

# Two days after antitrust ruling, White House, Congress hail Microsoft billionaire

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The extraordinary visit to Washington on Wednesday, April 5 by Microsoft Chairman Bill Gates, in which the world's richest man was hailed on Capitol Hill and feted at the White House, demonstrates the real relationship between the corporate bosses and those who supposedly rule America as the elected representatives of the people.

Only two days after a federal judge issued a scathing decision finding Microsoft guilty of monopolistic and predatory practices—essentially declaring that Gates and his associates have robbed the public of billions of dollars—Democratic and Republican congressmen crowded around the computer software mogul, cheered his remarks and denounced the Justice Department antitrust suit.

At the White House, Gates was a guest of honor at a conference convened by President Bill Clinton on the "new economy." Pictures of Gates and Clinton smiling, shaking hands and sitting side by side on the conference platform were broadcast throughout the country. Clinton praised Gates for establishing a charitable foundation which has given a small fraction of his \$100 billion fortune to programs such as minority education. The Bill and Melinda Gates Foundation was set up only after the filing of the federal antitrust suit made it a useful public relations exercise.

Gates's path through official Washington was smoothed by top aides who have left the Clinton administration and Congress to go to work for Microsoft, including Ginny Terzano, who worked in the press office for both Clinton and Vice President Al Gore; Neel Lattimore, Hillary Clinton's former press secretary; and Kerry Knott, former chief of staff for the Republican House Majority Leader Richard Arney.

On Capitol Hill, the entire congressional Republican leadership lined up in support of Microsoft. Senate Majority Leader Trent Lott said, "Lawyers in the Justice Department are getting into the policy arena where Congress should be the ones that are acting or not acting." House Majority Leader Arney declared, "I'd rather break up the Justice Department."

There is significant Democratic support for Microsoft as well. Gates met with about 50 House Democrats, where "he was treated like an icon of the new economy," according to Congressman Norman Dicks, the Washington Democrat who set up the meeting.

Senator Robert Torricelli of New Jersey, chairman of the Senate Democratic Campaign Committee, said he had urged the Clinton administration not to seek breakup of Microsoft as a consequence of the antitrust case. "Only the United States would consider breaking up a company that has done this much economically to advance our national interest," Torricelli said. "It is not in the interest of the United States to have this company divided."

Gates told a meeting of 60 House Republicans that he hoped for a better deal if there was a new administration in Washington next year.

His reception was described as "effusive." Congresswoman Jennifer Dunn, a Seattle-area Republican, said, "We were very upset and disappointed by the court decision," adding that Gates "was encouraged by our members to hang in there and never, never give up."

The only Republican complaint was that Microsoft has not been aggressive enough in supporting Republican congressional candidates. The company has adopted the traditional posture of the computer and hi-tech industry, which has been to give roughly equal sums to both parties. Microsoft gave \$836,110 to the Democrats and \$866,548 to the Republicans in the current election cycle, according to one watchdog group. The company has also boosted spending on lobbying more than 300 percent since the first of two lawsuits was filed in 1997 by the Department of Justice, laying out \$4.66 million last year, compared to \$1.16 million in 1996.

The decision rendered by Federal District Judge Thomas Enfield Jackson—a conservative Republican appointed by Ronald Reagan—provides an uncompromising depiction of Microsoft as a ruthless lawbreaker which systematically violated antitrust laws as it sought to corner markets in operating systems, Internet browsers, and other key software.

Judge Jackson found that Microsoft violated the Sherman Antitrust Act in three major ways: using anti-competitive means to maintain a monopoly for its DOS and Windows PC operating system software; making "a deliberate and purposeful choice to quell incipient competition" in the web-browser software market; tying its Internet Explorer web browser to the Windows operating system in a package sold to PC manufacturers, as "part of a larger campaign to quash innovation."

"Only when the separate categories of conduct are viewed, as they should be, as a single, well-coordinated course of action does the full extent of the violence that Microsoft has done to the competitive process reveal itself," Jackson wrote in the 43-page ruling. "Microsoft mounted a deliberate assault upon entrepreneurial efforts that, left to rise or fall on their own merits, could well have enabled the introduction of competition into the market for Intel-compatible PC operating systems."

"Microsoft placed an oppressive thumb on the scale of competitive fortune, thereby effectively guaranteeing its continued dominance in the relevant market," Jackson added. "More broadly, Microsoft's anticompetitive actions trammelled the competitive process through which the computer software industry generally stimulates innovation and conduces to the optimum benefit of consumers."

Among the targets of Microsoft's monopoly practices were such potential competitors as Netscape—whose Navigator was once the

leading web browser—and Sun Microsystems, maker of the Java programming language, widely used in web site construction. Netscape's market share plunged from over 60 percent to barely 20 percent, and it was taken over in 1998 by America OnLine. In one notorious incident, Microsoft threatened not to license Windows to Compaq Computer when the PC maker resisted pressure to stop installing Netscape Navigator on its products.

