

Microsoft

Industry Area: Computers – software and services.

Overview

The key to understanding just about everything in the information economy is a technological axiom called Moore's law, named for Gordon Moore, one of the co-founders of Intel. Simply put, Moore's law states that measured against its price, the performance of semiconductor technology doubles every 18 months or so¹.

This should have resulted in a vibrant industry with competitors racing to stay one step ahead in adapting new technology and securing consumer loyalty. One thing the industry hadn't banked on was Microsoft. As its founder, Bill Gates, says: "well, you know, capitalism has these strange things, where some people have all these resources²."

Market share and importance

To say Microsoft is a large corporation is to describe Ariel Sharon as a large man – a gross understatement. They are *huge*. Microsoft (and probably also Sharon) takes up 18.3 million square feet of office building space alone³.

Microsoft is ranked 15th in the world's top 500 companies and its operating software has driven 93% of the world's desktop computers since 1991⁴. At its peak, the company had a market value roughly equal to the gross domestic product of Spain⁵. Its Office software, encompassing a suite of e-mail, word-processing, spreadsheet and presentation tools, dominates 90% of the market and bring in \$9 billion annually, a third of the company's revenue⁶.

History and strategy

Bill Gates was born in Seattle in 1955. His first exposure to computers was at school in the late 1960s with his friend Paul Allen. By the time Gates was 14, the two friends were writing and testing computer programs for fun and profit. In 1972 they established their first company, Traf-O-Data, which sold a rudimentary computer that recorded and analyzed traffic data. Or as one tracker of the software industry saw it "the idea was to get a nickel very time the traffic lights changed⁷."

Inspired in 1975 by the new Altair microcomputer kit just released by MITS Computer, Gates and Allen wrote a version of BASIC for the machine. Later that year Gates left

1 'What Bill Gates really wants,' Brent Schlender, Fortune, 16.01.95

2'Bill Gates's Money,' Jean Strouse, 16.04.00, New York Times. See:

<http://www3.sympatico.ca/truegrowth/gates1.html>. Viewed: 10.12.03

3 Microsoft Annual Report 2003. See: http://www.microsoft.com/presspass/inside_ms.asp. Viewed: 28.11.03

4'Key dates in the antitrust investigation of Microsoft Corp.' See:

http://www.courttv.com/archive/business/1999/1106/microsoft_timetable_ap.html. Viewed: 03.12.03

5'Bill Gates's Money,' Jean Strouse, 16.04.00, New York Times. See:

<http://www3.sympatico.ca/truegrowth/gates1.html>. Viewed: 10.12.03

6 'What Bill Gates really wants,' Brent Schlender, Fortune, 16.01.95

7 'What Bill Gates really wants,' Brent Schlender, Fortune, 16.01.95

college to work full time developing programming languages for the Altair, and he and Allen relocated to Albuquerque, New Mexico, to be near MITS Computer, where Allen took a position as Director of Software Development. Gate and Allen named their partnership Microsoft. Their revenues for 1975 totaled \$16,000.

A year later, Gates published “An open letter to hobbyists” in the Altair newsletter. Arguing that software piracy prevented “good software from being written”, Gates went on to say that “nothing would please me more than being able to hire ten programmers and deluge the hobby market with good software.” Soon after, Allen left MITS to devote his full attention to Microsoft and the company's tradename was registered.

Microsoft's big break came in 1980 when Gates got the chance to provide the crucial operating system, DOS, for IBM's landmark PC. He could hardly be satisfied with a market limited just to IBM, so he, along with Intel Corp., which provided the microprocessors that are the powertrains of most PC's, encouraged other entrepreneurs to create the PC clone industry that today dominates the market.

It was in 1990, though, with the introduction of Microsoft's Windows 3.0 program, that Gates showed just where he intended Microsoft to go. Not only did Windows – of which 60 million copies have been sold – effectively made Microsoft the sole keeper of the PC software standard, it permanently stunted IBM's incipient OS/2 system, which until then had been a joint development project with – who else? - Microsoft. Windows didn't just leave IBM hanging, nor merely relegate Apple's famously friendly Macintosh to the fringe of the market. It also threw into confusion the leaders in the applications software industry – Lotus and WordPerfect – because they had been gearing up new spreadsheet and word processor products for OS/2. This, in turn, left the window open for Microsoft to become a real player in the applications software business – which it did with a vengeance⁸.

Before 1990, Microsoft was primarily a supplier to hardware manufacturers, but after 1990 the bulk of the company's revenues came from sales to consumers. That year Microsoft became the first software company to reach \$1 bn in revenues.

In 1993 Microsoft introduced the first version of Windows NT, an operating system for users on corporate networks. It was disappointing and an upgrade soon followed which boosted sales of NT to more than one million copies by the end of 1994. Microsoft announced an agreement to purchase Intuit, the producer of the leading package of personal financial software, called Quicken; however, after the US Department of Justice filed suit to prevent the takeover on the basis of antitrust concerns, Microsoft withdrew its offer. Revenues for 1994 exceeded \$4 bn.

In August 1995 Microsoft launched its next version of Windows, called Windows 95, which sold more than one million copies in the first four days after its release. For the rest of the decade Microsoft expanded aggressively into new businesses associated with its core franchise. Its projects included two joint ventures with the National Broadcasting Company under the name MSNBC: an interactive online news service and a cable channel broadcasting news and information 24 hours a day. The company's web-based services included the Microsoft Network online service, a travel agency, local event listings, car buying information, a personal financial management site, and a joint venture with First

⁸ 'What Bill Gates really wants,' Brent Schlender, Fortune, 16.01.95

Data that allowed consumers to pay their bills online.

Microsoft purchased 11% of the cable television company Comcast for \$1 bn and cut a licensing deal with the largest US cable operator, TCI Communications, to put Windows into at least five million set-top boxes. The company also purchased WebTV, whose core technology allows users to surf the internet without a PC.

Microsoft's next generation of Windows, Windows CE, was designed to expand the franchise into computer-like devices including mobile phones, point-of-sale terminals, pocket organizers, digital televisions, digital cameras, hand-held computers, automobile multimedia systems, and pagers. By early 1999 the company had secured more than 100 licensing agreements with manufacturers of these "intelligent appliances"⁹.

In 1998, Microsoft launched Windows 1998. The year 2000 saw the acquisition of the Visio Corporation, the largest acquisition in Microsoft's history. Windows 2000 was also launched together with the unveiling of the .NET platform.

Up to now, Microsoft has grown by serving the seemingly limitless supply of new customers for PCs and software. Microsoft's high market valuation and the accompanying high expectations for continued growth have forced the company to find new businesses and markets. But, as is true of other monopolies, they simply aren't competitive in open markets. While Windows has a profit margin of 85%, and Microsoft Office has a margin of 79%, every other Microsoft division is losing money in reams¹⁰.

Its attempts to expand outside the PC arena have been less than successful as it faces entrenched adversaries with management far more astute and aggressive than anything they saw in the PC market¹¹. It has now become reliant on the less saturated replacement markets with the bulk of its best customers upgrading their existing software at much lower profit margins than new business. This "upgrade plateau" is already dampening Microsoft's dramatic growth.

