

US versus Microsoft

Description of the Case

- May 1998, DOJ files complaints against Microsoft
- April-June 2000, District court found Microsoft guilty of:
 1. Maintenance of monopolization in the market of Intel-compatible OS for PCs
 2. Attempted monopolization of the internet browser market
 3. Tying its Windows OS with IE
 - Structural remedy: break Microsoft in two
- June 2001, the court of appeals
 - Partially agreed on 1
 - Dismissed 2
 - Asked for new assessment on 3
- November 2002, new District court imposed behavioral remedies

What is the relevant market?

- District Court:
 - “Intel-compatible PC OS worldwide”
- Microsoft:
 - “It should also include non-Intel compatible OS, OS for non-PC devices and other middleware”
- Court of appeals agreed with the DC:
 - No switch to Mac OS if Windows price increases
 - Hand held devices are not substitutes for PCs
 - Long before middleware can be a substitute for OS

Market power?

- Windows have more than 95% of the market
- High barriers to entry:
 - Most consumers prefer OS with large number of applications
 - Most developers prefer OS with a large customer base
- Microsoft has monopoly power!!

Anticompetitive conduct?

- Licenses issued to OEMs:
 - Removing desktop icons, folders and Start menu entries
 - Modifying the initial boot sequence
 - Changing the appearance of the desktop
- Integration of IE and Windows
- Agreements with Internet Access Providers
- JAVA

Attempted Monopolization?

- CA: to establish a violation...
 - Defendant is shown to engage in anti-competitive practices
 - It had the intent to do so
 - A dangerous probability of achieving market power should exist
- According to the CA, the DC failed to carry out this analysis

Tying

- DC found that bundling of IE and OS was per se unlawful
- CA argues that rule of reason should be applied.
- More accurate analysis needed!