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To: Microsoft ATR
Date: 1/24/02 11:54pm
Subject: Microsoft Settlement

I was in complete shock and outrage when I first read the Proposed Final Judgment.

I've been a computer programmer for the last six years, and have been a computer hobbyist for more than twenty.

I have used virtually every type of computer software and hardware during those years from Microsoft and its competitors.
Unlike the general public, I have first hand experience with most of the products that Microsoft has destroyed over the years through anti-competitive practices. In many cases, the competitors product was superior. There is no doubt in my mind that Microsoft has held the computing industry back more than ten years. Our world will never know what could have been achieved had the computing world not been crippled.

The settlement fails to provide the remedy needed for a healthy, productive and competitive technological industry.

In fact, it may be argued by many that the settlement actually strengthens Microsoft's monopoly and allow them to bully those that compete with them.

Here are just a few of the many points where the Proposed Final Judgment fails:

1. First and foremost, the settlement does not address Microsoft's ill-gotten gains. Microsoft is allowed to keep billions of dollars acquired illegally. How many convicted thieves are allowed to keep their stolen goods?

2. The three person technical panel created by the settlement has some glaring problems. The first problem is Microsoft gets to select one member of the panel, who in turn has a say as to who the third member is. Sounds like Microsoft basically controls the panel. The second problem is that the panel members are not allowed to disclose any information to the public. If Microsoft is in any violation, the public will not know.

3. No punishment for the executives of Microsoft that knowingly and willingly led their company into law breaking actions. A strong message must be sent to businesses that unlawful and unethical behavior will not be tolerated. Without such a deterrent, business are encouraged to act in whatever means will lead to their greatest profits. The burden then lies upon the victims. I do not want my tax dollars constantly spent

correcting wrongs that might not have occurred if the proper deterrents were in place.

4. While the API's used to communicate with the operating system will be documented and released, it will only be done for companies and business that Microsoft deems have a viable business. The Free Software movement has been acknowledged by Microsoft to be its biggest competition, yet they have publicly stated that businesses with a basis in Free Software don't have a viable business model. So, their toughest competition is excluded from the API's to begin with.

5. The duration of the restrictions is a mere 5 years, which is not a significant amount of time to reverse the detrimental damage caused by Microsoft. As a software developer myself, I can assure you it will take at least five years before a competitor can accumulate the necessary business infrastructure (funding, staff). It would probably take another five years before a useable product is developed. Also, if Microsoft is found to be in violation, there is no extension to the duration of the restrictions.

6. The settlement is full of loopholes for Microsoft to take advantage of. The main ones being the definitions defined in the Proposed Final Judgment such as API. I also find it alarming that the definitions have already been altered from the ones used in the 'Findings of Facts'. Microsoft has been found guilty in previous court hearings, and used the loopholes contained within those settlements to render them useless. What good will it have done to have spent so much taxpayer money, and have nothing to show for it. For examples of ways in which Microsoft may twist the meaning of the definitions to render them useless please read http://www.os2hq.com/archives/arch46.htm .

7. The settlement does not address the file formats used by Microsoft's Office programs. With each new version of Microsoft's office suite programs, they change the format of the documents created. This creates a barrier to entry for competing office software. It is also a means to force current customers in a never ending upgrade cycle, where they purchase the upgrade to be able to read the files sent to them by others, even though they themselves do not need the added features of the newer version.

A Final judgment that would be in the best interest of the consumer might include some of the following:

1. Microsoft would have to give a sum of at least $5 billion in cash to the Free Software Foundation. One of the goals of the Free Software Foundation is to support the development of software that is a viable alternative to Microsoft's products. Microsoft has publicly acknowledge d that Open Source is their most viable competitor. True competition can be brought about by helping fund the independent developers found in

the Open Source community.

2. Microsoft would have to pay the legal expense of any business that brings a legal case against Microsoft during the duration of the restrictions. This would prevent Microsoft's typical defense against competitor lawsuits: stalling. There are numerous cases that have never been brought against Microsoft because the company or individual didn't have the financial resources for the long, drawn out case that Microsoft's legal army executes.

3. All Microsoft executives and managers would have to enroll in a University business law and ethics class every year at the individuals expense for the duration of the settlement. They must attain a grade of of at least a 'B' or they must retake the course the following semester/quarter.

4. Any specification or API that must be known to offer a competing product must be well documented at least six months prior to Microsoft's release of the product. If the specification is changed, then the product released date must also be delayed.

5. Any contract between Microsoft and the major OEM's (Gateway, Compaq, Dell), ISV's (AOL, CompuServe), etc., must be approved by an independent panel.

6. If Microsoft is to bundle application software such as Internet Explorer with their operating system software, they must also include a competing product such as Netscape Communicator.

7. The true price of Microsoft's applications and operating systems must be listed as a line item when purchasing computers. Currently the costs of Microsoft's products are bundled into the hardware costs, and the consumer is unaware of the true price paid for the Microsoft product. If the price is listed, a consumer that feels it is too much, will inquire about alternatives.

If we set forth laws, and do nothing when those laws are broken, then there is no point to have our society.
Microsoft has violated the law, but the Proposed Final Judgment does nothing but ask them not to violate them any more.

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