



JUSTICE DEPARTMENT NEWS CONFERENCE

**SUBJECT: JUDGE'S FINDINGS OF FACT IN MICROSOFT ANTITRUST
CASE**

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0520.

ATTY GEN. RENO: This is a great day for American consumers. We're so pleased with the court's findings, for they fully support the department's view that this case is about the protection of innovation, competition and the consumer's right to choose the products they want.

I want to thank Joel Klein and the Anti-Trust Division for the extraordinary job that they have done in representing the United States in this landmark case and to our partners in the state attorneys general's office, thank you so very much.

I am so proud, and everyone at the Justice Department is so proud of all the people who have been involved in this effort. And now I'd like to ask the man who has had so much to do with it and deserves so much of the credit, Joel Klein, to say a few words.

MR. KLEIN: Thank you, Madame Attorney General. We're enormously pleased by the court's decision today. The judge found what the department charged and what we introduced mountains of evidence to demonstrate at trial -- which is that Microsoft is a monopolist and it engaged in massive anti-competitive practices that harmed innovation and limited consumer choice.

This is truly an important victory for America's consumers and for the American economy. It shows once again that in America, no person and no company is above the law. I'm enormously indebted to David Boies and Phil Malone (ph) for leading our trial team and indeed to the entire trial team, lawyers and economists for putting on a first-class trial, for representing the United States with all of the dignity and all of the sophistication that one could hope for.

On my immediate team, Doug Millimen, my principal deputy and Jeff Blatner (ph), my special counsel in this area, have lent tremendous support to this effort.

Above all, Madam Attorney General, your leadership, your willingness to put the department on the line in this critical matter, and your support throughout has been

absolutely essential and wonderful. And I am proud to have served and to continue to serve with you.

Finally, I want to turn this over to my good friend, Dick Blumenthal. And in doing so simply say that the work done with the states in the United States on this, the seamless effort came through. And we were able to accomplish something I think critically import. Dick.

MR. BLUMENTHAL: Thank you. Thank you very much, Joel, thank you, Madame Attorney General. This effort really has been a very powerful partnership, a real alliance between the states and the federal government on a scale unprecedented before.

And I simply want to remind all of you that my colleagues, some of the other attorneys general, will be speaking on a conference call at about 7:15 and we can provide you with the details.

It has been truly a partnership aimed at the day that we've reached here. Very compelling and powerful findings, picturing a predator that has misused monopoly power. There are three core findings here: Microsoft has a monopoly, it has abused that monopoly and it has harmed consumers, as the judge has found very specifically, in an immediate and easily discernible way.

Those are serious and far-reaching violations that should lead to serious and far-reaching remedies. And we do not rule out any of the remedies that may be available.

When I was here and we announced this action, I said that it was a D-Day for consumers across the country. Today we have established a solid beachhead -- a very significant legal base for moving forward to liberate this industry from the monopolistic power that Microsoft has exerted to the harm of consumers across the country.

And let me conclude by stressing that point, because it is the point that brought us to the courtroom as attorneys-general. We have heard from people who buy computers,

people who make computers, people who distribute software, people throughout the industry who have seen firsthand the harm that the judge compellingly finds in this opinion. And it is that harm that has been vindicated -- our effort been vindicated today. And we look forward to the next stage in continuing this very important partnership.

MR. KLEIN: Thank you, Dick. We'd be happy to take any questions.

Q What kind of far-reaching remedies would you envision here?

MR. KLEIN: I think it's appropriate now to go forward as the judge has ordered to discuss the conclusions of law. At the end of that phase, there will be further proceedings I anticipate with respect to remedy and we will continue to do our analysis. I think it's premature to discuss the specific remedies at this point.

Q Mr. Klein, -- (inaudible) -- still finds that they support Microsoft and have many questions about the case that the Justice Department has launched. Do you expect any political backlash if this ruling were to break up Microsoft?

MR. KLEIN: Well, first of all, our view of this is that the judge spoke on the findings of fact. I have massive evidence to support that, and we think those findings speak for themselves. I welcome scrutiny of the court's opinion, thorough public discussion of it. And I am confident that people will conclude precisely what we have said, which is, as the judge found, there has been substantial harm to consumers and to innovation. And I think that's critical.

