European Union widens anti-trust case against Microsoft

Mike Ingram
9 August 2000

American software giant Microsoft faces anti-trust action by the European Union (EU) following a complaint by Sun Microsystems that the company engaged in discriminatory licensing and refused to supply essential information on its Windows operating system.

The latest case is the third action brought against Microsoft in Europe. It follows investigations in February, when it was alleged that Microsoft abused its dominant share in desktop computer operating systems with the launch of its Windows 2000 software in the server market. That action was taken on the European Commission's own initiative, but was supported by Microsoft's rivals who presented evidence.

An earlier investigation of Microsoft was begun when the French software wholesaler, Micro Leader Business, complained that Microsoft had effectively entered into a cartel with its distributors in order to inflate prices in France by barring imports of its software. Micro Leader Business had been importing the Windows operating system and applications from Microsoft's Canadian business unit, but said the company had blocked the imports on the grounds that they violated Microsoft copyrights.

The European Commission rejected the Micro Leader Business complaint, but the appeals court said the company had demonstrated sufficient evidence of an attempt by Microsoft to block imports. The Commission is required to reopen the case and ask Microsoft for a response.

The issue of copyright is also central to the latest case. EU competition minister Mario Monti said he had sent a “statement of objections” to Microsoft after receiving a complaint from Sun Microsystems in 1998. Sun alleged that Microsoft breached EU antitrust rules through discriminatory licensing and refusals to supply essential information about its Windows operating system.

Microsoft claims that information relating to the inner workings of its software is intellectual property and protected by international copyright laws. Microsoft's legal director John Frank said Sun Microsystems' complaint “is based on its desire to gain access to our technical trade secrets. We don't believe that the law requires Microsoft, or any other company, to share its secrets with direct competitors.”

The EU case comes in the midst of action taken by the US Justice department, which in June ordered the break up of Microsoft into two companies - one controlling the operating system and another the business software Microsoft Office and the Internet Explorer browser and related products. That case is currently going through the appeal process in the American courts. The issues involved in both cases are similar and relate to the intensifying conflict within the computing and technology markets internationally.

Evidence presented in the US case clearly shows how Microsoft engaged in practices designed to subvert emerging technologies that threatened the dominance of the desktop computer and through that the Windows operating system. The accuracy of this allegation is widely accepted in the industry in relation to both the Netscape web browser (now owned by America Online) and the Java programming language (developed by Sun Microsystems).

Experts also warned that Microsoft was intent on continuing the same policy with regard to the Internet and network computing, with the launch of the Windows 2000 operating system. These areas are now also under close scrutiny in the US.

What can appear simply as a conflict between rival software companies has far deeper implications.

Certainly, Microsoft rivals such as Sun Microsystems and Netscape are motivated by a desire to increase their own place in the lucrative software market and gain a slice of the $23 billion annual revenues of Microsoft. Were they in the position of Microsoft today there is no indication that they would conduct themselves in a different manner.

At its centre however, the Microsoft case reveals a fundamental conflict between the emergence of new technology and the capitalist market. Increasingly, the unrivalled dominance of Microsoft has had a stifling effect upon technology. As computing moves away from the desktop and into the sphere of the Internet, Microsoft finds itself in a similar position to that of International Business Machines (IBM) in the early 1980s.

IBM was at that time the largest supplier of mainframe computer systems. These were powerful machines that were accessed from terminals over a network. The emergence of the desktop computer directly threatened IBM's market and the company initially did everything it could to prevent this. Like Microsoft today, IBM found itself the subject of an antitrust case that resulted in the eventual introduction of radical changes to its business practices. Though these vastly reduced its market share, they saved the company from being broken up.

With the emergence of the Internet as a mass medium in the 1990s, the concept of network computing became increasingly desirable over self-contained personal computers requiring ever-larger amounts of memory and processing power. The first wave of so-called network computers made no significant headway. While there were certain objective barriers to this—such as slow connections to the Internet—a significant role was played by Microsoft in opposing the development of cross-platform software that would run on any computer, using any operating system.

The speed with which computer-related technology is developing requires greater flexibility than ever before. With the emergence of broadband technologies allowing high-speed access to the Internet, the network computer becomes a very real prospect. Moreover, the emergence of the so-called mobile Internet means that electronic commerce will increasingly shift away from the traditional desktop computer to devices such as mobile phones and hand-held devices. The move by the US government to break up Microsoft is an expression of the growing concern that the unchallenged monopoly exercised by the software giant increasingly threatens the dominance of US capitalism in these emerging markets.

In bringing forward their own anti-trust case, the European Union is making clear that it will not accept the continued dominance of Microsoft and will take aggressive measures to secure the success of European-based rivals.