FOR YOUR EYES ONLY

The Federal Trade Commission began investigating Microsoft in 1990 for its marketing practices and incentives offered to Original Equipment Manufacturers (OEMs) and resellers. OEMs are in the business of building computer systems and reselling them to other computer dealers who then put their own brand name on them and sell them to retail stores. OEMs frequently provide software on the systems they sell, so that resellers can then sell complete system packages directly to the consumer. According to Microsoft, the FTC's 1990 investigation focused on a wide range of practices including: (1) that Microsoft gave its developers of applications software information about its operating systems software before providing it to other applications developers; (2) that Microsoft engaged in selling "vaporware," by announcing that it was developing a non-existent version of its operating system or application software to dissuade OEMs from leasing a competitor's operating system; and (3) that Microsoft required OEMs that licensed its operating system software also to license Microsoft applications. Also alleged were ties between application and operating system software. This means that when switching to a competitor's operating system, an OEM would not be able to switch to other Microsoft products such as MS-Word or MS-Excel on their systems and not load their competitor's applications such as WordPerfect or Lotus 1-2-3.

DOJ TAKES OVER

When faced with the decision whether to file a complaint against Microsoft, the FTC deadlocked 2-2, thus suspending the agency's investigation. The DOJ finally took over.

The FTC INVESTIGATION

CONSPIRACIES

FOR YOUR EYES ONLY

Microsoft Corporation is the source of much folklore and fear. Founded in 1975 by Harvard drop-out William Gates III, Microsoft has made Microsoft the object of Department of Justice investigations as to possible anti-competitive practices. There is strong evidence of continued anti-competitive practice as Microsoft attempts to crush competitors in the Internet software market by forcing computer resellers to load their World-Wide-Web (WWW) browser, Internet Explorer, and other related products exclusively or face sharply higher license fees. Worse, Microsoft has created a software program called "ActixX," which allows anyone to directly access a user's PC while connected to the WWW, without the user's knowledge or consent.

This is the first in a series of articles on the subject of the ongoing Department of Justice investigation of Microsoft. This first article will review the history of the investigations beginning in 1990 and leading up to the Spring of 1996. The second installment will discuss the current investigation which Microsoft confirmed on September 20 of this year, and which is probably the result of letters from Netscape, O'Reilly and Associates and several Internet gurus explaining about Microsoft's "anti-competitive tactics." The final article will explain in layman's terms some of the nefarious software tools such as ActixX which Microsoft has developed. It will also explore the issue of conspiracies referred to in this article's title. Nicholas Petreley reflects the sentiment of many in the Internet software industry when he writes, "Down to the wire," he writes: "In the Bible, in John 8:44, it says of the devil: 'When he lies, he speaks according to his own nature.' I'm not one of those who think Bill Gates is the devil. I simply suspect that if Microsoft ever met the devil, it wouldn't need an interpreter." (InfoWorld, 9/16/96) (It comes to judging Microsoft products, the devil is in the details.)

A TALE OF TWO CONSPIRACIES - THE MICROSOFT INVESTIGATIONS

By Rick Hombbeck

The Loyola Law School Student Newspaper

Volume 20, Number 3; December 1, 1996

919 S. Albany St., Los Angeles, California 90015

CALIFORNIA FREEDOM SUMMER

By Cristelle Conan an

1996 PILF Grant Recipient

California Freedom Summer is a project of the National Lawyers Guild, aimed to defend civil rights in California. Through this program, students come from all over the country to work in one of three areas of focus: immigration, prisoners' rights or affirmative action. As a PILF grant recipient, I volunteered for "A Lawyers Guild, aimed to defend affirmative action, at the No on 209 Campaign in San Francisco.

Prop. 209, the so-called California "Civil Rights Initiative," is a deceptive and divisive attack on affirmative action programs. The campaign's programs would eliminate affirmative action, but actually would ban affirmative action programs, designed to remedy race and gender discrimination in public employment, education and contracting. The No on 209 Campaign consists of over 200 sponsoring organizations committed to preserving affirmative action and all attempts to limit opportunities for people of color and women. The campaign sought to achieve its primary goal of urging Californians to see beyond the rhetoric and to consider the real dangers of Prop. 209.

