From: Thomas Fitchette
To: Microsoft ATR
Date: 12/9/01 1:53pm
Subject: Microsoft Settlement.

Thank you for this opportunity to comment on the ongoing Microsoft Antitrust Settlement.

My opinion as a citizen working in the higher education system and with a significant exposure to technical issues and technologies themselves, is that the government was right in part in pursuing judgement against Microsoft on certain business practices, whereas a remedy on restricting some of those normal business practices for a period of time to let the market correct itself - as it has been the case over the last several years with business to business solutions, and a one time settlement ranging between one (1) to five (5) billion dollars to be distributed to technology poor educational systems (K-12) seems proper and reasonable. In light of the favor that the latter creates for the defendant, I would recommend that the education remedy be revised that so that it is strictly a monetary penalty, whereas school districts should employ whatever allocation methods they deem or have consulted as necessary within their need base. Otherwise, the placement of Microsoft technologies and peripheral services is more of an awards package to Microsoft than a punishment.

As for consumer harm, as a computer and technologies user who has had opportunities to try other operating systems, other web technologies, and multi-platform solutions, I have felt either little to no harm by Microsoft's business practices. In most cases, whereas business did not dictate a solution, I have freely chosen a Microsoft solution because it was advantageous within the situation(s) at hand. In other cases, a non-Microsoft product has been chosen on the same merits of being the best tool for the job. Minus the monopoly status, I see no distinct differences between Microsoft practices and the practices of the competitors that have been friends of the court and would-be plaintiffs. I've seen solutions come and go on the value and shortcomings of their own making, not always on the tactics of a competitor. In any market, being a mediocre competitor is just being a mediocre competitor, inclusive of how well one presents themselves to consumers. Yet, I perceive that a number of rivals would seek the law as a mechanism, a business practice to hobble their competitors, such as the case with some patent and copyright suits. It isn't about the law, it's about business 101, and the court as a competition tool.

My position on Netscape and its products was that it made popular and mainstream a technology that others already were using, (some free browsers existed at the time as well as commercial), did it well, but performed even better going head-to-head against Microsoft. Being in the education field, we never had to pay for web browsers to begin with as part of the licensing

agreements set forth by those companies, inclusive of staff, faculty, and students, many of which transferred the same technologies to home computers. Both Netscape and Internet Explorer had strengths and shortcomings, but I have used both browsers even before the limitation in harddrive sizes was no longer a restrictive factor. I prefer Internet Explorer based on ease of use, features included in the browser and reliability.

My position on Netscape's market share loss is that the company that purchased it, AOL (now AOL Time Warner) had ample opportunity and financial means to reverse, if not stop, the decline of the Netscape browser and services, but publicly made no visible contributions to elevating the product instead saturating the market with its internet service promotions. To me, it has seemed a convenient time, (the litigation process against Microsoft), that a competitive product was given little to no promotion or distribution through the owners own internet service program America Online which successfully seeded consumer households with compact discs of the ISP software making them arguably the single largest commercial internet provider. I am of the opinion that competitors like AOL, Sun, Oracle, etc., were purposely creating allowing perceptions of barriers to markets by temporarily holding back on announcing plans and delaying or quietly releasing competitive products in order to give weight to claims in the antitrust case which they would have hoped to concluded much sooner than the time frame that has come to pass. At the time, the stock market was riding high and companies could afford to use such delay tactics in hopes of Microsoft being crippled by an antitrust judgement.

So I would implore the court to seek out the views and opinions of more than just the vocal political and business players in this case. The case has been highly political. This opportunity to express my views has been the only government solicitation of whether I believe to have been harmed by Microsoft's business practices, and I wish to not have the case be the cause of consumer harm, which is why I never supported the court ordered breakup of the company (which isn't a bad solution for the company), but offered little to no protection of the breakups from the competitors who have worked well together to litigate against Microsoft.

Thank you.

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