Its stock price has trended down for three years and recently led to the 'surprise' announcement of its first dividend. This was a ploy to allow funds that require dividends to buy Microsoft shares for the first time. Microsoft hopes more buyers will bring the stock price up. Countering this is the growing feeling among investors that Microsoft is badly overvalued at its current price of 25 times earnings¹².

Microsoft's desperate reliance on repeat revenues have caused it to raise costs to their customers - mostly by changing licensing terms. This is creating resentment in formerly docile customers, many of whom consider the new terms extortion.

Licenses

"Throughout the world, Microsoft actively educates consumers on the benefits of licensing

⁹ 'Microsoft,' Paula Kepos, International Directory of Company History, Vol. 27, 1999, St. James Press.

¹⁰'2003 and beyond,' Andrew Gygyus, 23.02.03. See: <http://www.aaxnet.com/editor/edit029.html#mspath>. Viewed: 11.12.03

¹¹'2003 and beyond,' Andrew Gygyus, 23.02.03. See: <http://www.aaxnet.com/editor/edit029.html#mspath>. Viewed: 11.12.03

¹²'2003 and beyond,' Andrew Gygyus, 23.02.03. See: <http://www.aaxnet.com/editor/edit029.html#mspath>. Viewed: 11.12.03

genuine products and educates lawmakers on the advantages of a business climate where intellectual property rights are protected." - Microsoft¹³

You pay plenty for Microsoft software, but you do not own it - you have a non-transferable license to use the software as Microsoft sees fit. Microsoft own it and they are not at all shy about exercising their "property rights". Further, the license terms can be changed retroactively (and are) any time Microsoft pleases. It says so right in the license terms.

Once they sell a license, they can only keep revenue flowing by releasing "upgrades" and convincing people the upgrades are worth purchasing. Producing these upgrades is a lot of work, and they are finding it increasingly difficult to convince anyone the upgrades are worthwhile¹⁴.

In the year running up to the millennium, Microsoft launched a campaign aimed at its 60 million customers warning them to "address their Y2K concerns in a timely fashion by taking advantage of the preparedness resources available at the Microsoft Y2K website." Instead of offering concrete solutions, the Y2K site sent consumers to an MSN site which guided them to, guess what?, software upgrades¹⁵.

Later on, the very disappointing uptake of Windows XP convinced Microsoft they must force upgrades. License 6 does force customers to upgrade on Microsoft's schedule, whether they want to or not, but a majority of the market has not adopted License 6, despite Microsoft's threats. License 6 practically promises a major upgrade every 3 years or so. The successor to Windows XP (due in 2004, and rapidly slipping to 2005) is currently code named Longhorn and backward compatibility will not be an option¹⁶.

After many setbacks, when Windows 2003 finally came out in May, Microsoft declared the version still incomplete with multiple features to be released over a period of time which have to be installed when available by lucky users "who wished to fully utilize this version of Windows¹⁷".

For Microsoft, this a relatively subtle way of gaining revenue. If you want them to really come after you try using an even unknowingly copied version of a Microsoft product. After threatening you with jail you may be tempted by their suggestion of Microsoft Open License to "help ensure that your software is licensed and lawful". The brochure then explains how you may like to purchase something called "Upgrade Advantage" which promises to reduce the total cost of the software while providing two years' worth of upgrades¹⁸.

Microsoft don't just do threats however, as schools across the world have discovered.

13 Microsoft Annual Report 2002, p. 33

14 '2003 and beyond,' Andrew Gygyus, 23.02.03. See: <http://www.aaxnet.com/editor/edit029.html#mspath>. Viewed: 11.12.03

15 'Fear, marketing and Microsoft,' Kaitlin Quistgaard, 19.08.99. See: http://dir.salon.com/tech/log/1999/08/19/microsoft_marketing/index.html Viewed: 11.12.03

16 '2003 and beyond,' Andrew Gygyus, 23.02.03. See: <http://www.aaxnet.com/editor/edit029.html#mspath>. Viewed: 11.12.03

17 '2003 and beyond,' Andrew Gygyus, 23.02.03. See: <http://www.aaxnet.com/editor/edit029.html#mspath>. Viewed: 11.12.03

18 'Fear, marketing and Microsoft,' Kaitlin Quistgaard, 19.08.99. See: http://dir.salon.com/tech/log/1999/08/19/microsoft_marketing/index.html Viewed: 11.12.03

Microsoft especially like going after schools. Probably because they can't run away like those pesky pirates can.

In 2002, at the busiest time in the school year, Microsoft gave the 24 largest school districts in Washington and Oregon 60 days to inventory their huge number of computers and match them all to paperwork proving they have valid licenses for all Microsoft software. Microsoft's Guide to Accepting Donated Computers states that you cannot accept donations that do not include the original disks and certificates for Windows and all other software on them¹⁹.

Failing this, the district could just sign the Microsoft School Agreement. Just count all the computers and pay Microsoft \$42 per computer every year. The Microsoft agreement says you count all computers that could conceivably ever run any Microsoft software. That includes Apple Macintoshes and apparently any computers running Linux, Unix and other non-Microsoft operating systems.

"Nowhere else is our mission to help individuals realize their potential more immediate and apparent than in education. All of the initiatives recognize the importance of education in empowering learners to realize their true potential." - Microsoft²⁰

Should a school district fail to complete the audit in time, Microsoft will "help" by sending in their own audit team, but if just one computer is found non-compliant, the schools have to pay for the audit – which isn't cheap. Given the way schools acquire computers (many are donated), it is absolutely certain some will be declared noncompliant.

In 2001, following an anonymous tip through hotlines like 1-800-RU-LEGIT, Microsoft launched an investigation of Philadelphia's entire public school system which has some of the poorest schools and students in the country. Microsoft threatened to sue unless the administrative offices and all 264 schools conducted an audit and proved that every piece of installed Microsoft software had a valid license.

Working alone or through the Business Software Alliance (BSA)²¹, an industry wide enforcement group, Microsoft has been fighting the spread of illegally copied software for over a decade. Its most common targets are companies that copy software and then resell it illegally, but it's not unusual for urban, low-income schools to end up caught in the net too. British teachers in Birmingham received letters from Microsoft telling them they were sitting on a "legal timebomb" that they'd better clean up.

Once discovered they're treated just like any other violator, says Jenny Blank, BSA's director of enforcement. "The copyright law should be applied universally. The message we need to get to them is that intellectual property deserves to be respected."

One teacher has a different view. "It's kind of like AIDS in Africa and the drug companies," says Lloyd Kowalski. "Can anyone expect a dying person to be concerned about the drug companies' profits?"

One of the first and most-discussed scuffles between the software industry and schools started back in 1996. The BSA, which includes Adobe, Intel, IBM and Macromedia as members, received a tip about a Los Angeles school that was supposedly using more than 1,000 copies of unlicensed software programs. The BSA asked the district to

¹⁹'Microsoft Screws Schools,' Andrew Grygus, 22.04.02. See: <http://www.aaxnet.com/news/M020422.html> Viewed: 04.11.03

²⁰ Microsoft Annual Report 2003, see: <http://www.microsoft.com/msft/default.msp>. Viewed: 01.12.03

²¹ See: <http://www.bsa.org/>. Viewed: 11.12.03

investigate, and after auditing the school in 1998, the school district, working with the BSA, discovered several hundred unauthorized copies, including 132 versions of MS-DOS.

