

**Consumer Federation of America
Consumers Union
Media Access Project
U.S. Public Interest Research Group**

**CITING CONSUMER HARM FROM MICROSOFT MONOPOLY,
GROUPS ASK ADMINISTRATION
TO INCLUDE WINDOWS XP IN ANTITRUST CASE**

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(Washington, D.C., Wednesday, Sept. 26, 2001)— Four of the nation's leading consumer organizations warned today that Microsoft's new bundle of software and Internet services will extend and deepen the company's illegal monopoly and cause significant harm to the nation's consumers. These warnings were issued while Microsoft itself was racing to put its new operating system —Windows XP— into computers before a potential judicial order could require major changes to its structure.

Windows XP/.NET Continues, Deepens Antitrust Violations

An analysis released today by the Consumer Federation of America, Consumers Union, Media Access Project and U.S. Public Interest Research Group (U.S. PIRG), reveals how the tight integration of Windows XP with other basic computer applications, restrictive licensing terms, and other anticompetitive conditions imposed by Microsoft not only mimic Microsoft's previous violations of the anti-trust laws, but also significantly add to them.

CU's Internet and Telecommunications Counsel, Christopher Murray, said that "Microsoft has failed in its attempt to frame the case against it as 'anti-innovation.' Innovation is the crux of the case, but the real issue is whether innovation is driven by a vigorous competitive process or managed by a single, dominant firm that can choose, at any moment and with a vast and ever-expanding store of anti-competitive tactics, to protect and promote its interest at the expense of consumers."

Groups Call on Prosecutors to Insist on Tough Remedies to Limit Consumer Harms

At the same time, these consumer groups sent a strongly-worded letter [available online at http://www.consumerfed.org/WINXP_anticompetitive_AGLetter.pdf] to the head of the U.S. Department of Justice's Antitrust Division, the state attorneys general party to the case, and an additional six state attorneys general who last week expressed concerns about the anti-competitive nature of Windows XP, calling for extensive conduct remedies that 1) eliminate from "Windows XP/.NET" all of the technology and business

practices that the Courts found illegal and (2) retain District Court jurisdiction to break up Microsoft if its conduct fails to comply with any settlement.

Dr. Mark Cooper, CFA's director of research, said, "A conduct remedy is only as effective as its enforcement mechanism. Microsoft has exhibited a striking corporate disdain for the legal norms imposed by antitrust laws, and promises the same with the launch of Windows XP/.NET. The court must be prepared to stop Microsoft in its tracks if it again flaunts the antitrust laws."

The paper, entitled "*Windows XP/.NET: Microsoft's Expanding Monopoly*," [available online at http://www.consumerfed.org/WINXP_anticompetitive_study.pdf] outlined specific problems with Windows XP/.NET. According to the analysis, Microsoft has designed a bundle of products and services designed to extend its monopoly to the new generation of Internet-based and currently competitive applications and services. These include communications, such as e-mail and instant messaging; commerce, such as identity verification and transaction records; utilities such as calendars and contact lists; applications such as media players and digital photography, and event Internet services themselves (e.g. MSN).

In the report, the groups cited specific areas of harm that the courts found to have resulted from Microsoft's illegal practices and which will continue, if not worsen, under Windows XP/.NET, including:

- **Denial of choice:** Microsoft forces manufacturers to buy one bundle and biases desktop location, in effect denying consumers choices of non-Microsoft products. Consumer friendly configurations are unavailable. Eventually, consumer-friendly competing products will disappear from the market.
- **Increased costs:** Because of its monopoly, Microsoft is able to charge more for the bundled package than it would in a competitive market, and consumers are forced to buy products they don't need or want. The study cites estimates of between \$20 and \$30 billion of added consumer costs between 1995 and 2000 because of Microsoft's monopolization of the operating system and browser.
- **Impairment of Quality and Innovation:** Because of Microsoft's leveraging of the operating system, superior products are delayed or driven from the marketplace. Existing libraries of content are rendered obsolete. Resources are and investment in competing products is slowed or denied.

Additional Privacy and Commerce Concerns over "Passport" Raised

The new products also raise privacy and commercial exploitation concerns via Windows XP/.NET's personal identity authentication service, called *Passport*. According to the paper, Microsoft intends to operate this service in an anti-consumer manner by linking who the consumer is to what the consumer does on the Internet. Microsoft proposes to share information collected with favored vendors.

Dr. Cooper expressed concern that, with *Passport*, "Microsoft is creating an entirely new basis of market power that would reside in the control of personal information."

The following documents are available in their entirety online:

- Letter to DOJ and AGs [http://www.consumerfed.org/WINXP_anticompetitive_AGLetter.pdf]
- Study: [http://www.consumerfed.org/WINXP_anticompetitive_study.pdf]
- Press release [http://www.consumerfed.org/WINXP_anticompetitive_release.pdf]

The Consumer Federation of America is the nation's largest consumer advocacy group, composed of two hundred and eighty state and local affiliates representing consumer, senior, citizen, low-income, labor, farm, public power and cooperative organizations, with more than fifty million individual members. CFA is online at <http://www.consumerfed.org/>.

Consumers Union, publisher of Consumer Reports, is an independent, nonprofit testing and information organization serving only consumers. CU is comprehensive source for unbiased advice about products and services, personal finance, health and nutrition, and other consumer concerns. Since 1936, CU's mission has been to test products, inform the public, and protect consumers. CU's income is derived solely from the sale of Consumer Reports and its other services, and from noncommercial contributions, grants, and fees. CU is online at <http://www.consumersunion.org/>.

Media Access Project MAP is a 28 year-old non-profit, public interest telecommunications law firm which represents civil rights, civil liberties, consumer, religious and other citizens groups before the FCC, other federal agencies and the Courts. MAP is committed to protecting the public's First Amendment rights to receive information, to speak and to be heard in the electronic mass media. MAP is online at <http://www.mediaaccess.org/>.

U.S. PIRG is the national lobbying office for the state Public Interest Research Groups. PIRGs are non-partisan, non-profit advocacy groups active on environmental and consumer campaigns across the country. PIRG is online at <http://www.pirg.org/>.