

## **The Feds Should Let Microsoft Be Microsoft**

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The Justice Dept., backed by Attorney General Janet Reno, is seeking record fines of \$1 million a day against Microsoft Corp. unless it stops alleged anticompetitive practices involving the tie-in of its Internet browser with Windows 95. I believe that these kinds of government attacks on the leading software company will harm the performance of an industry with the most sustained and rapid technological advance in modern times.

Only lawyers schooled in arcane language can figure out if Microsoft violates a 1995 antitrust "consent decree" when it threatens to revoke licenses for Windows 95 unless manufacturers install Microsoft's Internet browser. However, this interpretation of the decree clearly is no boost to industry progress.

This tying-together of Windows and Microsoft's browser may give the company a temporary edge in the browser market against Netscape Communications Corp. But history shows that such advantages are usually of little consequence for the development of the industry. Apple Computer Inc., an early leader in personal computers with its easy-to-use icons, stumbled badly in the 1980s. It soon became a minor player.

POOR GUIDE. The same fate can await Microsoft, especially if, as many leaders of the industry believe, most computers mainly become machines for communicating with other computers through the Internet and other networks. Microsoft might then be at a competitive disadvantage as it adds bells and whistles to an operating system that becomes too expensive.

It is difficult to tell what is a product tie-in within the software industry because products merge almost seamlessly. Windows already incorporates many applications in its operating system, such as graphical user interface and font types. With a slightly different time sequence of innovations, Microsoft's browser from the beginning could have been part of what was called Windows 95.

The Justice Dept. apparently is basing its current case against Microsoft on the concept of "network externalities." This refers to an early standard, such as a computer operating system, that greatly influences future standards because of the need to communicate among compatible machines. Network effects are obviously at times important, but alleged network inefficiencies are a poor guide to antitrust policy because they are difficult to document.

I am not advocating the abandonment of antitrust actions against fast-moving industries, but rather the confinement of government cases to price-fixing agreements, the traditional bread and butter of antitrust. These agreements can usually be clearly documented. More important, they invariably are anticompetitive and harm consumers, whether in computers or in a slowly changing industry such as combat boots.

SWIFT JUSTICE. Products and operating systems in the computer industry continue to change rapidly, driven by fierce competition and easy entry of new companies. Courts and bureaucrats move too slowly and lack the up-to-date knowledge required to determine whether particular systems or standards are pro- or anticompetitive. Competition more quickly and effectively will punish companies that try to impose on their customers costly and inefficient products or standards.

IBM's experience with tie-ins and its fall from the leading position in computers illustrate the pitfalls. In the early days of this industry, data were entered into large computers through magnetic cards. IBM, which had a huge share of the computer market, forced companies that bought its computers also to buy its punch cards. Justice alleged that this tie-in of cards and computers extended IBM's monopoly power over computers into the competitive card industry.

Before long, cards were made obsolete through the development of electronic storage of data, and IBM's efforts to force the purchase of its cards was of no consequence. This tie-in case was the first in two decades of government antitrust attacks against IBM that probably contributed to its sharp decline in importance as the computer industry changed drastically. Since IBM was arrogant and self-confident, antitrust suits against Big Blue were popular. Bill Gates and Microsoft are also said to be arrogant and unrepentant, but personal attitudes and popularity are no basis for public policy.

The reaction that began in the Justice Dept. in 1980 against problematic antitrust interventions should continue. The government should "cease and desist" from bringing dubiously grounded antitrust cases against innovative competitors, even when they are imperious and unpopular.