The total cost of the copying could have run into the tens of millions. Each violation carries a potential penalty of \$150,000; the fines for just the MS-DOS copies could add up to as much as \$19.8 million, not even counting lawyers' fees. David Tokofsky, a member of the Los Angeles school board said: "It's like Xerox walking into a major university and arresting students for copying essays."

The school board, however, chose to settle rather than fight. It eventually negotiated a reduced settlement: a \$300,000 fine, in addition to which the cash-strapped district had to set aside \$3 million to replace pirated materials, and another \$1.5 million to create an internal piracy team²².

On looking at the fine print for the latest updates to Microsoft Windows the Seattle Metropolitan Credit Union concluded that the terms for the end user license agreement (EULA) for Microsoft's Windows 2000 Service Pack 3 (SP3) and XP Service Pack 1, might well put the credit union in violation of new federal privacy laws²³.

At issue is Microsoft's "automatic update" feature, which allows users to automatically get upgrades and patches to their systems. To get the updates, users must agree to give Microsoft access to information on their systems.

That, said a representative of the Union, conflicts with federal regulations for financial institutions, such as the Gramm-Leach-Bliley Act of 2001 which forbids financial service companies from giving third parties access to customer data without express consent from the customer. European countries generally have even stricter data privacy laws.

Patents

Microsoft Corporation grew large and successful without patents, relying instead on copyright. In 1991, Microsoft CEO Bill Gates warned that patents could bring the software market to a complete standstill and drive out small players. In 1994, Microsoft was the only software company at the USPTO hearings which spoke in favor of software patentability.

Meanwhile, Microsoft had been stepping up efforts to build a patent portfolio to counter the much larger portfolios of traditional IT hardware companies such as IBM, HP, Canon etc. When the patent lawyers at the European Commission pressed for legalising software patents in Europe in 1997, they cited Microsoft as a success model, pointing out that Microsoft already owned 400 software patents.

In late 1998, an internal Microsoft strategy document about the "opensource threat" leaked out which suggested using software patents alongside with proprietary standards in order to crush competition from free software such as Apache and Linux. In 2000, Microsoft forced a free software project to abandon support for its patented video streaming format ASF.

In July 2001, in the midst of an ongoing campaign against free software, a leading MS

²² 'Microsoft to schools: Give us your lunch money!', Damien Cave, 10.07.01. See: http://dir.salon.com/tech/feature/2001/07/10/microsoft_school/index.html. Viewed: 11.12.03

²³ 'Is Microsoft Licensing Forcing Banks to Break The Law?' Dan Orzech, 22.10.02. See: <http://boston.internet.com/news/print.php/1485861>. Viewed: 16.12.03

executive challenged opensource companies to keep clear of Microsoft patents or else "Get your money and let's go to court!".

March 2002 saw Steve Ballmer, CEO of Microsoft, declaring that Microsoft's new standard DotNet was protected by patents and free implementations would not be allowed.

In April 2003 Microsoft published patent license terms for CIFS which disallow the use or reimplementing of this communication architecture by GNU software. In late 2002, Microsoft began to dissuade corporate customers from introducing GNU/Linux by pointing out that if they use free software nobody would protect them from being sued for patent infringement²⁴.

Crap software

It is Microsoft's dependence on customers upgrading their software that led to the strange situation where Microsoft, in promoting Windows 2003, pointed out that previous versions of Windows were dangerous to run because they were less stable, slower, and riddled with serious security problems. It was the same thing they said about Windows NT when 2000 came out²⁵.

Similarly, at the launch of Microsoft's new Office software in October 2003, Gates complained that "it's too hard to find things in e-mail" in the old version of Outlook, the name of Office's e-mail program. Gates also described early versions of the Word text-processing program as "clunky²⁶."

He wasn't lying. Customers and critics have long complained of the numerous faults in Microsoft's software.

In 2001, exploiting a security fault in Microsoft's Internet Information Server, the "Code Red" worm infected 370,000 Web servers costing Microsoft customers around \$1.2 bn²⁷.

Windows users haven't fared any better in 2003. Damage from bugs like the Blaster worm and the SoBig.F e-mail virus, which crashed systems and disrupted Internet traffic around the world, already totals some \$13 billion. The usual theory has been that Windows gets all the attacks because almost everybody uses it. But millions of people use Mac OS X and Linux and have emerged unscathed.

As one observer put it: "In its default setup, Windows XP on the Internet amounts to a car parked in a bad part of town, with the doors unlocked, the key in the ignition and a Post-It note on the dashboard saying, 'Please don't steal this.'²⁸"

In March, Microsoft issued a warning of a serious flaw in all versions of its popular Windows software that allowed hackers to seize control of a person's computer when

²⁴ 'Microsoft and patents.' See: <http://swpat.ffii.org/players/microsoft/index.en.html>. Viewed: 16.12.03

²⁵ '2003 and beyond,' Andrew Gyus, 23.02.03. See: <http://www.aaxnet.com/editor/edit029.html#mspath>. Viewed: 11.12.03

²⁶ 'Microsoft Tears Down the Old To Sell the New,' Bizreport, 22.10.03. See: http://www.bizreport.com/article.php?art_id=5250 Viewed: 06.11.03

²⁷ 'Code Red Puts Heat on Microsoft,' Maria Godoy, 01.08.01. See: <http://216.239.59.104/search?q=cache:2IoOJc0a3AJ:www.techtv.com/news/securityalert/story/0,24195,3340016,00.html+microsoft+faulty+software&hl=en&ie=UTF-8>. Viewed: 09.12.03

²⁸ 'Microsoft Windows: Insecure by Design,' Rob Pegoraro, 24.08.03, The Washington Post. See: <http://www.washingtonpost.com/ac2/wp-dyn?pagename=article&node=&contentId=A34978-2003Aug23¬Found=true>. Viewed: 09.12.03

victims read e-mails or visit Web sites. This ranged from Windows 98 through to its latest Windows XP editions (which the company had billed as its most secure ever). Funnily enough, an internet security company called iDefense, who represent many US agencies and large corporations, alerted their clients in December 2002²⁹.

"Our products just aren't engineered for security," said Brian Valentine, Microsoft senior vice president for Windows development. Another Microsoft executive recently explained they never paid attention to security "Because customers wouldn't pay for it until recently³⁰."

Products/projects

Microsoft spent \$4.7 billion on R&D during 2003.³¹ Its expectation to dominate the market for Interactive Television failed. Liberate, OpenTV, and TiVo won out using mostly Linux based products. Microsoft was unable to deliver an acceptable product, on time, and at competitive cost. Microsoft's SmartPhone (Stinger) initiative to dominate the high end mobile phone market is on life support now that T-Mobile is said to be canceling or scaling back the program and Sendo is suing them for unfair business practices, misappropriation of intellectual property and just about everything else³².