In efforts to educate people on affirmative action and alert them to the pending attacks on these programs, our office worked on a wide range of jobs, from stuffing envelopes for fundraising projects to surveying California legislators to keep them informed of upcoming conferences and coordinating houseparties. The campaign coordinated speakers for various groups and events, updated sponsors on campaign developments and sent out legislative alerts on several bills similar to Prop. 209.

As an assistant to the Northern California Campaign Coordinator, I took on several projects to fulfill and develop the campaign's strategy. I prepared legal memoranda for the research department, which sought to provide a solid and reliable source of information used to educate the public and the media. To further outreach efforts to develop campaign strategies, I surveyed public officials and private organizations to identify a network of support as well as to educate others about affirmative action and the serious legal, economic and social consequences posed by Prop. 209.

In addition to internal projects, I volunteered with a few of the campaign's sponsoring agencies. As a volunteer for Californians for Justice, I registered voters and petitioned signatures for "A Million Voices for Justice," a project aimed to educate and involve people in the fight to preserve affirmative action.

As a Filipino American, I was aware of the special issues affirmative action raises among Asian Pacific Americans, and thus extended my efforts to the Asian American community. As a member of the educational materials committee for Asian Pacific Americans for Affirmative Action, I worked with many dedicated individuals to build support among Asian Pacific Americans, countering the wide-spread misconception that Asian Americans have "made it" in society.

APA-AA's goals included educating Asian Americans about language discrimination and other forms of discrimination based on stereotypes. I collaborated with other Asian American agencies to develop a multi-lingual brochure that explained the legal issues involved in Prop. 2, and adopted a Southern Californian version for the Asian Pacific American Legal Center. APA-AA distributed the brochure at citizenship ceremonies and adapted it for use in voter guides and school mock voting programs. As part of the project, I sought out Asian American politicians and other community leaders who supported affirmative action and translators in various Asian languages. I also contributed to a more comprehensive booklet entitled, "We Won't Go Back: Asian Americans and Affirmative Action," which detailed myth-busting facts about affirmative action and Asian Pacific Americans.
First Annual Loyola Law School Public Interest Concert

By Pezhan Arzadian

Background:
I am a first year evening student and the evening SBA Social Chair. I am responsible for all student social activities on or off campus. Recently, I have unified the day and evening SBA social activities, so that any off campus activities for day students are now combined with the evening students events. This is to promote unity and communication between the evening and day students. I used to promote concerts and dance clubs about six years ago and have extensive experience in organizing activities as the one I am proposing. I ceased promoting when I began work as a paralegal and started college. However, during the last four months I have utilized my promoting skills in my duties as social chair organizing 4 mixers at local dance clubs and lounges without using any SBA funds. I negotiated waiver of cover charges and got drink specials for the students. Our Halloween Party brought in over 400 Loyola students. The mixers have been extremely successful in promoting networking between different students. This proposal has been well researched and thought out.

Goal:
This event is designed to accomplish the following goals:
- Raise funds to donate to public interest groups with which our school is affiliated with. (e.g.: Public Counsel, Operation Role Model, etc.)
- Promote good publicity for Loyola Law School and place the school as a leader in community involvement in the public eye.
- Provide Internet access for Loyola Law students.

Background:
There are also several messages we would like to deliver to the public:
- Loyola is the leading law school in Los Angeles for community advancement and public interest.
- The concert will attempt to represent many of the ethnic and racial communities of Los Angeles. This will provide the message of unity between a multi-cultural community and exemplify the diversity of our school.
- Bonding through music. Music has been one of the oldest, most traditional means of celebration and bonding.
- No dream is beyond your reach. This is a personal message I would like to deliver. Should this concert go through, it will be proof of that statement. It began with a vision from a first year law student. Acting upon that vision, with motivation, drive, and persistence is what will make it become a reality. This is the whole goal of education. This message will provide an incentive and motivation to students around the nation that they can make a difference. Our community will be a better place if everyone sees themselves as a significant factor that can be responsible for something positive. If I could make any vision a reality, then there may be thousands of students that may make that step towards making their visions a reality also. It will promote community involvement and advancement through action.

