

**From:** Karen Messenger  
**To:** Microsoft ATR  
**Date:** 12/13/01 6:03pm  
**Subject:** Don't allow Microsoft to determine what is a "viable business"

Dear Sir/Madam,

Having seen the proposed settlement, I would like to register my strong objection to it. The agreement is full of loopholes, whereby Microsoft is allowed to determine, at its own discretion, whether to adhere to certain principles. For example, Microsoft is required to make available its APIs, but only to organizations which Microsoft deems to be "viable businesses". This is outrageous! What constitutes a viable business?

I am an independant software developer. I have spent 3 years developing ground-breaking Internet technology designed to facilitate free broadcasting of media (e.g. video) between communities of cooperating clients (see [www.freebeam.com](http://www.freebeam.com) for a short explanation). I have applied for a patent. I have acquired no outside funding. My business development plan calls for giving away my software for free, for some years, in order to develop a user base. After that time, I expect to derive income from patent royalties paid by large-scale commercial users. I expect I may derive no income for several years, in other words. Eventually, it will be very lucrative for me, so that makes up for it.

Am I a "viable business"? Will Microsoft be required to make their APIs available to me? If not, then I would be unable to compete on an equal basis with competitors which Microsoft deemed to be "viable". That would be self-fulfilling.

In the interest of fair play for small-scale developer/entrepreneurs, such as myself, I implore you to reject the proposed settlement. Such a settlement would very clearly tend to squelch small-scale developers -- a powerfully innovative force. Microsoft should not be able to exercise its own judgement in deciding how to live up to the terms of the agreement. The terms should be interpreted and enforced from outside of Microsoft. To do any less would be to further entrench Microsoft's illegal monopoly.

Sincerely,

Chuck Messenger

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