

From: Kyle R Krom
To: Microsoft ATR
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Subject: Microsoft Settlement

I am strongly opposed to the currently proposed settlement in the Microsoft case, and I will be very brief in explaining some of my reasons. (Disclaimer: My opinion is my own, and does not represent that of BASF Corporation)

I make my living as an administrator of UNIX systems and a developer of UNIX applications. Working with alternative operating systems is very challenging; not out of necessity, but because of anti-competitive behaviour from Microsoft. Microsoft's monopoly forces companies (and even government agencies) to use Windows operating systems and other Microsoft software applications. Any competing operating systems and applications must therefore be compatible with Microsoft's software in order to be accepted in a corporate environment. According to the Findings of Fact, Microsoft exploits this situation by knowingly producing artificial Barriers of Entry, in order to prevent competitors from being able to produce Microsoft-compatible products. This behaviour severely inhibits the ability of developers to innovate new products. Nobody has any interest in a new software application, if it is incompatible with Microsoft's widespread software.

In an attempt to remove the Barriers of Entry for Microsoft competitors, the settlement proposes that Microsoft should be forced to publish some of its products' API's. This is a fine idea, but it is implemented poorly. For example, the list of affected middleware specifically includes Microsoft Java (which Microsoft intends to discontinue) but not Microsoft.NET (which Microsoft is hailing as the successor). It includes Outlook Express, but not the more commonly used Outlook. It includes free software such as Internet Explorer and Media Player, but not Microsoft Office (in fact, even the file formats for Office documents will not be published -- how can a competing office suite survive if it cannot even reliably read and produce Microsoft Office compatible documents?). Also, the settlement affects current Microsoft operating systems such as Windows 2000 and Windows XP, but not their "next-generation" operating systems such as Windows CE or Pocket PC. On the whole, it seems that the Barriers of Entry to Microsoft's major applications will remain quite intact.

There are several minor loopholes in the settlement, with major implications. For example, the last paragraph of Definition J in the settlement goes out of its way to create a loophole whereby new versions of middleware products can avoid being affected by these restrictions, simply by failing to adhere to a specific version numbering system. I have to wonder whether such portions of the agreement were written solely by Microsoft's executives and ignored by the Department of Justice! Microsoft has certainly set numerous precedents of finding loopholes in previous anti-competitive restrictions; don't provide them with new ones.

I am also concerned about how the settlement's measures will be enforced. What

will happen if Microsoft violates the current agreement? Another trial that drags on for years, costs millions of dollars, and concludes with another poorly constructed settlement that contains no actual punishment?

Microsoft's behaviour is anti-competitive, anti-innovative, and anti-cooperative. It hurts software developers, and consequently it hurts consumers. If the Department of Justice refuses to punish this behaviour, it should at least prevent the behaviour from continuing. The current settlement proposal does not.

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