Microsoft is maintaining secrecy on the next version of Windows (dubbed Longhorn, set for release in 2005) amid claims that it's not just an upgrade. What it is is Microsoft's way of forcing customers to upgrade their software by not being compatible existing software, hardware or methods³³.

Microsoft acknowledge that they're scared: "If this system is not perceived as offering significant new functionality or value to prospective purchasers, our revenues and operating margins could be adversely affected³⁴."

Microsoft's "next generation PC", code named "Athens", ties PC design tightly to Microsoft's Windows initiatives and DRM (Digital Rights Management) plans, leaving no options for differentiation among PC vendors. Athens is a "Microsoft Branded" PC in every detail except the label on the front³⁵.

A significant portion of the company's revenue growth over the next five years will come from Microsoft's .NET architecture.³⁶ It is part of its long term goal of "Software as a Service." Software won't be loaded onto a computer at all, it will run "as a service" from Microsoft .NET servers. Data will also reside on Microsoft .NET servers somewhere out on

²⁹'Microsoft warns of new software flaw,' 20.03.03. See: <http://216.239.59.104/search?q=cache:5gByx60tY5EJ:www.cnn.com/2003/TECH/ptech/03/20/microsoft.warning.ap/+microsoft+faulty+software&hl=en&ie=UTF-8>. Viewed: 09.12.03

³⁰'2003 and beyond,' Andrew Gygus, 23.02.03. See: <http://www.aaxnet.com/editor/edit029.html#mspath>. Viewed: 11.12.03

³¹ Microsoft Annual Report 2003, see: <http://www.microsoft.com/msft/default.mspix>. Viewed: 01.12.03

³²'2003 and beyond,' Andrew Gygus, 23.02.03. See: <http://www.aaxnet.com/editor/edit029.html#mspath>. Viewed: 11.12.03

³³'2003 and beyond,' Andrew Gygus, 23.02.03. See: <http://www.aaxnet.com/editor/edit029.html#mspath>. Viewed: 11.12.03

³⁴ Microsoft Annual Report 2003, see: <http://www.microsoft.com/msft/default.mspix>. Viewed: 01.12.03

³⁵'2003 and beyond,' Andrew Gygus, 23.02.03. See: <http://www.aaxnet.com/editor/edit029.html#mspath>. Viewed: 11.12.03

³⁶ Microsoft Annual Report 2002, p.10

the Internet. For access, you will have to be authenticated by a Microsoft Passport server. Bill Gates was recently asked if Microsoft software might eventually be available only for rent through .NET, and replied "I believe in the long run things will be architected that way³⁷."

Microsoft is now going after the world's most popular search engine, Google, since it emerged that the company planned a stock market flotation in early 2004. Microsoft executives have approached Google about a range of options, including a takeover by the software company, at meetings. Although Microsoft's advances were reportedly rebuffed, it could still pursue Google once it is a public company³⁸.

Must destroy open source

The biggest threat to Microsoft comes from open source software. "To the extent the Open Source model gains increasing market acceptance, sales of our products may decline, we may have to reduce the prices we charge for our products, and revenues and operating margins may consequently decline³⁹. IBM's endorsement of Linux has accelerated its acceptance as an alternative to both traditional Unix and Windows server operating systems.⁴⁰ "

The main reason for open source software's popularity is that it is free. In addition, the source code which makes the program run is available for anyone to examine and alter. This means that free software applications often have hundreds of authors all around the world making bug fixes and improvements occur more rapidly⁴¹.

Microsoft, of course, sees it somewhat differently: "The company believes that there are significant problems with the Open Source Model, the principal drawback being that no single entity is responsible for the Open Source software, and thus users have no recourse if a product does not work properly or at all. Further, without the market incentives associated with the commercial software development model (where customers agree to pay a fee to license software developed and distributed by Microsoft), the Company believes that the vigorous innovation and growth of the software industry over the last 25 years would not have occurred."⁴²

Martin Taylor, the company's general manager of platform strategy, admitted the company's initial approach to the threat to be somewhat childish: "We kind of defaulted [to emotion] because we could not think about Linux in the right way." Emotions expressed by Microsoft include calling open source software a "cancer", "un-American" and "bankrupt"⁴³. Essential reading in understanding the true measure of Microsoft's attitude toward open

37'2003 and beyond,' Andrew Gyus, 23.02.03. See: <http://www.aaxnet.com/editor/edit029.html#mspath>. Viewed: 11.12.03

38'Microsoft runs search for a way to take over internet giant Google,' David Teather, The Guardian, 01.11.03. See: <http://www.guardian.co.uk/microsoft/Story/0,2763,1075605,00.html>. Viewed: 19.12.03

39 Microsoft Annual Report 2003, see: <http://www.microsoft.com/msft/default.mspx>. Viewed: 01.12.03

40 Microsoft Annual Report 2003, see: <http://www.microsoft.com/msft/default.mspx>. Viewed: 01.12.03

41 'Free Software.' See: <http://www.shortcutz.org.uk/software.htm>. Viewed: 10.12.03

42 Microsoft Annual Report 2002, p.32

43'Microsoft sticks to the facts on Linux,' 01.08.03. See:

<http://www.computerweekly.com/articles/article.asp?liArticleID=123866&liFlavourID=1&sp=1>. Viewed: 10.12.03

source can be found in the leaked Halloween I⁴⁴ and II⁴⁵ documents.

Major PC manufacturers have always been under threat by Microsoft to eliminate products or configurations Redmond does not approve of - to "assure a Uniform Windows Experience". Dell's announcement that Linux would be available on many of its desktop PCs resulted in them being immediately withdrawn without explanation⁴⁶.

Microsoft's current push is to have complete control over hardware design and availability. The practice of issuing joint Intel/ Microsoft PC design specifications came to an end with the PC 2001 issue. Microsoft alone now specifies PC design, leaving Intel as only a manufacturer. By controlling the hardware platform they can assure that open source products do not have access to important hardware features.

Despite Microsoft's notion of fair play, "the popularization of the Open Source model continues to pose a significant challenge to our business model, including recent efforts by proponents of the Open Source model to convince governments worldwide to mandate the use of Open Source software in their purchase and deployment of software products."

One such proponent is the Computer & Communications Industry Association, a trade group representing Microsoft rivals, including Sun Microsystems and Oracle, who are planning to form a lobby group (the Open Source and Industry Alliance) to urge governments to use the Linux operating system⁴⁷.

China had already been convinced but following the government's development of its own unique version of Linux (Red Flag Linux) and Office (RedOffice), Microsoft agreed to reveal all of the Windows source code, making China among the first to benefit from its program to allay the security fears of governments⁴⁸.

These kindly concessions don't seem to be working, principally because paying software licensing fees to companies like Microsoft is, as head of Brazil's National Information Technology Institute says, "unsustainable economically". Under Sergio Amadeu's guidance, President Lula da Silva's administration is encouraging all sectors of government to move toward open-source programs. Amadeu is also talking to election officials about using open-source software in the country's more than 400,000 electronic voting machines, about 20% of which run on a Windows variant.