Structure:
This is to be a three hour concert held at the main Loyola Marymount Campus. I imagine an outdoor concert in spring at the Sunken Gardens. It will hold over 6,000 people. From 6:00 to 9:00 we can have the outdoor concert. We will then move everyone into the gym for a dance party hosted by a popular radio station until about 1:00 a.m. The tickets should cost about $30 per person. They will be made available to the Loyola law students, undergraduate students and alumni before we open ticket sales to the general public.

Artists:
I have made great progress on this part of the planning. My goal is to have Sheryl Crow perform. She is active in public interest. I have contacted her booking agent and they asked me to fax a proposal. Also, I have found a second year law student who works for Sheryl Crown's attorney. The attorney speaks to Ms. Crow personally on a daily basis. This law student has agreed to put me in contact with the attorney and it looks optimistic. I have furthermore, through discussion of my idea, been approached by many students who work in the entertainment and music industry who have offered their assistance in recruiting celebrities. Lyndie Green, Externship/Pro Bono Sr. Secy., Of Loyola, has put me in contact with a very popular African American group called For Real. I have also met with a fellow student that works for a record label. She told me that she will bring famous artists that will play for free. A popular group called The Lovin' Misery's have recently agreed to play for free if the concert goes through. Their lead singer was from a group called The Rave-ups who were in the movie "Pretty in Pink" and the drummer is from Concrete Blonde (very famous rock band). I have also met a student that works for the popular radio station 102.7 (KIIS FM) who said that he can have them perform. M.C. and D.J. the dance party and have it live on air. This will be invaluable publicity. I feel extremely confident that I can get the artists and the radio stations to participate in this event. The student support is extremely encouraging and goes back to the message that when we work together, no dream is beyond one's reach. Furthermore, I am sure we can get T.V. publicity through news clips and specials since our school is well connected with the media.

Costs:
The amazing part of this proposal is that it should not cost Loyola a thing. I am looking for sponsors and have found some already. All the artists and radio stations have agreed to play for free, with the exception of Sheryl Crow and For Real. However, Sheryl Crow charges about $30,000 for a full concert. We only need her to play for about 45 minutes, which is a half concert. Being for public interest, if she refuses to play for free, I will attempt to negotiate her to accept between $10,000 to $15,000 contingent upon ticket sales. Since we will be selling advance tickets, we could agree as soon as we reach the agreed amount, we will pay her charge. I do not anticipate any other costs that I could not get sponsored.

There is also the issue of security at the concert. I am unsure whether the campus security would be ample. Should the cost of security become an issue, I may be able to get a sponsor to cover the cost.

Disbursement:
We can reserve 500 tickets to be given away over the air by radio stations and for V.I.P. guests. Another 5,500 tickets will be sold at $30 a piece. This will bring in about $165,000. Even if $30,000 of that was deducted in costs, there would still be a net of $135,000. Of that we can give up to 70% to the public interest groups and earmark 30% for student related funds. This year we would like to have that 30% given towards gaining home Internet access to the students. As you may be aware, we are one of the only schools that is lagging far behind in providing this service to students. The SBA has been rallying for this cause for some time and we understand that there are some funds set aside for this. We would like to provide an incentive to get the Internet by matching your budget with the estimated $40,000 to $45,000 we anticipate having earmarked from the concert. This service will not only allow more access for students to the school but promote many of the organizations on campus. It will give evening students who are not at school during the days a link to the faculty and school organizations through e-mail and web pages. We have voiced these needs to the people from Edutech who came on the campus and interviewed students and faculty in regards to this issue. They say they will be writing a report for the Dean outlining our concerns and needs.

