

# Commerce Anticompetitive and Antitrust

King Fahd University of Petroleum and Minerals  
Al-Shareedah, Ahmad and Hasan, Sadiq

**Abstract- this paper is going to explain the basic concepts of anti-competitive and anti-trust behaviors. Also, it illustrates the major deal that happened between the USA government and the Microsoft Corporation.**

*Index Terms*—key words in alphabetical order, separated by commas.

## I- INTRODUCTION

The antitrust laws broadly forbid agreements in restraint of trade. These illegal agreements are typically imagined as products of smoke filled backroom discussions, where titans of industry set prices over cigars and whiskey. Such clear examples form the inner core of what section 1 of the Sherman Act proscribes, but the outer boundaries of section 1 liability are unclear and are the subject of substantial disagreement among courts and academics.

## II- AGREEMENTS UNDER SECTION 1 OF THE SHERMAN ACT

The Sherman agreement handles spoken and unspoken agreements. The spoken agreements contains some form of communications such as “knowing wink[s]” and “grunts” cause a meeting of minds. While, the agreements that result only from acts occurring in the marketplace are called unspoken agreements (1).

## III- THE ECONOMICS OF COLLUSION

The collusion simply focuses on oligopolistic competition—that means the few sellers control the competition of a market. In 1838, the oligopoly theory began. The simplest

form of oligopolistic competition occurs with a single, homogenous product. Where, a seller sets his production quality and price to the monopoly level, and as the competitors' number increases, the price and qualities increase to handle perfectly competitive level (1).

## IV- SOCIAL NORMS AND COLLUSION

A social norm is an “informal social regularity that individuals feel obligated to follow because of an internalized sense of duty, because of a fear of external non-legal sanctions, or both.” Richard McAdams said. The non-legal enforcement is classified into personally enforced and community enforced norms. Personally enforced norms, here the victim punishes the defector for violations. A seller who reneges on an obligation will be punished several times by his counterpart. However, with community enforced norms the punisher will be another member of the community whom the norm violator may not have directly harmed (1).

## V- ANTI-TRUST STANDING

Federal antitrust law is not designed to protect businesses from the workings of the market, but rather to protect the public from the failure of the market. Not all persons who have suffered an injury flowing from an antitrust violation have the right to pursue a private claim. The lower courts have maintained that only those who can most efficiently vindicate the purposes of the antitrust laws have standing to maintain a private action. The court developed the requirement of “antitrust standing” and the companion doctrine of “antitrust injury” in order to assure that only appropriate claims are pursued (2).

## V- AN EXAMPLE OF ANTI-TRUST

### Background

Microsoft is one of the world's largest companies by market value in the whole world. It provides the operating system (OS), which is the basic program that when loaded into a computer makes it work, for about 80% of the world's personal computers. Any software, such as games and applications, needs to be compatible with the operating system in order for it to work. (3)

Microsoft produces the operating system which runs the vast majority of the world's PC's. Moreover, it produces many software products, such as Microsoft office which run smoothly on its operating system. In addition, this operating system contains a web browser which is software that enables users to navigate the World Wide Web and to display files in the HTML format that has become the standard on the Web (5).

Since Microsoft's operating system is so dominant, companies or individuals writing software preferred to write for its system. As a result, many competing companies suffered from this. So, US Justice Department as well as 18 states and Washington D.C. went to the court to complain against Microsoft antitrust actions. (3)

### Antitrust Actions by Microsoft

Microsoft had used its domination of the operating system market to restrict competition. Microsoft licensed its operating system more cheaply to computer makers if they exclusively installed its software (3). Thus, personal computers have Windows as their basic operating system. All major computer makers except Apple install it as the basic system. And thus, there is generally no effective substitute for the Microsoft system. (4)

One of the alternatives is the Linux system, which has a number of devotees among experienced computer programmers. It is, arguably, a better system, but it is not one that ordinary users can access. It is also an open system whose codes are fully disclosed. (4)

Microsoft was found to have made it difficult for other software firms to put their products on personal computers running on Windows. The total number of users of the Linux system is

minor in comparison with the Windows/DOS system. So computer makers and application programmers must employ this operating system in order to make their products available. Software platforms are valued by end users if they are popular with applications developers and thus run attractive applications. A consumer values a software platform more if the platform has more applications he wants.(5)

