From: Irv Alpert
To: Microsoft ATR
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Subject: Microsoft Settlement

To whom it may concern:
To quote Mark Da Cunha, is Microsoft a "predator" as the Department of Justice insinuates? A predator is someone like Adolph Hitler who kills people in concentration camps, or a member of the mafia who hunts down a neighborhood businessman for not obeying his wishes. A predator is someone who initiates the use of physical force. Microsoft has pointed a gun at no one. Clearly, a far stronger case for predatory acts can be made against the Department of Justice-who seeks to violate Microsoft's rights by taking control over its property -- than for the make-believe "predatory" acts Microsoft is accused of.

Is Microsoft a "monopoly"? Not in the proper, derogatory, traditional sense of the term. Unlike the old AT&T Bell monopoly, or today's U.S Post Office monopoly, Microsoft did not gain its market share by having the government outlaw its competitors: Microsoft earned its position in the free-market. All real monopolies are the result of the government giving a business a "monopoly" -- exclusive control of a given market by outlawing the entry of competitors. Free competition is not some Marxist, egalitarian, "perfect" ideal where all competitors end up with an equal market share of a given industry. Whether in sports, or in business, the whole point of competition is to beat your competitors-even to the point of having them going out of business. Bigness should not be confused with monopolistic; size is not a criterion of wrongdoing; success is not a crime.
Did Microsoft halt "innovation"? Innovation is the process of discovering a better way to do things. No private business can stop other companies from innovating except by out-innovating them, or by buying them out (in the which case the buyer would want the acquired company to innovate even more). The only way to halt innovation is by the threat of physical force, which is a legal power that only governments possess.
Did Microsoft "twist the arms" of its competitors? This sloppy metaphor is a vicious lie. Only the government has the legal power to twist-and even break-arms. The only "twisting" Microsoft engaged in was the legitimate practice of setting the terms of sale for its property. By what stretch of the imagination, does the Department of Justice conflate "arm-twisting" with Microsoft's refusal to license its products to vendors who do not accept its terms? This is not coercion because if a vendor refuses Microsoft's offer and walks away (and he is free to), the vendor will be no worse off then if he did not deal with Microsoft in the first place. For a real example of "arm-twisting" see what happens when you refuse to hand over half your income to the IRS next April.

Did Microsoft "hurt" competitors like Netscape by giving away a free

Internet browser with its Windows operating system (when Netscape wanted to charge you $30)? No more so, then when McDonald's bundles its meat patties with a McDonald's bun does it hurt all the bread makers. Such actions may frustrate their competitors wishes, but their rights are left untouched.
Did Microsoft violate the rules of competition? It is the application of the political principle of individual rights to the economic realm of production and trade that gives rise to the rules of free-competition. To determine whether Microsoft violated the rules of competition; therefore, one has to determine whether Microsoft violated anyone's rights. Clearly, Microsoft did not violate the rights (life, liberty, and property) of anyone.

Yet, in the name of "protecting" competition, it is these inalienable rights that the antitrust process ignores in favor of such subjective considerations as the "public interest" (which fails to include the interests of the millions of members of the public who do not side with the Department of Justice), the "consumer interest" (which the Department of Justice has awarded itself the title of official spokesperson for), and "relevant markets" (the government defines the relevant market small enough so that Microsoft becomes a monopoly, even though Microsoft comprises less then 4% of the computer industry). Such "protection" is tantamount to helping a man to see by thrusting burning coals into his eyes.
By allowing judges to sidestep the issue of rights in favor of considerations, such as the "public interest," the antitrust laws effectively grant government the power to violate Microsoft's rights, i.e. the power to take over and control Microsoft's property against use it against Microsoft's interests. Thanks to the antitrust laws once a judge has arbitrarily classified a business as a "monopoly", the government is given free rein to: plunder of vast sums of money from Microsoft's bank account (through triple fines for so-called "damages"); replace Bill Gates with a government "overseer" who will make the important strategic decisions at Microsoft; force Microsoft to advertise and distribute its competitor's products; compel Microsoft to give up its "trade secrets" and intellectual property to those who condemn it. From start to finish the entire antitrust process is no more than a process of sacrificing successful American businesses-such as Microsoft, ALCOA, US Steel, Standard Oil -- on the guillotine of egalitarianism to appease envious competitors. Or, to quote Alan Greenspan, who upon a complete examination of the theory and history of the antitrust laws wrote that "...the effective purpose, the hidden intent, and the actual practice of the antitrust laws in the United States have led to the condemnation of the productive and efficient members of our society because they are productive and efficient."

The truth of the matter is that Microsoft is not the predator; Microsoft is the victim. The real predators are the bureaucrats in the Department of Justice when acting according to the antitrust laws, second-rate

competitors-like Sun, Novell, and Netscape -- who seek to profit from the government's actions (what do they think will happen when the government under the antitrust laws deems them "too successful" in their "relevant market"?), and the anti-capitalist intellectuals who support them. Businessmen like Bill Gates are the one group of minorities that best symbolize the American way of life: that of a free, moral, rational, capitalist society.

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