From: Bob Rasmussen
To: Microsoft ATR
Date: 12/13/01 2:30am
Subject: Microsoft Settlement

May it please the court,

I appreciate as a consumer, the opportunity, and right to comment on the settlement agreement between the Microsoft Corporation, and the United States Department of Justice. My comments come as a consumer, specific to the issues that relate to my purchase, use, and experience with the many software products available today, which include those developed and sold by Microsoft.

In the roughly three years that this case has been under trial, I have read much of the available information on the trial, as well as the many, many statements given by competitors of Microsoft, and their concern with Microsoft's behavior, both before and during the trial. Never in my recollection of watching the business world have I observed such a concerted effort by numerous companies to malign and destroy the image, perception, and products, of a successful company. And what amazes me even more is that to a large degree, these companies employ many of the very same tactics used by Microsoft yet without any apparent threat of reproof. America Online (heretofore referred to as AOL) is a company that for every intent and purpose, has today the vast majority of Internet users as customers for their service. Effectively, they are presently as we speak, a monopoly in that industry. Yet to read any news publication today, the most that fact will bring is a limp assertion that yes, AOL is the predominant Internet Service Provider (heretofore referred to as ISP), with roughly 30 million subscribers, and it is left at that. No one is investigating AOL, no Congressional Hearings are scheduled, and in fact, great care is taken to ensure that their product and service in this industry is insulated from competition. During their recent merger with Time Warner, Inc., the Federal Communications Commission (FCC) had the opportunity in their review of the merger, to require AOL to make their instant messenger service compatible with other similar services. As a consumer, I can instantly relate to the importance and advantage of such a requirement. The FCC however did not capitalize on that opportunity, and as a result, the media giant continues to lock out users of other ISP services from communicating with AOL subscribers.

In comparison, when I review and observe the Microsoft case, as well as comments associated, I see that products where I as a consumer realize a benefit, are under constant scrutiny, not only from the government, but even more so from competitors. For example, the various versions of the Windows operating system have for years offered a form of a media player, which is presently under dispute by many competitors, as that application or device resides within the latest version of the Windows product, Windows XP. For years that was not a concern, but now another company exists, RealNetworks, which offers for free a download player called RealPlayer. Suddenly a benefit that I had as a consumer with the purchase of an operating system is threatened because another company wants to limit what is contained within the operating system. Regardless of the fact that any consumer can download for free the RealPlayer, RealNetworks Inc., for one, among others, protests the inclusion of Microsoft's Media Player within the operating system because it competes directly with what RealNetworks would like to give away for free. The bottom line? As a consumer, I see the potential of a very robust and "application capable" operating system, one that offers me great flexibility and performance, being required to reduce it's service and functionality to me so that others can improve their opportunity to compete. Yet the fact is, this product offered by RealNetworks is an easy download, and is often loaded onto machines alongside of Microsoft's Media Player anyway. Twenty years ago, there might have been a case to consider here. Consumers were still getting their feet wet in determining the right hardware and software

to purchase, and many were easily confused, and possibly misled in the process. Today however consumers are quite prepared to make well informed decisions about their hardware and software purchases. With a plethora of information available, through various forms of communication (media, print, Internet, classes, service companies, etc) the consumer has more than enough information available to help them in their purchasing decisions. And frankly, that is supposed to be what all of this is about: The consumer, and the protection of their purchasing power and decisions.

In fact, everyone from Senator Orrin Hatch, to Ann Bingham (head of Antitrust Division, original investigation, 1995) to Judge Penfield Jackson has stated all along that the it was the consumer they were representing in their fight against Microsoft. However the ramifications of their actions has been anything but positive for consumers. I have today countless choices of software I can run on my PC, simply because of the operating system standard provided by Microsoft. I do not use Microsoft software exclusively, nor do any of the people I see regularly who work with computers. As a consumer, I feel I am quite well informed about what products exist in the marketplace, and I am quite confident I can make intelligent choices about the products I wish to purchase. However I believe that of ALL the interests represented in the courtroom, in the media, and in print, the consumer's interests have been the least heard or considered. Companies like Sun Microsystems, Oracle, AOL, Novell, Apple, & IBM are not nearly so interested in what works well for me as a consumer, as they are interested in gaining market share for their own respective companies. If this settlement is derailed, through the lobbying of companies like this, it will prove once and for all that competition, and consumer choice in the marketplace, no longer determine or direct the outcome of products and services, as they have for the last several hundred years. Market share, and competitive advantage cannot and should not be awarded in a courtroom. The measures within this settlement agreement are sufficient to ensure that Microsoft cannot take unfair advantage of, or punish any company in the future. At the same time however it preserves Microsoft's right and ability to continue to provide the best product possible, which is for me, the consumer, the best and only appropriate outcome.

The additional measures sought by the nine rouge states go well beyond what is necessary, and actually threaten the intellectual property of one of the country's most successful businesses (and this frankly, threatens us all). No other company in this country (or the world for that matter), has been required to dismantle it's showcase product, to it's own demise and destruction, simply to appease the wishes of less successful competitors. To do so now, would unfairly serve only those companies, and would destroy much of the gain realized by consumers through Microsoft's achievements in product integration. If this court truly values the purchasing power of millions of consumers, who are today quite savvy about what kinds of software they need and want, it will allow this settlement to stand, and repel the imperious demands of the nine states that remain as extreme and overreaching.

Thank you for your time and attention to review my comments.

Sincerely,

Robert S. Rasmussen

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