Q Price of this stuff have gone down, and the judge in his finding said that prices have continually gone down in this thing, and that is in one large part one of the reasons why competition or alternative systems can't compete.

MR. KLEIN: Well, the findings are detailed. Let me just say to you first of all, the judge made clear that there was

real harm to innovation. That is, products that would have come to market were impaired, which is something that consumers don't immediately know about but is absolutely critical.

Second of all, consumers were denied real choice. They were harmed in what their options were on several key pieces of equipment in this industry. And that's the harm that we alleged and significantly, the judge found that harm today.

MR. BLUMENTHAL: You might -- you might if I may just point you in a direction, you've probably already seen it, but the paragraphs in the 60s, which deal with price. And the concluding part of the findings that deal very specifically with innovation are both very dramatic and graphic in the way they describe the harm. Yes, sir.

Q Do you mean page 60?

MR. BLUMENTHAL: The paragraph. The paragraph number.

Q Do you think the finding, since it's in favor of the Justice Department, will renew efforts by Microsoft to negotiate a settlement of this? Are you still open to a settlement?

MR. KLEIN: We have always said that we are prepared to discuss settlement so long as the important competitive issues are fully addressed. These concerns about consumer choice and innovation are critical to this nation and any settlement would have to fully and properly address those.

Q Could you walk us through what happens next, what the next phase of the process are? How do we get to the remedy phase? Are there oral arguments?

MR. KLEIN: Yeah. The judge issued an order simultaneous with his opinion today. He set a briefing schedule that will go from now on until January 31st with respect to conclusions of law.

So there will be briefs by the parties. At the close of

that, he said he would reach his conclusions and then determine what, if any, proceedings would be appropriate for the remedy phase. So, that's what he ordered today, and that's all we know in that regard.

Q Mr. Klein, do you agree with General Blumenthal that it was clear that Microsoft has been declared a monopoly? I didn't have a chance to read the whole thing. I did see -- (inaudible) -- step-by-step those elements that might make up a monopoly. Are you willing to say that this ruling definitively declares Microsoft a monopoly?

MR. KLEIN: Page in and page out. It finds that Microsoft has monopoly power and that it has abused that power. It finds, critically, that Microsoft's corporate practice was to pressure other firms to halt software development that either showed the potential to weaken the applications barrier to entry or that competes directly with Microsoft's most cherished software products. That is a blanket critical finding.

Q Do you think he -- he doesn't actually come out and say Microsoft is a monopoly.

MR. KLEIN: He says that several times. Numerous times. Numerous times. Page 16.

Q (Inaudible) -- I mean, do you feel that the conclusions of law will be rather short compared to this?

MR. KLEIN: Well, I don't want to comment now. We're still reviewing the findings, obviously.

Q Are there any areas in which Judge Jackson perhaps even went beyond what you argued in court as to consumer harm, et cetera?

MR. KLEIN: I don't believe so. I believe that the judge's opinion reflects the evidence that was put on trial. I've always said in this case -- I think many of you've heard me, that you often remind me of the genesis of -- but, I've always said facts are stubborn things. Today's ruling

proves that point.

Q Is there anything that disappoints you in this?

Q How can you -- you keep saying the judge calls this a monopolist case and all these other, you know, horrible things like competition, how can there be a remedy other than splitting up this company that you would be seeking? I mean, isn't that logical?

MR. KLEIN: Well, I think it is premature at this point to discuss remedy. I think the judge has done exactly what my father used to say to me when I was a kid is that the mother ought to kiss the children one at a time. (Laughter.) And we plan to work through this process one step at a time.

MR. BLUMENTHAL: I'll have to remember that.

Q Mr. Klein?

MR. KLEIN: Yes sir.

Q Based on the track record in other cases, can you tell us what your view is of the effectiveness of conduct remedies verses structural remedies?

MR. KLEIN: I don't think it is appropriate. I really do believe, and I said this, I think we need to have the conclusions of law, and then we will consider what the appropriate remedies are. I agree with General Blumenthal that there is a serious competitive problem that's been identified here and that it merits serious remedial redress, but I think more than that would be premature.

Q As far as impact on the consumer is concerned, can you compare this to the breakup of the Bell system as to the potential benefits to consumers we might get here?