Microsoft is worried and is lobbying (see Lobbying) hard to prevent the policy from becoming law. The company got between six and ten percent of its \$318 million in Brazilian revenues from the government for the fiscal year that ended in June. They are worried that, although other developing countries such as India are farther along than Brazil in promoting use of open-source systems, Brazil is poised to become a role model

44 'Halloween Document I (Version 1.14).' See: <http://opensource.org/halloween/halloween1.php>. Viewed: 19.12.03.

45 'Halloween Document II (Version 1.4).' See: <http://opensource.org/halloween/halloween2.php>. Viewed: 19.12.03.

46 '2003 and beyond,' Andrew Gyus, 23.02.03. See: <http://www.aaxnet.com/editor/edit029.html#mspath>. Viewed: 11.12.03

47 'Microsoft rivals plan pro-Linux lobbying,' Seattle Times, 09.08.03. See: <http://www.linux.org/news/2003/08/09/0004.html>. Viewed: 11.12.03

48 'China to view Windows code,' Ken Gao, 28.02.03, ZDNet China. See: <http://zdnet.com.com/2100-1104-990526.html>. Viewed: 10.12.03

for other Latin American countries⁴⁹.

As it does in other developing countries including Peru, where the company has faced an open-source challenge, Microsoft donates software to Brazilian non-profit organizations and schools.

In the West, the Australian Green party recently signalled they are willing to lend their political muscle to Democrat moves to introduce open source preference legislation "where practicable". Greens hold key parliamentary seats in several states where the Democrats are introducing the Bills, and are politically sympathetic to laws that challenge the power of big business. Somewhat ironically, a written statement issued through Microsoft's public relations firm said open source preference legislation limited choice. Lobbyists from the Washington-based Initiative for Software Choice have described the SA legislation as "hidden protectionism" that discriminated against US companies⁵⁰. Funny then that even the US Department of Defense has begun to use Sun's StarOffice, the open source variant on Microsoft Office⁵¹.

In December 2003, the National Health Service, Britain's biggest employer, declared that it had ordered a trial of a Linux-based system from Sun Microsystems as part of a £2.3 billion computer modernisation plan. 'If this solution were to prove effective we could save the NHS and the taxpayer many millions of pounds while at the same time using rich and innovative software technology,' said Richard Granger, NHS IT director. Charles Andrews, Sun Microsystem's public sector head, said licence cost savings would come to tens of millions of pounds directly. 'And we won't force people to upgrade computers and technology on a 2-3 year cycle either. Customers can upgrade when they need to⁵².'

Head Office

One Microsoft Way, Redmond, Washington 98052-6399 USA

Tel: (425) 882-8080 Fax: (425) 936-7329

For all other office locations (including UK) see:

www.microsoft.com/worldwide/

Company Structure/ Ownership

Microsoft is a publicly owned company and its operations can be divided into seven

⁵⁰'Greens battle Microsoft,' Simon Hayes, 29.07.03. See:

<http://australianit.news.com.au/common/print/0,7208,6827248%5e15306%5e%5enbv%5e,00.html>. Viewed: 03.12.03

⁵¹ 'Microsoft to schools: Give us your lunch money!' Damien Cave, 10.07.03. See:

http://dir.salon.com/tech/feature/2001/07/10/microsoft_school/index.html Viewed: 04.11.03

⁵²'NHS may ditch Microsoft on costs,' Faisal Islam, 07.12.03, The Observer. See:

<http://www.guardian.co.uk/microsoft/Story/0,2763,1101387,00.html>. Viewed: 19.12.03

segments: Client, Server and Tools, Information Worker, Microsoft Business Solutions, MSN, Mobile and Embedded Devices, and Home Entertainment.

Share Value

See: <http://www.microsoft.com/msft/stock.msp>

Major Shareholders

Jarislowsky Fraser Limited
Northstar Capital Management
Pacific Crest Securities
Wells Fargo Private Client Services
John Hancock Technology Fund
Peter Schroeder
Victory Capital Management
McAdams Wright Ragen

Employees

As of June 2003, the company employed approximately 55,000 people in 85 countries and regions. Of these, only 26% are female⁵³.

“None of the company's employees is subject to collective bargaining agreements,” declared Microsoft in 2001. Despite this, “the Company believes relations with its employees are excellent⁵⁴.”

In the early 90s, Microsoft admitted to the IRS that it had misclassified a number of employees as temp workers when they should have been cited as full-time workers. This led a group of temporary workers, angered over Microsoft's indefinite use of their services during the 90s, to file a class-action lawsuit against the company on the grounds that it was withholding full-time benefits and pay while working them like full-time employees. The dispute ended in 2002 with Microsoft agreeing to pay more than \$97 million in damages and legal fees⁵⁵.

While Microsoft was required to change the way it managed its temporary employees, the lawsuit did not stop the company from continuing its dependence on contractors.

⁵³ Microsoft Annual Report 2003. See: http://www.microsoft.com/presspass/inside_ms.asp. Viewed: 28.11.03

⁵⁴ Microsoft Annual Report 2001, p. 20

⁵⁵ 'Caste Adrift at Microsoft,' Jannell Myers, 01.04.03, Computer Source Magazine. See: <http://www.computersourcemag.com/articles/viewer.asp?a=780&print=yes>. Viewed: 10.12.03

According to the Washington Alliance of Technology Workers (WashTech), Microsoft still employs more than 3,000 contingent staffers in its domestic workforce who are the cogs in Microsoft's software machine. Because the company wants to make the distinction between temps and full-time employees clear to the IRS and possible class action claimants, these contractors are given fewer benefits than their free-wheeling predecessors. They aren't allowed to use employee discounts for products they help to design. They aren't invited to company parties. They don't get promotional swag. A system of blue and orange badges makes sure full time Microsofties know who the ingroup is.

To protect itself from claims that it is employing workers indefinitely with no benefits, the company introduced a policy that requires temporary workers to be terminated after 365 days of service at the company. Following a full year of service, contractors must wait 100 days before they can return for another assignment at Microsoft. This is generally paid for by the State of Washington.

Meanwhile, Microsoft is looking to India and its "two for the price of one" worker deals. Ability to hire and fire easily also plays a part. Contractors can be hired for "very short engagements," and it is simple to "add and subtract resources for ramp-ups and ramp-downs," said the senior Vice President for the Windows division, Brian Valentine. Having substantial Indian operations would allow the total work day to be extended to "16-18 hours," he added⁵⁶.

Revenue

During 2003 revenue increased by \$3.82 billion to \$32.19 billion and net income was £9993 billion.⁵⁷ However, some see it differently. Microsoft have been accused of fraudulent accounting and the creation of "financial pyramid schemes" in order to show profit⁵⁸.

Board of Directors

William H Gates III (age 47), Chairman of the Board; Chief Software Architect. The world's richest man (net worth: \$40.7 bn) and founder of Microsoft, Gates is about to get a little extra pocket change – about \$100 million – from the company's first shareholder dividend. Gates owns around 1.1 billion of Microsoft's shares⁵⁹.

His wealth is divided between his much-hyped philanthropic pursuits (see 'philanthropy') and Cascade Investments who've provided him with stakes in Corbis, Republic Services, Canadian National Railway, and Gabelli Asset Management⁶⁰.