See Concert on page 6
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Sunday, November 24, 1996
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- Civil Procedure I
- Room 215 A

Sunday, November 24, 1996
- 6:30 pm to 10:30 pm
- Evidence I
- Room 215 A

Saturday, December 7, 1996
- 8:00 pm to 10:00 pm
- Remedies I - Unpublished Form
- Room 215 A

Saturday, December 7, 1996
- 8:00 pm to 10:00 pm
- Evidence II - Unpublished Form
- Room 215 A

Saturday, December 7, 1996
- 8:00 pm to 10:00 pm
- Constitution Law I - Will
- Room 215 A

Sunday, December 8, 1996
- 3:00 pm to 5:00 pm
- Trusts
- Room 215 A

San Diego - VIDEO LECTURES

- December 5, 1996
  - 6:30 pm to 10:30 pm
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  - Room 215 A

- December 5, 1996
  - 6:30 pm to 10:30 pm
  - Civil Procedure I
  - Room 215 A

- December 5, 1996
  - 6:30 pm to 10:30 pm
  - Evidence I
  - Room 215 A

- December 7, 1996
  - 8:00 pm to 10:00 pm
  - Remedies I - Unpublished Form
  - Room 215 A

- December 7, 1996
  - 8:00 pm to 10:00 pm
  - Evidence II - Unpublished Form
  - Room 215 A

- December 7, 1996
  - 8:00 pm to 10:00 pm
  - Constitution Law I - Will
  - Room 215 A

- December 8, 1996
  - 3:00 pm to 5:00 pm
  - Trusts
  - Room 215 A

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- November 10, 1996
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  - Room 215 A

- November 11, 1996
  - 6:30 pm to 10:30 pm
  - Remedies II
  - Room 215 A

- November 18, 1996
  - 6:30 pm to 10:30 pm
  - Civil Procedure I - U.C.C.
  - Room 215 A

- November 18, 1996
  - 6:30 pm to 10:30 pm
  - Civil Procedure II
  - Room 215 A

- November 23, 1996
  - 6:30 pm to 10:30 pm
  - Criminal Procedure
  - Room 215 A

- November 23, 1996
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DON'T KILL THE MESSENGER...

by Darren M. Salvin, first year student

It has come to my attention that my article "My First Bar Review" published in the last edition of The Loyola Reporter was read, not as a dose of comic relief as was intended, but as a prose supporting the humiliation and degradation of women. In fact, my article was likened to the mindset of a rapist who considers his female victims nothing but subservient objects of desire, somehow deserving of their fate. To be honest, I had no idea that my article, written with about the same amount of exacting attention that one gives to their professor during an 8:30 a.m. class, would stir such offense. Clarification of both my personal beliefs and the intent of my ill-advised article is necessary.

To set the record straight, I do not subscribe to the belief that women are property, meat, or any other dehumanizing metaphor. I have always believed that the only difference between men and women is those obvious characteristics that can be seen by looking in a mirror. In fact, anyone who believes to the contrary ought to be branded a fool. I am sorry if my article persuaded you to reach another conclusion.

With regard to the article's content, the crux of controversy seems to center around the imagery I chose to use, namely men drooling over scantily-clad women as would a buzzard over fresh road-kill. While these words are highly suggestive and inflammatory, they are, however, completely warranted and I will not apologize for their use. Reality can be, and oftentimes is, very disturbing. No one is proud to announce that animalistic encounters like the one described exist between men and women, especially between the "learned and refined" men and women in law school. But reality tells a different story. Anyone who has frequented a bar can not honestly say that such behavior does not occur. You have so every right to be upset with the current state of affairs. It is not desirable nor explainable. However, please do not kill the messenger who brings such news.

Conspiracies (cont. from p. 1)

Antrust Division of the DOJ then initiated its own investigation using the same extensive investigatory file as its starting point. The Department issued 21 Civil Investigative Demands to Microsoft and three parallel-processed over one million pages of documents, and conducted over 100 interviews. The Department also deposed 22 persons, including Microsoft Chairman Bill Gates.

