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**Subject:** Microsoft Settltment

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I wish to comment on the proposed Microsoft settlement, under the Tunney Act.

I believe that the proposed settlement contains many narrow definitions and provisions which will allow Microsoft to sidestep the terms of the settlement in the future.

A simple example of this would be the definition of a "Windows Operating System Product". The settlement defines this as simply Windows 2000, Windows XP Home, and Windows XP Professional and their successors. There are no provisions in the settlement which seem to restrict Microsoft from using their monopoly on Intel-compatible PC operating systems to hijack another similar market which isn't covered by the settlement.

Microsoft's current entry into the console gaming market via the X-Box is an example of this. Microsoft is willing to lose substantial money on each piece of X-Box hardware for the sole purpose of gaining market share in this similar market.

Once established, Microsoft can use their market dominance, this time including both hardware and software, to push rivals out of the market. After competition has been destroyed, Microsoft can simply add additional hardware to the X-Box, making it a fully-functional PC -- a PC who's operating system is not covered by this proposed settlement.

The above scenario may not be likely, but the possibility that it even exists shows that the proposed settlement isn't in the public's best interest.

According to the Court of Appeals ruling, "a remedies decree in an antitrust case must seek to 'unfetter a market from anticompetitive conduct', to 'terminate the illegal monopoly, deny to the defendant the fruits of its statutory violation, and ensure that there remain no practices likely to result in monopolization in the future'".

There are many other instances of problems with the proposed settlement, too numerous to mention here. The point that I'd like to make is that I believe the settlement doesn't go far enough to unfetter a market from anticompetitive conduct, terminate the illegal monopoly, deny Microsoft the fruits of its

violation, and ensure that there remain no practices likely to result in monopolization in the future.

Thank you for this opportunity to comment on these proceedings.

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