MR. KLEIN: I don't think it's appropriate to compare it in a sense that, obviously, each market and each case presents its own facts. What I think there are here today are

critical findings about the significant harm to consumers. For example, "Most harmful of all," says the judge, "is the message that Microsoft's actions have conveyed to every enterprise with the potential to innovate in the computer industry. Through its conduct towards Netscape, IBM, Compaq, Intel and others, Microsoft has demonstrated that it will use its prodigious market power and immense profits to harm any firm that insists on pursuing initiatives that could intensify competition against one of Microsoft's core products." It is precisely that message, the harm that it has caused, and the harm that it would cause going forward that are at the heart of this case and the concerns that led the department, along with our partners in the states, to bring this case to court.

Q Where is that quotation --

MR. KLEIN: That is the final paragraph of the case. Paragraph 412 on pages 206 and 207. Sir?

Q Mr. Klein, is any appeals court now limited to these set of facts, or is the competitive landscape going to change -- (inaudible) -- between now and the appeal. And should the court take that into consideration, for example, if Netscape again became the leading browser?

MR. KLEIN: I believe the record in the case is closed. The facts are the facts of this case. I don't think you are going to see the kinds of changes one predicted. I think the durability of this monopoly is demonstrated on the record of this case.

Q Sir, Microsoft, one of the arguments that came up in the midst of the case was brought about by the merge of Sun, Netscape, AOL, that deal, demonstrating, in Microsoft's view, that it was a very vibrant field with, constantly changing and so on. Is this not taken into account in any way in the finding of fact?

MR. KLEIN: I think the court actually went through that evidence in careful detail in numerous paragraphs, and it would ill serve you if I were to try to summarize it. It is

there, carefully done. I would say the following to you. There is no question that as an industry, the computer industry, the high-tech industry is dynamic and vibrant. However, there is no question that with respect to the desktop monopoly and its impairment on innovation on those critical areas, the court's findings today made clear what the correct vision is and what the correct facts are.

MR. BLUMENTHAL: And, you know, it was a dynamic and vibrant industry at the time of these abuses. And, the finding that there's a monopoly, that that monopoly was abused, that there was immediate and direct harm to consumers, are all the critical findings that are essential to this case and to establishing a remedy. And the findings that are part of this case establish the need and vindicate the action that we brought.

Q How does this affect --

Q Are you going to continue to search -- to encourage other lawsuits at home and abroad? And will Mr. Boies be permitted to take cases, civil cases pursuant to the findings in this case?

MR. KLEIN: Number one, we have never urged anyone, encouraged anyone in any way to bring any other litigation.

That is simply false. I have said that in numerous fora.

Number two, Mr. Boies has no interest in and by law is prohibited from representing people in related matters. And Mr. Boies is one of the most ethical, professional and competent lawyers I've ever had the pleasure to work with, and I can assure you that his standards will stand up to any of those who might falsely accuse him.

Q How does the monopoly ruling affect Microsoft and its business activities going forward?

MR. KLEIN: Well, I think it will have legal effects in other cases, Jim.

(Cross talk.)

Q After so many -- sorry, Mr. Boies, after almost a year in the courtroom, perhaps you'd like to --

MR. KLEIN: Say something.

Q Make a few comments about the resolution of the case.
(Laughter.)

MR. BOIES: No, I had my shot in the courtroom.

REPORTERS: Could you go to the mike please.

MR. BOIES: Okay.

Q Speculate a little bit.

MR. BOIES: All right. (Laughter.)

MR. BLUMENTHAL (?): You're the man, go ahead. They want to hear from the man. (Laughter.)

MR. BOIES: (Laughs.) I think this --

MR. KLEIN: We'll hire him anyway.

MR. BOIES: (Laughs.) I think this opinion speaks for itself. I think it's a very careful, reflective opinion. I think the judge goes through the issues in a very thorough way. I think those findings are the findings that those of you who sat in the courtroom heard during several months of trial. In some senses, this is not a surprise. In a lot of ways, this is exactly what the evidence showed, and exactly what the evidence showed starting in October and November and December and January and February and then during the rebuttal case again.

I think that this opinion reflects what the facts are. I think it reflects what the evidence showed in court. Obviously we're pleased with it, but I really think the

opinion speaks for itself.