In July 1994, the Department filed a civil complaint under the Sherman Act charging a monopoly of operating systems for IBM-compatible PCs and unreasonably restraining trade of the same through anticompetitive marketing practices.

JUDGE SPORKIN OF THE U.S. DISTRICT COURT DENIES THE MOTION

The U.S. District Court for the District of Columbia denied the Government's motion to approve the consent decree reached on January 14, 1995, after holding a series of three hearings with the parties during the preceding six months. In the opinion, Judge Stanley Sporkin explained that the District Court denied the motion because it did not find the terms of the decree to be in the "public interest" as required by the Tunney Act (15 U.S.C. Sec. 16). Commenting on Microsoft's practice of marketing "proprietary" the opinion states, "This Court cannot ignore the obvious. Here is the dominant firm in the software industry admitting it preannounced products to freeze the current software market and thereby defeat the marketing plans of competitors that have products ready for market. Microsoft admits that the preannouncement is solely for the purpose of having an adverse impact in a competitor's product. Its counsel states it has advised its client several supposedly inaccurate and disparaging public remarks made by the Attorney General's Office regarding the decree. For example, the Order states that, "The Attorney General has characterized this Court's refusal to approve the decree as improper interference on the government's prosecutorial discretion... Approval of the decree is in every respect an appropriate judicial function."

Chief Judge Edwards and Circuit Judges Silberman and Breyer of the Court of Appeals heard oral arguments on April 24. On June 16 Judge Silberman filed the court's opinion which remained the case to the chief judge of the district court, with instructions that it be assigned to another district court judge. The Court of Appeals found that (1) the District Court exceeded its authority under the Tunney Act by denying decree based on allegations beyond those in complaint; (2) remedies were adequate; (3) denial could not be justified for any ambiguity or for inadequate compliance mechanisms, and, in a Per Curiam opinion, directed that the action be reassigned on remand.

The Appeals Court's finding that Judge Sporkin's decision straddled actual bias against Microsoft and "would have difficulty putting his (cont. on page 5)
The Sherman Act reaches foreign restraints of trade having a "direct, substantial and reasonable effect on U.S. export trade. Since 1992 it has been the policy of the Antitrust Division to challenge restraints that restrict U.S. export opportunities regardless of whether these restraints also harm U.S. consumers directly. In 1994 Congress enacted the Antitrust Division Enforcement Assistance Act which authorizes the Antitrust Division and FTC to negotiate with a foreign defendant to permit the exchange of information relevant to civil and criminal investigations.

Inquiries resulted from his acceptance of any non-Microsoft product. These Windows 95 to make MSN connection a "tying arrangement" with the Windows 3.1 to Windows 95, and Internet Explorer, to be rearranged on the bits. The icon could be changed to a "Windows 95" for the hypothetical unbundling rule by packaging Windows 95 and desktop Explorer. This could be achieved through various technological means, which in effect, would simply require that Microsoft "rearrange the bits on CD and floppy disks." One Wall Street analyst speculated in Barron's late in September that Microsoft might charge perhaps five cents a share in earnings over the next year if it had to modify the code in Windows 95 to make MSN connectivity more indirect.

Microsoft also enters into decree with European Union

DOJ announces ongoing investigation

In 1922, in United Shoe Machinery Corp. v. United States, (258 U.S. 451 (1922) the Supreme Court recognized the "tying arrangements" between a manufacturer and its customers that had the practical effect of preventing the user of a competing manufacturer's products violated the Clayton Act, one of the key Federal antitrust statutes.

In 1958, in Northern Pacific Railway v. United States, (78 S.Ct. 514 (1958) the Court defined tying as "an agreement by a manufacturer to sell one product but only on the condition that the buyer also purchases a different (or tied) product, or at least agrees that he will purchase that product from any other supplier. [Tying arrangements are unreasonable only] where the price and economic power with respect to the tying product..." The competitive evil the courts find in tying arrangements is that a company's market power (which may well be perfectly substantial) is transferred from one product to another, or from one market to another, to the other product. The judgment, or at least agreement, that we will purchase product from any other supplier..." [Tying arrangements are unreasonable only] where the price and economic power with respect to the tying product..."
STAR TREK: FIRST CONTACT OR FIRST BLUNDER?