⁵⁶'India figures high in MS dev outsourcing plans,' John Lettice, 25.02.03. See: <http://www.theregister.co.uk/content/4/29473.html>. Viewed: 16.12.03

⁵⁷'Microsoft Annual Report 2003.' See: <http://www.microsoft.com/msft/default.msp>. Viewed: 28.11.03.

⁵⁸'Microsoft Financial Pyramid,' Bill Parish, 01.11.99. See: <http://www.billparish.com/msftfraudfacts.html>. Viewed: 19.12.03

⁵⁹'Microsoft Lies, Scoble Style.' See: <http://jeremy.zawodny.com/blog/archives/001094.html>. Viewed: 28.11.03

⁶⁰'World's Richest People,' Forbes, 2003. See:

Gates is also a director for SeaMED Corporation, ICOS Corporation and Costco Wholesale Corp⁶¹.

Steven A Ballmer (age 47), Chief Executive Officer. Sixteenth in the list of the world's 400 richest people (net worth: \$11.1 bn)⁶². Ballmer has been running Microsoft day-to-day since 1998 on a salary of \$551,667 with \$313,447 as a bonus⁶³.

Recently announced a kinder, gentler company mission: "To enable people and businesses throughout the world to realize their full potential." One business grappling with Microsoft's potential is AOL. Following expensive promotional campaign, Web portal MSN.com claims it has converted 450,000 AOL customers.

Ballmer is also a Director for Accenture Ltd.

Jon A. Shirley (age 65), President; Chief Operating Officer (retired). Came 368th in the list of the 400 richest people (net worth: \$600 mil). Lives in Medina, Washington State. Most recent achievement: completing the 4-year construction of a 23,000-square-foot mansion/private museum. Costly ordeal: nearly \$500,000 in building-violation fines, undisclosed settlement with irritated neighbours⁶⁴.

James I. Cash Jr. (age 55)⁶⁵. Formerly the James E. Robinson Professor at Harvard Business School and Chairman of Harvard Business School Publishing.

Cash is also a director for Scientific-Atlanta, Inc., Chubb Corporation, General Electric Company, Winstar Communications, and Quest Resource Corp. (oil and gas operations). He is Senior Vice President, Audit and Risk Management for Community Bank Shares of India.

Ann McLaughlin Korologos (age 61)⁶⁶. Has been a director of the Company since January 2000. Served as the United States Secretary of Labor from 1987 to 1989 and as President of the Federal City Council between 1990 and 1995.

Korologos is also Senior Advisor with Benedetto, Gartland & Co., Inc., a private investment banking company. She is Vice Chairman of the Board of Trustees of RAND, a

61 See:

<http://www.forbes.com/finance/mktguideapps/personinfo/FromPersonIdPersonTearsheet.jhtml?passedPersonId=223912>. Viewed: 28.11.03

62 'World's Richest People,' Forbes, 2003. See:

<http://www.forbes.com/finance/lists/10/2003/LIR.jhtml?passListId=10&passYear=2003&passListType=Person&uniqueId=ZBED&datatype=Person>. Viewed: 28.11.03

63 See:

<http://www.forbes.com/finance/mktguideapps/personinfo/FromMktGuideIdPersonTearsheet.jhtml?passedMktGuideId=28067>. Viewed: 28.11.03

64 'Forbes 400,' 2002. See:

<http://www.forbes.com/richlist2002/LIR28S5.html?passListId=54&passYear=2002&passListType=Person&uniqueId=28S5&datatype=Person>. Viewed: 28.11.03

65 See:

<http://www.forbes.com/finance/mktguideapps/personinfo/FromMktGuideIdPersonTearsheet.jhtml?passedMktGuideId=186988>. Viewed: 28.11.03

66 See:

<http://www.forbes.com/finance/mktguideapps/personinfo/FromMktGuideIdPersonTearsheet.jhtml?passedMktGuideId=118221>. Viewed: 01.12.03

nonprofit institution that helps "improve" policy and decision making and a director for AMR Corporation (and its subsidiary, American Airlines), Fannie Mae, Harman International Industries, Inc., Host Marriott Corporation, Kellogg Company and Vulcan Materials Company.

Wm. G. Reed Jr. (age 56)⁶⁷. President and CEO at National Commerce Financial Co. where he's paid a salary of \$365,000. As well as being a director for Microsoft, Reed is also a director for Convera Corporation and SAFECO Corp.

Raymond V. Gilmartin (age 62)⁶⁸. Chairman of the Board, President, Chief Executive Officer at Merck & Co. where he earns \$1,483,334. He is also director at General Mills, Inc. and the Public Service Enterprise Group.

Gilmartin serves on many lobby groups and pro-business groups. He is President of pharmaceutical industry lobbyists, the International Federation of Pharmaceutical Manufacturers Associations, and is on the Executive Committee for the Council on Competitiveness and Pharmaceutical Research and Manufacturers of America. He is also a member of the Business Council and the Business Roundtable.

David F. Marquardt (age 54)⁶⁹. Has served as a director of the Company since 1981. Marquardt is a founding general partner of August Capital, a venture capital firm formed in 1995, and has been a general partner of various Technology Venture Investors entities, which are private venture capital limited partnerships, since August 1980. He is a director of Netopia, Inc., Seagate Technology, Inc., Tumbleweed Communications Corp., and various privately held companies.

Advisers

Auditors: Deloitte & Touche LLP

Public Relations: Waggener-Edstrom⁷⁰

Subsidiaries

These include:

Below are what would be considered the most significant subsidiaries:

67 See:

<http://www.forbes.com/finance/mktguideapps/personinfo/FromMktGuideIdPersonTearsheet.jhtml?passedMktGuideId=28086>. Viewed: 01.12.03

68 See:

<http://www.forbes.com/finance/mktguideapps/personinfo/FromMktGuideIdPersonTearsheet.jhtml?passedMktGuideId=184553>. Viewed: 28.11.03

69 See:

<http://www.forbes.com/finance/mktguideapps/personinfo/FromMktGuideIdPersonTearsheet.jhtml?passedMktGuideId=28085>. Viewed: 01.12.03

70 'Microsoft Critics Assigned PR "Spooks",' 27.03.99. See: <http://www.vcnet.com/bms/departments/dirtytricks.shtml> Viewed: 07.11.03

Microsoft Asia, Ltd. (Incorporated: Nevada, USA)
Microsoft Business Solutions ApS (Incorporated: Denmark)
Microsoft Capital Group, L.P. (Incorporated: Nevada, USA)
Microsoft E-Holdings, Inc. (Incorporated: Nevada, USA)
Microsoft Finance Company Limited (Incorporated: Ireland)
Microsoft Ireland Capital Limited (Incorporated: Ireland)
Microsoft Ireland Operations Limited (Incorporated: Ireland)
Microsoft Licensing, Inc. (Incorporated: Nevada, USA)
Microsoft Manufacturing B.V. (Incorporated: Netherlands)
Microsoft T-Holdings, Inc. (Incorporated: Nevada, USA)
MSLI, GP (Incorporated: Nevada, USA)
Round Island, LLC (Incorporated: Nevada, USA)
Round Island One Limited (Incorporated: Ireland)

Influence/ Lobbying

Government

"Of course I have as much power as the president has" - Bill Gates⁷¹

Being such a wealthy company it would be surprising if Microsoft didn't attempt to subvert democracy. It does, of course. James Love, with the technology watchdog group the Centre for Public Technology, said Microsoft's efforts are "an aggressive attempt to change government". Just as Microsoft perceived Netscape as a threat, "that is pretty much how they approach the government, as a threat," Mr Love said⁷².

