

On Microsoft, Standard Oil and Trustbusters

While much legalized shouting lies ahead, the Justice Department's assault on the Windows "monopoly" has already come a cropper.

Over the weekend, the antitrust division failed to persuade Microsoft to honor its distinction between the market for browsers and the market for operating systems. But then even the famous antitrust skeptic who recently resurfaced on the Netscape payroll, Judge Robert Bork, couldn't bring himself to prejudge the "tying" issue.

Instead he tried to make himself useful by offering the *Lorain* precedent to suggest that Microsoft may harm consumers by

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preventing competitors from reaching them. *Lorain* involved a dominant newspaper that refused to sell space to local businesses that advertised on a start-up radio station in the area.

Hiring Judge Bork was perhaps a testament to Netscape's desperation, since at his press conference he admitted he was hoping his wife would teach him about the web. He also seemed to have the weird idea that Windows was designed to prevent people from loading Netscape.

The *sine qua non* of an operating system is to serve as a universal platform for software. Anybody can download the Netscape browser using Microsoft's own browser, and install it without difficulty. Even with its recent reverses, Netscape still commands 60% of the browser market to Microsoft's 40%.

The *Lorain* argument collapses for a pretty simple reason. Despite Microsoft's undoubted control over what appears on the computer screen the first time you boot

up, in our world TV, radio, newspapers, direct mail and the advertising blimp still exist. America Online did not need guaranteed placement on the desktop to achieve most of its 12 million members. There are plenty of ways of reaching consumers.

To be sure, when novice computer users boot up, they will most likely go first to the browser and internet service provider and whatever other software and services Microsoft puts in their face. For many this may be all they ever need, a fact that looms large in Justice's inverted telescope.

In reality, the value proposition in computing is rapidly migrating from the desktop to the Web. Five years ago, the desktop constituted most of known cyberspace. Now Microsoft and its works are shrinking to just a small corner of that rapidly expanding universe.

Here is where Microsoft really resembles Standard Oil. John Rockefeller took a disorganized, inefficient and shambolic oil industry, and applied the techniques to make oil products cheap, abundant and of uniform quality. In doing so he laid the foundation for autos, plastics, pharmaceuticals, and cosmetics, all built on petroleum as a feedstock.

But once he had picked the low-hanging fruit by uniting and modernizing the refining industry, competition began to emerge to drive the industry toward new efficiencies. By the time the Supreme Court broke up the company, Standard Oil's market share had already dropped to 70% from 90%.

It was these efficiencies, not those he introduced during his "monopolist" phase, that finally made him a billionaire.

Bill Gates has seen his billions mount up faster even as Microsoft goes into relative eclipse in the vast computing universe. In less than 15 years, 200 million personal computers have proliferated throughout the world economy, giving rise

to hundreds of new companies and whole industries. Without a standard PC operating system—and without somebody to invest billions in upgrading that operating system in such a way as to protect the world's sunk investment in existing software and stored data—it wouldn't have happened. Microsoft takes a razzing over "bloatware" and using the public to debug early releases, but it has been an awesome achievement.

As with Standard Oil, the critics have a hard time disentangling cause and effect of Microsoft's monopoly. Listen skeptically in the weeks ahead as Justice catalogs all the evil practices by which Microsoft maintains its business. Rockefeller was demonized for getting special rates from railroads, and for accepting "drawbacks" when they shipped oil for his competitors.

But the rail barons of the day, Jay Gould and Commodore Vanderbilt, were not fools. Any company shipping as much oil as Standard became, in effect, an investor in the railroad. Gould and Vanderbilt were not about to make huge outlays for locomotives and track on the mere hope of business from a single customer. They agreed to rebates and drawbacks to give Rockefeller an incentive to plan his own shipments efficiently so the rail lines could make the best use of their assets.

Justice first attacked Microsoft over its practice of charging computer makers a license fee for every machine shipped, rather than just those actually shipped with Windows. But the only competitor for Windows was a copy of Windows loaded illegally. In protecting

itself Microsoft was protecting its honest customers from free-riders.

Now the focus has shifted to control over what appears on the screen when a user boots up. By taking this power away from Microsoft and giving it to computer makers, Justice would take away Microsoft's intellectual property, stripping the company of any incentive to keep investing in Windows. That's the idea: The world would supposedly look to the Netscape-Java clique for future advances.

Nothing qualifies the Justice Department to dictate such a sweeping and speculative industrial policy. But Joel Klein, the antitrust chief, fits well into the Clinton administration: tentative and reserved at first, his grandiosity overflows if it meets no resistance.

Somehow we just keep being drawn to comparisons between the Clinton and Nixon administrations.

In Nixon's day, the antitrusters were aflame over "conglomerization." His division chief Richard McLaren sharpened his lance and picked out a target, ITT, not noticing that the world was already changing. The market was dying, conglomerization was falling out of favor. His attack threatened to do more harm than good.

Nixon had a better grasp of the public interest than his antitrust chief did. "There is not going to be any more antitrust actions as long as I am in this chair," he was taped saying. "I do not want McLaren to run around prosecuting people, raising hell about conglomerates, stirring things up at this point." ITT's Harold Geneen was suitably grateful, contributing \$400,000 in soft money to the Republicans.

Mr. Clinton shares the Nixonian nose for a fundraising opportunity but lacks the Nixonian sense of responsibility to curb the bumptious crusades of his underlings. But at least Bill Gates is learning. He's begun paying soft money.



John D. Rockefeller