How Much Power Is Too Much?

Intel, Microsoft Must Limit Control Over Periphery to Protect Their Cores

Microsoft and Intel have each found themselves at the center of a lot of unwelcome attention recently. As the two companies at the heart of the PC industry, they have accumulated awesome power. But both companies are now under government scrutiny, and these investigations could have far-reaching implications.

Under U.S. antitrust law, being a monopoly supplier is not illegal. Using this monopoly to restrict competition in other lines of business, however, is illegal. Ultimately, however, the law doesn't provide clear answers; in each case, a judgment call must be made, with serving the public interest being the litmus test. So I will give my thoughts on Intel and Microsoft not from the perspective of what is legal, but based on what I believe would serve the industry and consumers best.

Despite Bill Gates's assertion that Microsoft's business could collapse at any minute due to the rapid pace of software change, Microsoft's monopoly in PC operating systems is complete. Previous investigations of Microsoft focused on how Microsoft achieved this monopoly, and Microsoft was forced to change its licensing practices. The primary issue now is not whether Microsoft crossed the line in achieving its OS dominance, but whether it is improperly leveraging its dominance into other areas. At the heart of the current debate is the browser: whether Microsoft can integrate Internet Explorer with Windows.

To legally bar such integration is untenable. Over time, the number of functions integrated into the OS will steadily increase, and the thought of requiring government approval for each new feature is horrifying. Microsoft's success in operating systems gives it a great advantage in subsuming other functions, but there is no way around this reality without unreasonably restricting progress.

At the same time, Microsoft must not erect barriers to other companies that want to compete with Microsoft's applications. Windows has become an "essential facility," in antitrust parlance. Microsoft gets tremendous benefit from being its supplier, and in return, it should be held to a higher standard than companies not in this position. It should not restrict what software PC makers can bundle with Windows, or which icons appear on the screen. And it must continue to openly document the interfaces needed for other companies to build applications that work with its OS.

With Microsoft now deep into the business of running commercial Web sites, it has an extraordinary opportunity to leverage its control over the desktop to promote its own Web sites. This seems a clear case of the need to prevent the ownership of one monopoly from limiting competition in other areas. It would be well within reason for the government to restrict Microsoft's right to closely tie its commercial Web sites to default desktop icons.

Intel's microprocessor monopoly is not quite as complete as Microsoft's OS monopoly; while it is possible to be a PC supplier without using Intel processors, it is virtually impossible to be in the PC business without using Windows. But when it comes to processors for high-end PCs, or for x86-based workstations, or for x86-based servers, Intel's monopoly is absolute.

In Intel's case, the question of how Intel has achieved its monopoly, and how it maintains it, are still at issue. Intel clearly is aware of the obligations of its dominant position and is careful not to step over the line—as it views the line. As the recent Intergraph dispute (see MPR 5/11/98, p. 16) illustrates, however, Intel's view of what is fair and legal may not match the court's view. In particular, Intel's withdrawal of NDAs to punish companies with which it disagrees has been ruled to be an undue exercise of Intel's power over computer makers.

Intel should not be prevented from integrating functions on the processor—the equivalent of adding a browser to the OS—even though such actions might make it much harder for others to sell chips implementing those functions. Such limitations are almost unthinkable in the semiconductor business. Intel should, however, make the interfaces of its processors accessible to other companies. By keeping Slot 1 proprietary (see MPR 4/20/98, p.3), for example, Intel is using its processor dominance to restrict competition in chip sets.

As integration levels increase, Intel's microprocessor dominance is going to make life difficult for all other suppliers of silicon for PCs—just as Microsoft's dominance will make life difficult for other suppliers of Internet software. This situation is unfortunate, but there is no way to prevent it without inviting a degree of government meddling that ultimately would be to no one's advantage.

If Intel and Microsoft are to continue to operate without government intervention, they must become more sensitive to these issues. Along with the great benefits that accrue from their dominant positions in technologies that lie at the heart of the new economy, they must accept more responsibility. To protect the heart of their businesses, they must take pains not to inhibit competition around the periphery. Ⓜ

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