Movie Critique For Those Familiar With Star Trek
By Dale Reicheneder-Trecker

This was the worst Star Trek movie ever made. From the outset, I couldn’t help but get the impression that Paramount wanted to make a cheap, low-cost, budget film. And at our school, the feeling was, at last, going to see a Star Trek movie that would finally get out of the “higher meaning” concept and just have a good old blast fest against the Borg—forget it, wishful thinking.

The battle scene lasts only a few minutes at the beginning of the film. The Borg’s 2-in-1 ship presented little threat, which is a far cry from their invincibility we were shown six years ago in the Next Generation series. The last episode of the Next Generation still remains as the best battle sequence. The remaining fighting is lame, hand-to-hand “combat” with Borg drones, not exciting but cheap to do.

The bottom line, the special effects were lazy and unimaginative. Weekly episodes of the Next Generation had better effects, and more of them.

Can you say clausrophobia?
Jonathan Frakes (Cmdr. William Riker) fails as director. After a few minutes of film, I started yearning for scenes, panoramic shots—none came. Not once do we get to see the short fight with the Borg ship far enough away from the Enterprise to show the entire battlespace. Instead, it’s like watching the entire movie with binoculars. Even the scenes that take place on the Enterprise are shown in narrow, microframes of vision. I felt like I was trapped in a box peeping out of a tiny little pin-hole during the whole movie. The set on earth was cheap also. I guess there was a sale on cardboard somewhere.

For those thinking it’s “cool” to be fair, is awesome. Finally a starship with fearsome looks and a battle ready bridge is patrolling Federation space. Unfortunately, we are exposed (no thanks to Frakes’ poor directing) to small compartmentalized hallways filled with roaming Borg. And several minutes of film dedicated to shoving hands turning three dials was unbelievably useless, purposeless, and mindless on Frakes’ part. Simply a waste of film and time.

The crew of the Enterprise is changing. Picard looks old to be a formidable presence. It’s time Cmdr. Riker took over the helm.

Lt. Cmdr. Worf is getting too civilized. He had an opportunity to give Picard a healthy swat and didn’t take it. Perhaps Worf is either becoming too human of a Klingon, or he really is, as Picard stated, a coward.

Lt. Cmdr. Data is also becoming too human, but after all, that is his mission in life. But Data’s makeup artist stunk, he made Data look like a greese monkey, but he came through in the end, as he usually does.

Concert cont. from p. 2

Conclusion: Overall, this is a concert that will not only benefit our community, but in doing so it will also benefit our school and our students. That is virtually no cost to the school. All I ask for is the opportunity to make this vision into a reality. I need the school’s approval on this matter and access to the main campus for the site of the concert. Upon receipt of said approval and access, I may begin booking artists and getting sponsors for the event. However, time is of the essence and permission may not be granted unless I get a commitment from them early.

If you are skeptical about my ability to accomplish this feat, I ask you to give me a chance to prove myself. Give me approval of the concert and access to the main campus. If I am unable to book the artists, then there will be no concert. The school will have nothing to lose and everything to gain. I hope that this will become a tradition and a legacy that will place Loyola as a leader within our community and at the same time help our students accomplish their goals. I look forward to hearing from you soon and will be more than happy to meet with you and answer any questions you may have in regards to this matter.
Conspiracies
(cont. from p 5)

American Bar Association's section on antitrust and a partner at Howrey and Simon in Washington.

Microsoft's position has always been that its bundling practices do not amount to illegal tying. Russ Siegelman, Microsoft's on-line services general manager, was quoted in Computer Reseller News in early August 1996 as saying, "Tying means you've got to buy one thing before you buy something else. We are not forcing OEMs to pay for Microsoft Network clients." I believe it was Don Vito Corleone's policy never to force anyone to cooperate either.

