

From: W. Picou
To: Microsoft ATR
Date: 1/16/02 6:22pm
Subject: Microsoft Settlement

Dear Sirs,

I understand that the Department of Justice is soliciting comments on the proposed settlement in your suit at law with the Microsoft Corporation. Whether these comments are of any use will be for you to determine.

If memory serves, Microsoft is accused of providing software to the general public without charge. If the suit had to do with the quality of the software being provided, I could see some basis for the proceedings. Unfortunately, what seems to have aroused Leviathan was the fact that the customer was not required to expend funds for the software received.

Perhaps things are done differently in the District of Columbia, but in most of the country giving something of value away for nothing is not actionable - it may get you a psychiatric evaluation, but it generally doesn't land you in court (except as regards that visit to the shrink). However, the full weight of the government has been brought to bear in the interest of preventing exactly what? Microsoft's domination of the burgeoning badly-designed-barely-functional-whoops-there-goes-another-blue-screen-of-death-operating-system-wanabe market? It may not have occurred to you, but did you ever consider that Microsoft owns the market segment it does because no other corporation will risk its reputation on such shoddy products.

There are ancillary issues - accusations of price-fixing, strong-arm exclusionary contracts, etc. But none of these have been proved, nor are most illegal - reprehensible maybe, not illegal. Set these against a flawed premise; a blatantly, irrationally, biased judge issuing Through the Looking Glass rulings; and the spectacle of Microsoft competitors using the Department of Justice as a stalking horse. Whatever sins or peccadilloes Microsoft committed pale in comparison to the deliberate actions committed by those in charge of this case.

If there were to be true justice in this case, the Department of Justice would proffer apologies to Microsoft, reimburse them for all of the expenses in this case, then initiate action against those state governments that are trying to blackmail Microsoft with further litigation. However, I am not foolish enough to suspend respiration until this comes about. I would think a pro-forma settlement would be acceptable, with no admission of culpability on either side. I would not think allowing (or requiring) Microsoft to stuff classrooms full of their product would be to anyone's benefit - the National Education Association is bad enough, why saddle schools with any more handicaps.

I have some sympathy with the predicament your department is in, but it is tempered by the knowledge that it is in the main self-inflicted.

Sincerely yours,

Wm. Picou

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