But the most important action that Microsoft did was known as the browser war as Microsoft forced its Internet Explorer browser to leadership in a market which had been dominated by Netscape's Navigator. (3)

Netscape Navigator was introduced in the fall of 1994, and it quickly became one of the most widely used software applications ever offered. Navigator's popularity peaked in early 1996, with more than 80% use its browser. Microsoft introduced Internet Explorer (IE) as part of the first release of Windows 95 in August 1995. Little used at first. After that, IE's share rose rapidly after the introduction of IE 3 in August 1996 and after America Online (AOL) began using IE components in its proprietary subscriber software. By June 2000, Microsoft's share of browser use was approximately 70%, while Netscape's share was about 30%.(5)

Microsoft fought the browser war to remain the leading provider of software platforms. A software platform contains modules of code that are accessed through application programming interfaces (APIs). APIs provide a wide variety of features and services to software developers. Applications software developers use these APIs to economize on writing code for computer users that have the corresponding software platform installed on their computers. Microsoft included browsing features in Windows to encourage software developers to write Web-enabled applications for Windows. And in this way, they increase the demand for Windows. (5)

Microsoft invested about \$100 million annually to develop improved versions of IE. In fact, Microsoft never sought to make money from IE directly. The payback from developing and distributing IE, as from its investments in other Windows features, came from increasing the value of Windows to make it more likely that Windows would remain the leading software platform. (5)

So, Microsoft had tied Internet Explorer and Windows operating system together and entered into exclusive distribution contracts that foreclosed Netscape from the market, and that it had engaged in anticompetitive actions to maintain a monopoly in operating systems and to obtain a monopoly in browsers.(5)

Microsoft and Netscape also engaged in price competition. Microsoft gave its browser away to all users. It included the browser in the operating system, made upgrades available for free, and developed and distributed free versions of IE for Apple's Macintosh and for major versions of the UNIX operating system used on high-level work stations in corporations and universities.(5)

Thus, Microsoft had taken a number of steps to make it more expensive for Netscape to distribute its browser to consumers. Microsoft had increased Netscape's cost of distribution by preventing Netscape from gaining access to the most efficient channels of distribution. Thus Microsoft had, through its various actions, placed Netscape at a competitive disadvantage.(5)

#### Positive Effects of These Actions

It is correct that Microsoft did unethical actions that made many companies suffered and moreover excluded from the market. However, these actions had some benefits if we monitor the situations from another point of view.

The consumers gained from these actions in two ways. First, the competition between Microsoft and Netscape gave both incentives to improve their browsers. Thus, Microsoft's efforts contributed to improve the quality of Web browsing software and increasing its availability (5). Second, consumers received a free internet browser, when previously Navigator had been charged for (3).

#### Actions Taken Against Microsoft

The court confirmed that Microsoft stands guilty: The firm used illegal practices to maintain its monopoly position. It was about to be divided into 2 companies, an operating system company and an applications company (5). But, it has avoided being split up. However, Microsoft has agreed to a raft of restrictions, including a panel

of independent monitors to oversee its conduct and review its accounts. So, Microsoft will be obliged to provide software firms with information to allow them to develop competing products, and ensure that those products work with the Windows operating system. (3)

These restrictions will stop Microsoft's unlawful conduct, prevent recurrence of similar conduct in the future and restore competition in the software market, achieving prompt, effective and certain relief for consumers and businesses. (3)

Now, Microsoft faces challenges to its monopoly in the PC software market as Dell tests a pre-installed Google software package, which could end up on millions of the vendor's PCs. This search software is being tested by Dell and could see a Google-powered Dell homepage, Google desktop search, as well as a Google toolbar. Moreover, Google already works with PC makers such as Hewlett-Packard, Sony, Apple and Toshiba to distribute its toolbar software. (6)

## VI- CONCLUSION

Commerce Anticompetitive and Antitrust Concepts are significant these days in term of globalization of the whole world as small village. Here we have illustrated the basic concepts of anticompetitive and antitrust stages. Finally, we have discussed one big problem that affected the market few years ago.

## VII- REFERENCES

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