

From: Keith Godfrey
To: Microsoft ATR
Date: 1/2/02 7:22am
Subject: Microsoft Settlement

Greetings,

Please accept the following as public comments relating to the Proposed Final Judgment in the current antitrust trial against Microsoft.

Thank you,
Keith Godfrey

1) The 5 years allocated to the agreement is a very short time. Assuming this were the perfect agreement to 'level the playing field' and provide competitors the chance to fairly compete, Microsoft will be allowed to resume business as usual in a very short time. At a minimum, such an agreement should be readdressed by the court every 5 years until it is deemed to be no longer needed.

Additionally, the agreement appears to be less than perfect if for no other reason than it lacks any method for redress of grievances from past monopolistic abuses, providing those competitors of Microsoft (those that remain in business, which notably does not include Netscape or Be, Inc.) with no advantage to regain market share lost to demonstrated illegal Microsoft business practices.

2) Protocols and middleware interfaces, even if released, provide Microsoft with an inherent competitive advantage over competitors. Not only is there the time advantage, where Microsoft product development based upon these protocols or interfaces will likely be going on for weeks or months before public release of the interface, the interfaces are developed and tailored specifically for Microsoft product needs.

3) Incorporation of low cost or free middleware with the operating system yields a large competitive advantage to Microsoft because many consumers are not inclined to actively download or purchase alternative products without a clear advantage to doing so. Additionally, users without a technical background (specifically, for example, my parents and grandparents) may have no knowledge about alternative products, have little incentive to find them, and even if they do, lack the confidence and minimal ability required to download and install them

4) The agreement seems very weak given the dominant Microsoft market position - this agreement may have been appropriate several years ago but now is likely to be largely ineffective

5) The settlement seems to address only the issues outlined in the narrow scope of the trial, and fails to consider additional monopolistic abuses against competitors who were too timid to testify, those that lacked the financial resources to testify, and those that fell outside of the prosecutions list of top 20 witnesses. The demonstrated pattern of abuses clearly implies the existence of similar behavior that the penalty should address and seek amends for.

6) The settlement does not appear to address favorable treatment by Microsoft to OEMs who produce operating specific hardware. Most OEMs now include 'WinModems' (modems operable only through Windows) with nearly every new computer in place of what used to be fully functioning modems operable under all operating systems. Microsoft mandating the inclusion of such hardware for favorable pricing effectively raises the barrier to entry for operating system competitors, as the end users are forced to buy additional hardware (a second modem) to use the computer in an increasingly online world. This same argument can be made for network interface cards.

7) There seems to be no allowance for an OEM to manufacture computers without installing Windows and not incur penalties by Microsoft. The proposed final judgment section III, A.2 and C.4 specify that computers can be manufactured with an additional operating systems installed, but do not mention manufacturing computers using only alternative operating systems. This can allow continuation of the 'Microsoft tax' to end users when purchasing a computer when they do not want, and will never use, the Microsoft products installed on it.

8) Section J.1.a - there appears to be a potentially large loophole prohibiting the final judgment from forcing disclosure of APIs, Documentation or (importantly) communication protocols that compromise the security of 'a particular installation' of a series of products, including encryption, authentication tokens and authentication systems, when the announced direction of the company is towards a distributed network strategy which heavily relies on these elements. It is technically very easy to create a specific implementation that disclosure of protocols or APIs might threaten the security of and hence allow the locking up of all these disclosures.

9) While possibly beyond consideration of the court, an effectively homogenous network of computers using software and operating systems from a single manufacturer makes for an ideal 'breeding ground' for computer viruses and worms. This should be considered a strong threat

to national and economic security. Structural remedies to break up the monopoly held by Microsoft seem to be the only method to resolve this issue.