relates to a 2016 case when the EU's competition chief Margrethe Vestager said Ireland had given the company an illegal sweetheart deal, amounting to a tax rate of less than 1 per cent.

The European Court of Justice said on Tuesday in its final ruling that it "confirms the European Commission's 2016 decision: Ireland granted Apple unlawful aid which Ireland is required to recover".

A lower court had in 2020 quashed the commission's order and the ECJ's decision to overturn that ruling was unexpectedly decisive.

Apple chief executive Tim Cook has previously dismissed the commission's position as "total political crap". On Tuesday the company said the EU was "trying to retroactively change the rules and ignore that, as required by international tax law, our income was already subject to taxes in the US".

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Margrethe Vestager, EU competition chief, calls ECJ's decision on Apple a 'big win' for tax justice © EuropeanCommission.eu

Reacting to the ECJ judgment, Vestager said: "It's a win for the commission. It's also a win for the level playing field of the internal market and for tax justice."

Ireland's finance ministry said it would consider the ruling but added: "The Irish position has always been that Ireland does not give preferential tax treatment to any companies or taxpayers."

The case has been watched carefully across the bloc as a watershed moment for Big Tech's tax affairs in Europe, with the EU's efforts to probe the arrangements between companies and member states having suffered setbacks.

Last year, Amazon won a court battle over its tax arrangements in Luxembourg after the ECJ ruled the commission could not force the large US eretailer to pay €250mn in back taxes to the country. Brussels also lost a similar case over the Netherlands' tax treatment of Starbucks but did not appeal against the ruling.

However, the ECJ on Tuesday affirmed the commission's original finding that Apple's tax structure in Ireland — which excluded the profits generated from the intellectual property licences held by its international and European arms — amounted to state aid.

Apple subsequently ended its "double Irish" structure, after Ireland closed the loophole in 2015. Meanwhile, a global minimum tax rate that came into force this year across many countries applies a rate of at least 15 per cent on corporate profits.

However, Dan Neidle, founder of the Tax Policy Associates think-tank, said the ECJ's Apple decision would still have "significant implications" that will force member states and multinational companies to reconsider how profits are allocated between countries.

"It's a massive victory for the commission — their strategy of using competition law and state aid to override domestic tax rules has succeeded," Neidle said. "I and most observers thought it wouldn't. We were wrong."

Aidan Regan, associate professor of political economy at University College Dublin, said that in Ireland there would be a "public clamour" to use the cash to help resolve big challenges, especially a chronic housing crisis.

Ireland has been told to collect €13bn from money placed in an escrow account for the past six years, as the parties awaited a ruling from the ECJ.

Separately on Tuesday, Brussels won a landmark antitrust case against Google after the ECJ ruled the search giant abused its market power by ranking its shopping services over rivals — granting itself an illegal and unfair advantage. The court upheld a €2.4bn EU competition fine against the company in the case.

Google said: "We are disappointed with the decision of the court. This judgment relates to a very specific set of facts. We made changes back in 2017 to comply with the European Commission's decision. Our approach has worked successfully for more than seven years, generating billions of clicks for more than 800 comparison shopping services."

The pair of rulings represent victories for Vestager, the EU's competition chief who is expected to depart the role this year. During her decade-long tenure, she has repeatedly taken on high-profile cases targeting the world's biggest technology companies.