Q Mr. Klein, so much time has elapsed since you filed this case, and there's a lot of time ahead of you with potential appeals and further proceedings. Is there any chance that this case is actually going to affect the markets that you were concerned about when you first filed it?

MR. KLEIN: I believe this case will have an important impact on the economy and on the markets in this industry, the critical markets that are affected. I believe that, and we will continue to move forward.

I do think it's actually quite remarkable that a case of this significance, this complexity and this length has been brought from the filing of a complaint to these findings today in essentially a year and a half. I think that is a record, and I think it speaks well of the entire process.

Q Will this decision have any impact on the consideration of mergers in the high-tech industry by this department?

MR. KLEIN: I don't see any specific, direct relationship between these issues, but maybe I don't fully grasp --

Q Do you think that the affect of the findings are in favor so strongly of the government's case that it will deter other high- tech companies from growing to such a monopoly power and exercising that power in the same way the Microsoft did?

MR. KLEIN: I certainly that it deters companies from abusing the market through the exercise of anticompetitive practices along the lines that the judge found here. That would be a great boon to our nation.

Q Sir, a year or two from now, when somebody's shopping for a computer, what benefits are they going to see coming out of this?

MR. KLEIN: Well, you see, I think they're going to see greater choice. If you go through the opinion, the judge

starts from things like choice with respect to the boot-up sequence, to choice with respect to browser products, to choice with respect to Sun and the Java products. These are all important issues that consumers obviously would want choice.

Then, as the judge points out, the critical thing about innovation that didn't occur is you don't know yet what you're going to lose, but we believe in markets. Take this bottleneck, these anticompetitive practices out of the market, and let the competitive juices flow, and then two years from now, we can talk about a lot of the great things that consumers would get as a result.

Q I thought you started to say in answer to a question over here that this ruling will have legal effects on other cases.

Do you mean private cases, or can you elaborate on that?

MR. KLEIN: I think under the law, there's -- depending on the conclusions of law, but there are so-called collateral estoppel implications from one case to another, the details of which I am not prepared to comment. But as a matter of law, there are effects from one case on other cases.

Q Private case? In other words, a private case wouldn't have to reinvent the wheel and establish everything all over?

MR. KLEIN: On issues that are encompassed in the judgment that are fairly found, yes.

Q In the final judgment.

MR. KLEIN: In the ultimate judgement, that's correct.

Q Not in this judgment --

MR. KLEIN: My view is that it will be in the ultimate judgment, although I do think there would be some question about what the collateral effect of these ruling would be

in any case, John.

Q Mr. Klein, do you have any opinion about Microsoft's efforts to reduce the funding levels of the increase that Clinton has proposed to the Department of Justice Antitrust Division?

MR. KLEIN: I'm happy with the ruling today. (Laughter.)

Q On a more personal reaction level, with all the courtroom theatrics that you witnessed, and Mr. Boies, if I could get your too, was there any significant missteps that Microsoft or this case turned on?

MR. KLEIN: You know, I'm not one -- I think theatrics are always interesting, and there were some fun moments in this trial. I think this case was about the evidence. And I think the thing that David and Phil Malone (ph) and our other colleagues did was is they brought the evidence to trial, put it on, and let the facts speak for themselves.

I think that's what this opinion is all about today, and I don't think it's about theatrics or the kind of things that sometimes affect day to day headlines. There was a seriousness with which the court's opinion proceeds that will be evident to anyone that who reads through 206 pages.

MR. BOIES: And as you well know, anyone sat through even a part of the trial, a lot of the evidence, some of the most damning evidence, was Microsoft's own business records, testimony and admissions from its own witnesses, it's own e-mail. The overwhelming quality of the evidence that supports these findings is what is so impressive.

Q Mr. Klein, you won a favorable ruling from this judge before that was, I guess, reversed on appeal. Do you expect -- what do you expect going forward from this? (Off mike.)

MR. KLEIN: I think we'll take it one step at a time. But I do think it's very clear, as I've said many times: the last ruling was not based on extensive factual findings, and it was based on a consent decree that had its vagaries. This

ruling today is based on massive evidence -- I'm confident about that. And any ruling on the law will be based on the anti-trust laws. And I look forward to those rulings as well. Thank you all very much.

END.