

ART PURCELL
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January 26, 2002

SENT VIA:

E-MAIL TO: Microsoft.atr@usdoj.gov

~~VIA FACSIMILE COPY TO: (202) 307-1454 or (202) 616-9937~~

The Honorable Colleen Kollar-Kotally
U.S. District Court, District of Columbia

c/o Renata B. Hesse
Antitrust Division, U.S. Department of Justice
601 D Street NW, Suite 1200
Washington, D.C. 20530-0001

Re: Microsoft Settlement

Dear Judge Kollar-Kotally:

I understand you are receiving comments concerning the proposed Microsoft settlement, and I have an opinion on the subject.

The antitrust case brought by the Department of Justice is not the first case brought against Microsoft concerning its anti-competitive actions. Unfortunately, settlement of those prior cases has not well-served the public interest in having Microsoft stop its anti-competitive behavior. Microsoft has a way of wriggling out of settlement language.

The language of the proposed settlement agreement is not tight enough to prevent future violations of antitrust laws. Some of the agreement's provisions grant too much discretion to Microsoft to determine if and when they will comply with some of its provisions and fail to address the tactics of "fear, uncertainty and doubt" that Microsoft has used on competitors' customers to drive them into Microsoft's camp and to squash competitors.

Microsoft has already been adjudged to have violated federal antitrust laws. Although break-up may be too harsh of a remedy, the remedy finally adopted by the court must consider past, as well the potential, for future violations of the same laws. The proposed settlement does not do this. It does not reduce Microsoft's power to impose anti-competitive conditions upon vendors, suppliers, retailers and competitors. Any settlement or court order must be tightly worded to

avoid any question as to Microsoft's compliance obligations.

Sincerely,

A handwritten signature in cursive script, appearing to read "Art Purcell".

Art Purcell

cc: The Honorable Mark Shurtleff, Utah Attorney General