The increased lobbying efforts and campaign contributions are only part of a multi-pronged strategy Microsoft has to deal with this perceived threat from the government. They have established phoney grass-roots groups, hired people to write opinion pieces for newspapers and magazines, pose as ordinary citizens in various Internet chat rooms,

⁷¹ 'The Truth, the whole truth and nothing but the truth,' John Heilemann, Wired Magazine, 01.11.00.

⁷² 'Microsoft lobbying campaign backfires; even dead people write in support of firm,' Joseph Menn & Edmund Sanders, 01.11.02. See: <http://66.102.11.104/search?q=cache:csAHPSn-v6wJ:www.xenoclast.org/free-sklyarov-uk/2002-November/003594.html+microsoft+lobby+groups&hl=en&ie=UTF-8>. Viewed: 03.12.03

sponsored polls to make it appear they have a groundswell of support and have enlisted their stockholders and business partners to lobby for them.

Microsoft's most recent cause for lobbying is to convince governments to think again about adopting open-source software. The Initiative for Software Choice, which launched quietly in May 2002 is chaired by an industry body called the Computer Technology Industry Association (CompTIA). Its biggest software industry backer is Microsoft.

While Software Choice's principles rarely mention open-source initiatives directly, they include a provision that governments should promote a 'broad availability' of the results of publicly funded research by making sure these results are kept clear of such open-source licenses as the GNU General Public License (GPL), used by Linux⁷³.

Another of Microsoft's lackeys are the Association for Competitive Technology. A spinoff from this was the Americans for Technology Leadership which was responsible for Microsoft's ill-fated letter-writing exercise. Eyebrows were raised when letters purportedly written by at least two dead people landed on the desk of Utah Attorney General Mark Shurtleff imploring him to go easy on Microsoft for its conduct as a monopoly. Three others use exactly these words: "If the future is going to be as successful as the recent past, the technology sector must remain free from excess regulation⁷⁴."

The letter-writing exercise was part of a larger Microsoft plan to sway Congress and encourage prosecutors to pursue a settlement in advance of a court hearing on how the Redmond company should be punished for illegally maintaining its monopoly on computer operating systems.

At the same time the company stepped up campaign donations, becoming the fifth-largest "soft-money" donor to the national Republican and Democratic parties in 1999-2000. It has consistently been the top contributor among computer companies

Microsoft's presence in Washington began small, with a staff of one in 1995. By 2000 it was ten.

It nearly doubled its lobbying budget from 1997 to 1998 - to \$3.74m - according to the company's lobbying disclosure documents.

Part of its efforts were spent lobbying to defeat a budget increase for the Justice Department's anti-trust division, the department responsible for bringing the case against the company. It has also lobbied Congress for tax relief, for stronger intellectual property protection and for a greater number of visas for foreign high-tech workers⁷⁵.

Philanthropy

⁷³'Microsoft to lobby US government,' Matthew Broersma, 08.15.02. See: http://bioinformatics.org/forums/forum.php?forum_id=1149. Viewed: 03.12.03

⁷⁴'Microsoft lobbying campaign backfires; even dead people write in support of firm,' Joseph Menn & Edmund Sanders, 01.11.02. See: <http://66.102.11.104/search?q=cache:csAHPSn-v6wJ:www.xenoclast.org/free-sklyarov-uk/2002-November/003594.html+microsoft+lobby+groups&hl=en&ie=UTF-8>. Viewed: 03.12.03

⁷⁵'Lobbying efforts stepped up,' Kevin Anderson, 14.02.00. See: http://66.102.11.104/search?q=cache:WDeTckrtbckJ:news.bbc.co.uk/1/low/in_depth/business/2000/microsoft/638300.stm+microsoft+lobby+groups&hl=en&ie=UTF-8. Viewed: 11.12.03

The Bill & Melinda Gates Foundation overtook the London-based Wellcome Foundation several years ago as the world's biggest charitable foundation. It has already spent more than £1.9bn of its £14bn assets on health projects in developing countries.⁷⁶ All of which have proved great PR. In one week alone, five articles (one of which Gates wrote himself) appeared in the New York Times glorifying his generosity⁷⁷. Or how about when, during the government's high-profile antitrust suit, Gates began adding to the foundation in huge (\$5 billion) increments as the government prosecution took its damaging course⁷⁸?

The Gates' promise to spend \$100 million of their personal fortune on health initiatives over the next ten years is put into perspective when the amount spent on other menaces to society are considered. For instance, over the next three years, \$421 million of Microsoft's money will be used in eradicating the evil Linux⁷⁹. Is Linux really four times worse than AIDS?

GM

Two-hundred million dollars of this was used to establish the Grand Challenges in Global Health initiative. The initiative is based on the appointment of a scientific board which "will identify and publish a focused set of critical problems, or 'grand challenges', in global health⁸⁰."

Last year Dr. Florence Wambugu was appointed to the scientific board. Wambugu is best known as the "apostle of Monsanto in Africa⁸¹." She is two-times Monsanto Company Outstanding Performance Award winner, author and publisher of the book "Modifying Africa", Chief Executive Director of A Harvest Biotech Foundation International and a DuPont Biotech Advisory Panelist.

She came to fame via Monsanto's virus-resistant sweet potato project in Kenya. The project was resolutely claimed as a success despite being completely outclassed by conventional breeding and better ecological management⁸².

And if the Gates' acceptance of GM as the solution to world hunger wasn't blatant enough, the Foundation also donated \$25 million to aid misplaced research into the 'biofortification' programme – supposedly to end nutrient deficiency in poor countries but which, in reality, is aimed at restoring the credibility of the biotechnology industry.

One such example is the much-hyped 'Golden Rice' which contains a miniscule addition of beta-carotene. Scientists, including Dr M S Swaminathan, father of India's green

76 'Saint Bill,' The Guardian, 25.09.03

77 'Gates gives \$100m to fight HIV, \$421m to fight Linux,' Thomas C Greene, 13.11.02. See: <http://www.theregister.co.uk/content/archive/28063.html>. Viewed: 01.12.03

78 'Bill Gates's Money,' Jean Strouse, 16.04.00, New York Times. See: <http://www3.sympatico.ca/truegrowth/gates1.html>. Viewed: 10.12.03

79 'Gates gives \$100m to fight HIV, \$421m to fight Linux,' Thomas C Greene, 13.11.02. See: <http://www.theregister.co.uk/content/archive/28063.html>. Viewed: 01.12.03

80 Press Release, A Harvest Biotech Foundation International, June 2003. See: www.ahbfi.org Viewed: 04.11.03

81 'Gates gets Wambugu-ed/ Golden Rice gets Gates boost,' GM Watch, 15.10.03. See: <http://www.gmwatch.org/archive.asp> Viewed: 04.11.03

82 'Gates gets Wambugu-ed/ Golden Rice gets Gates boost,' GM Watch, 15.10.03. See: <http://www.gmwatch.org/archive.asp> Viewed: 04.11.03

revolution, and Dr Robert Cantrell, director general of the IRRI, have already gone on record saying that golden rice cannot address the problem of Vitamin A deficiency⁸³.