OEMs on the other hand, have a different opinion about Microsoft's alleged strong arm tactics. In Netscape's open letter to DOJ, an OEM is quoted as saying, "Microsoft gave me a deal I couldn't refuse. Free dialer, browser [Internet Explorer], developer's kit, free distributable, etc.... I know Netscape is better, but $0 v. $18K is impossible to beat."

"Microsoft has gone so far as to offer us free Web servers and free support [but they required an] exclusivity clause that would have prevented us from recommending Netscape," said Gene Divegla, vice president of information services at Intelligent Network Online Inc., in Clearwater, Florida. Intelligent Network Online does not recommend any particular company's Internet software to their customers.

An official at one major ISP said Microsoft tried in several ways to convince the company to distribute Internet Explorer 3.0 exclusively. A second ISP said Microsoft offered products and services, but with an exclusivity clause. Not satisfied with domination of the U.S. market, Microsoft offered a European telecommunication provider free copies of MSN and Internet Explorer and $3.00 for every copy of Netscape they removed from their internal corporate PCs.

William Neukom, senior vice president of law and corporate affairs at Microsoft, vehemently denied that Microsoft offered any financial incentives to PC makers and denied all charges made by Netscape in their letter to the Justice Department. Offering no apologies in regards to dealings with ISPs Neukom simply said that there is nothing illegal about aggressive promotions.

Microsoft's near-monopoly over the operating systems market enables it to flood the market with free products, crushing competitors. An insight into Bill Gates' perspective on this matter is revealed in the following comment he made to Financial Times this June: "Our business model works even if all Internet software [Microsoft's and Netscape's] is free. We are still selling operating systems."

A few examples of Microsoft's treacherous tactics include: (1) claiming that WebServer software can only run on the Windows NT "server" operating system because the Windows NT "workstation" operating system is not "powerful" enough and then having it disclosed by computer experts that the NT Server operating system is really identical to the NT workstation, and was really not more powerful at all. However, in spite of the fact they were identical, because it was supposed to be more powerful, Microsoft sold NT Server for $1100 and NT Workstation for $400; (2) creating secret undocumented "hooks" in the Windows NT operating system so that Digital Equipment Corporation (DEC) and only two other vendors can use them to gain performance advantages over their competitors; (3) creating Internet software that can do anything from reformating a user's hard drive to copying all their e-mail or files back to the website, without the user's authorization or awareness and without any way to trace the cause back to its source.

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THE MARKET'S RESPONSE

The major on-line Internet service providers (ISP's) - America On Line (AOL), Prodigy and CompuServe - have all complained about the bundling of MSN with Windows 95, and it is widely assumed their concerns formed a good portion of the basis for DOJ pursuing its investigation in the summer of 1995. AOL's response has been to flood consumers with aggressive promotions. In an article in 'regards to dealings with ISPs Neukom simply said that there is nothing illegal about aggressive promotions.

Microsoft's near-monopoly over the operating systems market enables it to flood the market with free products, crushing competitors. An insight into Bill Gates' perspective on this matter is revealed in the following comment he made to Financial Times this June: "Our business model works even if all Internet software [Microsoft's and Netscape's] is free. We are still selling operating systems."

A few examples of Microsoft's treacherous tactics include: (1) claiming that WebServer software can only run on the Windows NT "server" operating system because the Windows NT "workstation" operating system is not "powerful" enough and then having it disclosed by computer experts that the NT Server operating system is really identical to the NT workstation, and was really not more powerful at all. However, in spite of the fact they were identical, because it was supposed to be more powerful, Microsoft sold NT Server for $1100 and NT Workstation for $400; (2) creating secret undocumented "hooks" in the Windows NT operating system so that Digital Equipment Corporation (DEC) and only two other vendors can use them to gain performance advantages over their competitors; (3) creating Internet software that can do anything from reformating a user's hard drive to copying all their e-mail or files back to the website, without the user's authorization or awareness and without any way to trace the cause back to its source.
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