

From: mark@jsc.nasa.gov@inetgw
To: Microsoft ATR
Date: 11/30/01 9:04pm
Subject: Microsoft Settlement

Sirs,

As someone who has used Microsoft products extensively and as someone who has had to deal with the problems thereof, I would like to comment on the Microsoft Settlement. It does not seem, to me, that the proposed settlement does more than simply give Microsoft a slap on the wrist. I say this because the insurance which Microsoft carries on its operations costs more than the amount it is being asked to pay in this settlement. Bill Gates alone makes more per year than what Microsoft is being asked to pay. This, therefore, is no burden to Microsoft. A "burden" is something which places you at a disadvantage, makes it hard for you to operate, or otherwise inhibits your ability to function normally. This settlement does none of these. It is merely a minor hinderence easily overcome.

I feel that, due to what happened on September 11th, the importance of this case has been lost to the Department of Justice. Instead of remembering what Microsoft has done, the Department of Justice simply now wants to "get this over and done with." This may not be true - but that is the impression which is being handed out to the people of America. That it is ok for the biggest corporation in America to destroy, manipulate, or circumvent the laws which lesser people and companies must adhere to simply because they have enough money to buy their way out of the problem. To slick the palms of some officials, or to promote offers behind closed doors which, on the surface, appear to be genuine but upon closer inspection simply increase their holdings.

A true settlement would have included provisions to ensure that none of the systems thus purchased could have a Microsoft Operating System installed. Such as requiring them to be Apple Computers - thus reducing Microsoft's ability to extend their holdings. This would have allowed both LinuxPPC (Linux for the PowerPC) or MacOSX to be installed. Or require that no Microsoft software be installed on any of these systems period. This would have allowed Corel's Office package, Sun's StarOffice, KDE's KOffice, or any of the other so called "Office Packages" to be used instead of Microsoft's. These are minor burdens. To enlarge these minor burdens into major ones extremely stiff penalties such as time served in prison, heavy monetary penalties, and the like would have to be incorporated into the terms. Which would make the entire affair unpalatable to Microsoft. Thus, these would have to remain minor burdens.

A major burden (in and of itself) to Microsoft would have been to make Microsoft give up something like ten percent of their annual income for

the next ten years and that this income go to such things as the Free Software Foundation(FSF) or the National Science Foundation(NSF) (who helps to back the FSF) or for the intended purpose proposed above. THIS would be a burden. Especially if they were forced to pay the taxes on this money before it is distributed. Further, the proposed ten percent deduction on their income would not destroy the company - all it would do is to slow them down. Which is what should happen. Let me reiterate that: It is not our intention to destroy the company - but we most certainly do wish to slow them down so other companies have the chance to compete. Therefore, if Microsoft itself were forced to aid its competitors through the use of a ten percent tax, this would not only be a major burden - but everyone in the United States would benefit from this settlement. This is because Microsoft, according to Standard & Poor's last recording (if I remember correctly), earned over \$300 Billion dollars last year. \$30 Billion dollars is a few more dollars than amount presently in the proposed settlement.

Finally, I would like to turn your attention to the committee which is to be set up to oversee Microsoft. I believe that the people who should make up the committee should be picked, randomly, each year, from those companies who have borne the brunt of Microsoft's attacks. Who better to ensure that Microsoft conforms to the letter of the law than the very people to whom they have done so much? My proposal on this matter is that each of the plaintiffs in the lawsuit must present a list of names of all employees who work at the various companies. (No job titles or any other information should be used.) These names are fed into a computer program which randomly orders the names. Starting at the top of this list, these people are contacted and asked if they wish to work on the oversight committee. If they do, then some of the money from the settlement is used to pay their salaries for that year. Each year this is repeated with no company able to send the same person more than once. From this second group of people the final people are picked to act as the oversight committee. Again a list is devised and a random selection is used. I suggest five people instead of three and I believe that the committee should be set up in a manner similar to a small claims court in that there is a litigant and a defendant. The problem is laid out for the "judges" who then decide - with the help of an AntiTrust Division person - whether or not there has been a violation of the AntiTrust Settlement. If they find that there has been a violation, then the matter is turned over to the AntiTrust Divison for further investigation. If not, then the reasons for not turning it over must be made clear to both parties as well as the AntiTrust Divison. In all cases, a written report of the entire proceedings, with each "judge"'s reasons, must be made available to the AntiTrust Divison. In addition, all cases should be posted on the Internet for public viewing along with each "judge"'s opinions and the AntiTrust Divison's decisions.

You, who are reading this, might feel the above to be absurd - it isn't. First, it ensures that no matter what - Microsoft can not

determine ahead of time nor control who is going to be on the committee from year to year. Second, it gives the AntiTrust Divison a say in what happens. Thus, there will not be a "kangaroo court" outlook and anyone who acts otherwise should be removed from the panel and replaced with one of the alternates. Third, many different viewpoints will be presented as the years follow. Thus, someone who is not highly affected or who might be pro-Microsoft may still be on the panel as well as someone who might be greatly against Microsoft. Thus the reason for five "judges" instead of three. To give a greater breath to the proceedings. Nor should the "judges" be of a certain age, ethnic background, nor education. (Although a college education might ensure a greater depth to the person's outlook and someone of an elder age would give a person [hopefully] more of a scope to life. Still, discriminating against someone simply because of their age or number of years in school or college should not be tolerated.) They should simply be empolyees of companies who are affected by the manner in which Microsoft has operated. Last, it alleviates the AntiTrust Divison of the burden of listening to endless streams of companies complaining about Microsoft's operations. Or at least partially. And it places the burden upon the very people who have complained in the past to monitor the future. (Although Microsoft would be the one who is paying for these people to sit in judgement on what Microsoft itself is doing.) Thus, everyone - except Microsoft - would win.

Thank you for your time in reading this.

Yours,

Mark Manning

All e-mail needs to be sent to markem@ev1.net.
If you don't, it will probably bounce. As per the current
Federal laws regarding junk mail, this is your notice that
I charge a \$25.00 fee to read your junk mail. So send it
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