Indeed, the whole biofortification project is doomed as the adequate amounts of fats that are required to absorb the nutrients are conspicuously absent in malnourished populations⁸⁴.

Corporate Crime

Monopolizing

“Vigorous competition will always be a healthy hallmark of our industry⁸⁵” - Microsoft

“As a successful company, we understand that we have a responsibility to provide leadership in the broader industry⁸⁶” - Microsoft

“To hear Microsoft tell it, you'd think the Computer Age had changed the rules of commerce. Microsoft Chairman and CEO Bill Gates has argued that the government is trying to structure an industry it knows little about. This is nonsense. What Gates is attempting is as old as the efforts to monopolize the steel, rail, oil, and telephone industries in the robber baron era⁸⁷.”

- Robert Kuttner, Businessweek

After an intensive investigation of Microsoft's competitive practices that had gone on for much of the 90s, in 1998 the US Department of Justice and a group of 20 state Attorney Generals filed two antitrust cases against Microsoft alleging violations of the Sherman Act.

They accused Microsoft of a broad pattern of anticompetitive behaviour by demonstrating an array of claims, including the following: that Microsoft had a monopoly on the market for operating systems; that the company used that monopoly as a means of preventing other companies from selling its competitors' products (most notably Netscape's Internet browser whose share it reduced from 80% plus to nearly nothing⁸⁸); that it was illegal for Microsoft to bundle its own browser into the operating system Windows 98 as a means of precluding customers from purchasing Netscape's product; that the company sought to divide markets with competitors; that Microsoft sought to subvert the Java programming language, developed by Sun Microsystems, which it viewed as a threat to Windows; and, finally, that Microsoft's business practices were detrimental to consumers⁸⁹.

83 'Bill Gates rescue package - flogging a dead horse.' Devinder Sharma, 20.10.03, Diverse Women For Diversity.

84 'Bill Gates rescue package - flogging a dead horse.' Devinder Sharma, 20.10.03, Diverse Women For Diversity.

85 Microsoft Annual Report 2001, p.8

86 Microsoft Annual Report 2001, p. 8

87 'The Redmond Tea Party,' Nick Sayer, 30.01.99. See: <http://www.vcnet.com/bms/features/teaparty.shtml> Viewed: 07.11.03

88 'The Microsoft “Road Ahead”,' Andrew Cygus, 23.02.03. See: <http://www.aaxnet.com/editor/edit029.html#mspath> Viewed: 18.12.03

89 'Microsoft,' Paula Kepos, International Directory of Company History, Vol. 27, 1999, St. James Press.

On April 3 2000, Federal District Judge Thomas Penfield Jackson ruled that Microsoft violated the law with “predacious” anticompetitive behavior, and the stock market knocked \$80 billion off the company’s value. Gates himself reportedly lost \$12 billion to \$14 billion that day⁹⁰. Despite this, the newly appointed Bush/Ashcroft Department of Justice declined to apply punishment or effective remedy. Microsoft is thus free to use similar methods to remove more products from the market⁹¹. Indeed, Microsoft executives have freely admitted the settlement they negotiated with the Bush/Ashcroft administration hands them greater power than they had before the trial began - not surprising since they wrote it and Bush/Ashcroft just retyped and signed it⁹².

More recently, in August 2003, Microsoft agreed to pay consumers in North and South Dakota up to \$18.33 million (provided usefully in vouchers that can be used to buy computer hardware or software) to settle charges that it overcharged users for its software products. Half of any unclaimed vouchers would be used to buy computer equipment or software for schools added Microsoft kindly⁹³.

The settlements, which were announced along with other agreements to settle with three other states and the District of Columbia in October, are part of the its efforts to resolve all of its legal issues stemming from its landmark antitrust agreement with the U.S. government last year.

Earlier in the month, Microsoft announced class action settlements with several U.S. states worth a total of \$200 million. The class actions claimed Microsoft used its Windows monopoly to thwart competition and overcharge customers for its software.

Class-action lawsuits are still pending in five states: Arizona, Iowa, Minnesota, New Mexico, and Wisconsin. Over the past year, Microsoft has settled 10 class action lawsuits worth a total of \$1.55 billion.

Meanwhile, in Europe, the European Commission's preliminary ruling in its anti-trust case stated that the company continues to abuse its dominance in operating systems. The Commission also outlined the remedies it may impose on Microsoft to restore competition in the markets for audio- and video-playing software and software that runs computer servers. The potential measures include forcing the company to disclose software coding to rivals⁹⁴.

Back in the US Microsoft is back in court again. RealNetworks, Microsoft's longtime rival, recently filed an antitrust complaint claiming that Microsoft illegally tied its Windows Media Player software with copies of the ubiquitous Windows operating system, whether Windows users want Microsoft's player or not. The lawsuit claims this made it harder for RealNetworks's Real One software to compete, "resulting in substantial lost revenue and business for RealNetworks". RealNetworks is seeking more than \$1bn (£703m) in

90'Bill Gates’s Money,' Jean Strouse, 16.04.00, New York Times. See: <http://www3.sympatico.ca/truegrowth/gates1.html>. Viewed: 10.12.03

91'2003 and beyond,' Andrew Gyus, 23.02.03. See: <http://www.aaxnet.com/editor/edit029.html#mspath>. Viewed: 11.12.03

92'2003 and beyond,' Andrew Gyus, 23.02.03. See: <http://www.aaxnet.com/editor/edit029.html#mspath>. Viewed: 11.12.03

93 'Microsoft settles North, South Dakota lawsuits,' Reuters, 11.19.03. See: <http://www.forbes.com/newswire/2003/11/19/rtr1154140.html>. Viewed: 28.11.03

94 'Europe goes on offensive in the case of Microsoft,' 07.08.03. See: <http://www.linux.org/news/2003/08/07/0006.html>. Viewed: 18.12.03

damages and unspecified injunctive relief measures⁹⁵.

What you can do

Microsoft “do not believe we are materially dependent upon licenses and other agreements.”⁹⁶

See if it's right:

Bypass Microsoft – use open source:

<http://www.shortcutz.org.uk/software.htm>

Alternatives to every Microsoft product:

<http://microsoft.toddverbeek.com/>

Get a refund on Windows: <http://www.linuxjournal.com/article.php?sid=7040>

⁹⁵'Microsoft in court ... again,' The Guardian, 19.12.03. See: <http://www.guardian.co.uk/microsoft/Story/0,2763,1110564,00.html>. Viewed: 19.12.03

⁹⁶ Microsoft Annual Report 2003, see: <http://www.microsoft.com/msft/default.aspx>. Viewed: 01.12.03