From: F. David Marschka
To: Ms. Renata Hesse
Date: 1/28/02 2:01pm
Subject: Microsoft Settlement

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January 28, 2002

Ms. Renata Hesse
U.S. Department of Justice, Antitrust Division
601 D Street NW, Suite 1200
Washington, DC 20530

Ms. Hesse:

I would like to express my support for the revised proposed Final Judgment in the U.S. v. Microsoft case. This lengthy litigation has cost my fellow taxpayers and me more than $35 million, and after reviewing the terms of this Judgment, final approval is clearly in the public interest.

Perhaps of greatest benefit to the American people, the Department of Justice (DOJ) and the settling states will avoid additional costs and now be able to focus their time and resources on matters of far greater national significance – the war against terrorism, including homeland security. As noted by District Court Judge Colleen Kollar-Kotelly, who pushed for a settlement after the attacks of September 11, it is vital for the country to move on from this lawsuit. The parties worked extremely hard to reach this agreement, which has the benefit of taking effect immediately rather than months or years from now when all appeals from continuing the litigation would finally be exhausted.

The terms of the settlement offer a fair resolution for all sides of this case – the DOJ, the states, Microsoft, competitors, consumers and taxpayers. Microsoft will not be broken up and will be able to continue to innovate and provide new software and products. Software developers and Internet service providers (ISPs), including competitors, will have unprecedented access to Microsoft’s programming language and thus will be able to make Microsoft programs compatible with their own. Competitors also benefit from the provision that frees up computer manufacturers to disable or uninstall any Microsoft application or element of an operating system and install other programs. In addition, Microsoft cannot retaliate against computer manufactures, ISPs, or other software developers for using products developed by Microsoft competitors. Plus, in an unprecedented enforcement clause, a Technical Committee will work out of Microsoft’s headquarters for the next five years, at the company’s expense, and monitor Microsoft‘s behavior and compliance with the settlement.

Most importantly, this settlement is fair to the computer users and

consumers of America, on whose behalf the lawsuit was allegedly filed. Consumers will be able to select a variety of pre-installed software on their computers. It will also be easier to substitute competitors’ products after purchase as well. The Judgment even covers issues and software that were not part of the original lawsuit, such as Windows XP, which will have to be modified to comply with the settlement.

This case was supposedly brought on behalf of American consumers. We have paid the price of litigation through our taxes. Our investment portfolios have taken a hard hit during this battle, and now more than ever, the country needs the economic stability this settlement can provide. This settlement is in the public interest, and I urge the DOJ to submit the revised proposed Final Judgment to the U.S. District Court without change.

Sincerely,

F. David Marschka