Microsoft and its defenders in both big business political parties claim that the company is somehow responsible for the revolutionary developments in computer technology and the Internet over the past two decades. But the actual record of the giant computer firm belies this contention. From its original commercial breakthrough when Gates persuaded IBM to license the MS-DOS operating system for its PCs, Microsoft is associated not so much with technical ingenuity as with the ruthless exploitation of other people's ideas through the use of its financial power and expertise in marketing. DOS, Internet Explorer and Windows, for example, were all copied through "reverse engineering" from CPM, Netscape Navigator and the Macintosh operating system, respectively. These programs, as well as the Internet, were themselves largely generated by government-funded research efforts, not the products of the market.

As for the suggestion that the domination of Microsoft is beneficial because it imposes standardization on an otherwise anarchic industry, this is what is known as worship of the accomplished fact. Any monopoly, more or less by definition, imposes uniformity. Rockefeller too, in his day, imposed uniformity and banished the anarchy of thousands of competing producers.

Certainly, if people are to be able to communicate using computers, the computers must be able to share information and employ a common digital language. But the process by which that uniformity and common language emerge is very different depending on the circumstances—whether it arises out of a democratic discussion and the free collaboration of scientists and technical workers on an international basis, or whether it arises out of the monopoly power of single giant corporation whose decisions are dictated by the profit interests of the corporate owners, not the needs of the broader public. As the emergence of Linux—a freely distributed and arguably superior operating system—has demonstrated, standardization on Microsoft products is by no means the only possible outcome of the computer revolution.

Neither the technical nor the commercial forms of the computer industry should be accepted uncritically. It is irrational, in a society in which school buildings are crumbling and children go to school without books, classrooms or sufficient numbers of well-trained teachers, that the wealth created by the computer industry has gone, not to meet social needs, but to swell Gates' \$100 billion fortune and the lesser, but equally obscene, sums in the coffers of his Silicon Valley rivals.

The conflict between the Clinton administration's Justice Department and Microsoft, despite occasional media comparisons to the "trust-busting" of the Theodore Roosevelt era nearly 100 years ago, lacks any genuine democratic or anti-monopoly content. The Clinton administration has pushed through deregulation of the telecommunications industry and ended the 60-year-old Glass-Steagall Act, which restricted the sphere of operations of big banks and insurance companies. It has approved huge corporate mergers, such as the Exxon-Mobil combination of the two biggest successors to the old Rockefeller Standard Oil trust, and the merger of AOL and Time-Warner.

Moreover, as one longtime industry observer noted, commenting on the essentially sham character of the conflict, the federal government is one of Microsoft's biggest and most loyal customers: "This case is bizarre in many respects. For all the efforts of the Justice Department and of the Federal Trade Commission before it, the federal government has done its best to help the company by mandating that only Microsoft applications and file formats be employed for its internal use. The federal government is nearly a Windows monoculture, a condition that, the lawsuit aside, the government has no plans to change."

The case against Microsoft was not brought in response to popular outrage over monopoly profit-gouging, but in the interests of rival computer and software companies whose predatory appetites are no different from Microsoft's, only less well-financed. The antitrust suit and Judge Jackson's ruling are elements in a ferocious struggle within various factions of corporate America over control of markets and new technology worth many billions in potential profits.

Over the weekend before the federal judge's decision, federal and state officials engaged in last-ditch negotiations with Microsoft over a possible out-of-court settlement, which eventually collapsed, not because of the intransigence of the Clinton administration, but because neither Microsoft nor its competitors, mainly in Silicon Valley, would accept a deal.

Microsoft decided to reject a final offer from the Justice Department even though companies like Sun and Apple objected to concessions in it, such as an agreement that Microsoft could continue to add new products to the operating system—like Internet Explorer—and declare them to be part of Windows and therefore required in order to install Windows on a new computer. Sun CEO Scott McNealy called the proposed settlement "worse than weak," while another executive said such a deal "would have been a landslide for Microsoft."

The biggest danger to Microsoft from Judge Jackson's decision is that it provides a legal avenue for hundreds of software and computer companies, not to say many individuals, to file private lawsuits against the software giant, relying on the court's findings as a legal precedent. Netscape, part of AOL-Time Warner, a corporate giant with greater resources even than Microsoft, is expected to file such a suit.

The Clinton administration has long abandoned any suggestion that Microsoft should be broken up, either into functional units or into several identical but smaller companies, each with only a portion of Microsoft's huge market share. Its proposed sanctions against the company have been rejected as too weak, not only by corporate rivals of Microsoft, but by many of the state attorney-generals who have joined in the antitrust suit.



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