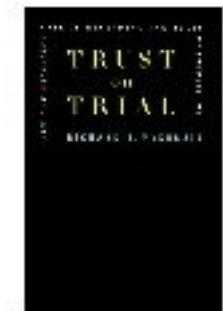


Trust On Trial: How The Microsoft Case Is Reframing The Rules Of Competition (精装)



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An incisive argument proving that current rules of business competition are rendered obsolete by the dynamics of information-age companies

The Microsoft antitrust case is, and will remain, an event of historic proportions. It is a case that has very publicly pitted the legal power of the United States government, the free world's undisputed leader, against the legal power of the Microsoft Corporation. Antitrust on Trial presents dramatic and compelling reasons to recast our view of modern monopolies and rewrite the rules of business with regard to the new economy companies that hang in the balance. This groundbreaking book argues cleanly and convincingly that antitrust law-the variety being tested in the current landmark case-is useless in today's landscape where technology is changing the accepted standards of business.

The author, a notable economist and professor at the University of California at Irvine, conducted a year-long study of the Microsoft antitrust case as the basis for this book. An exceptional narrative of new-economy business practices and an analysis of the most important antitrust case of the last half-century, Antitrust on Trial presents

conclusions that will surely affect business here and abroad for decades to come.

Is Microsoft truly a classic monopoly, whose aggressive pursuit of markets for Internet browsers and operating systems is harmful to consumers and worthy of government intervention? Or has it actually been a victim of aggressive rivals (led by Sun, Novell, Oracle, and IBM) who called in high-level favors to keep Bill Gates & Company out of the lucrative market for network servers? Richard McKenzie, a noted economist with the University of California at Irvine and the author of more than 20 books, is convinced of the latter. He advances a formidable argument on that behalf in *Trust on Trial*, which maintains "the Microsoft case has shown--and not for the first time--how politics can taint the antitrust enforcement process." Starting with copies of major U.S. antitrust laws, McKenzie shows how cases such as this eventually may affect consumers in both the short and long term. With some people unconditionally opposed to anything out of Redmond, of course, his thesis won't convince everyone the government proceedings are a sham. But even many of Microsoft's detractors should concede that he makes a compelling point, particularly with his overriding contention that the process is usually political. "More than Microsoft is now on trial: trust in antitrust enforcement is on trial," he says.

--Howard Rothman

A professor in the Graduate School of Management at the University of California-Irvine, McKenzie uses the Microsoft antitrust trial to ask, "Are the efficiency goals of the U.S. economy as a whole best served by using existing antitrust legislation to assess the business practices of an industry leader in the New Economy?" His answer is a resounding "no": the motivations behind antitrust actions in the past century remain suspicious, he writes, and such actions ultimately hurt industry. McKenzie ardently believes that Microsoft's unusual profitability (its \$8 billion profit in 1999 represents a return on sales of 39%, the highest of any major American corporation) has nothing to do with any monopoly power; rather, he says, it stems from the company's production of superior products, which are sold at prices other firms can't match. The author posits a conspiracy among Microsoft's competitors, who he claims have courted and convinced (unnamed) corrupt politicians to exploit antitrust policy to crush the software giant. McKenzie's rigid ideological position ultimately limits the intellectual reach of his book. In wholeheartedly supporting Microsoft's freedom to act as it pleases, McKenzie often presents unfounded theories. For example, he ominously predicts that any penalties assessed against Microsoft will inhibit innovation in the software industry. Yet earlier he acknowledges that Microsoft regularly buys market-proven software developed by others, which it integrates into and distributes with its own existing products. Thus, McKenzie undermines his own credibility--and he also misses an opportunity to propose more appropriate corrections for market imbalances in the New Economy. (May)

Sometimes, when the telephone calls, faxes and e-mail messages pile up in The Standard's Washington bureau, it's easy to get the urge to live in a cave for a while.

That's apparently what University of California at Irvine professor Richard B. McKenzie has been doing for much of the two-year antitrust battle that's been waged by the Department of Justice, the District of Columbia and 19 state attorneys general against Microsoft. Although the trial's endgame is still unfolding - as of this writing, U.S. District Court Judge Thomas Penfield Jackson has found Microsoft guilty of a laundry list of federal and state antitrust violations - McKenzie has put out *Trust on Trial: How the Microsoft Case Is Reframing the Rules of Competition*. The 229-page book - which was wrapped up at the end of last year, before Jackson issued his "conclusions of law" in

the case - excoriates the government for daring to interfere with Microsoft's track record of software revolution and innovation.

McKenzie's central thesis has two parts. First, the government used specious evidence in a failed attempt to prove its case against Microsoft. Second, federal and state antitrust laws are designed to protect nonmonopoly businesses, not consumers. Therefore, McKenzie argues, this case is spurred by Microsoft's competitors, including America Online, IBM and Sun Microsystems, and conducted by political opportunists (namely, U.S. Assistant Attorney General Joel Klein and the 19 state attorneys general) looking to make reputations in legal and political circles.

It's probably true that folks like Scott McNealy and Larry Ellison are happy to see Microsoft burdened with its current legal troubles. But it's a bit cynical to suggest that Klein and the rest of the government's lawyers are in the employ of Microsoft's competition. Nevertheless, McKenzie brushes up against the dirty little secret of antitrust law: It's not about protecting consumers, as many government attorneys will piously allege; it's about protecting the viability of the capitalist system against malevolent actors armed with disproportionate resources.

McKenzie repeats one of the Microsoft legal team's key trial mistakes: He tries to defend the indefensible position that Microsoft has monopoly power in the market for Intel-compatible personal computer operating systems. McKenzie counts 19 different operating systems offered by companies such as Wang, FreeBSD and GEM as proof that leading computer makers, contrary to what many of them testified in the trial, have viable commercial alternatives to the Windows operating system.

"If the characterization is tolerably accurate," McKenzie writes, "it follows that Microsoft's main products can be represented by very long strings of 1s and 0s, which ... are not likely to be a source of vast and enduring monopoly power." McKenzie says that, unlike monopolists such as AT&T and Standard Oil, Microsoft can't physically prevent new actors from usurping its dominant market position. Furthermore, he argues, Microsoft could easily be toppled by anyone with a good software idea and enough seed money.

Although McKenzie defends Microsoft's conduct with computer makers, Internet service providers and others as merely good business, he neglects half the equation. Microsoft not only threw its market share around to promulgate its Internet Explorer Web browser, but it also actively penalized business partners for promoting Netscape's Navigator browser.

McKenzie attacks as chimerical the idea that a software "applications barrier to entry" reinforces and maintains Microsoft's monopoly. But the author misses a few key points: Software written for non-Windows operating systems tends not to work on Windows.

At this point, sparking a groundswell of competition big enough to dislodge Microsoft is akin to persuading Americans to start driving their cars on the left side of the road. No one's opposed to the switch in principle, but they won't do it without looking over their shoulder to make sure everyone else is moving over with them.

"What a strange antitrust case. A "natural monopoly" facing many competing firms. A company driving market prices down after it becomes a "monopolist." Richard McKenzie's insightful *Trust on Trial* lays out the often bizarre theories behind the government's case against Microsoft. With last week's verdict, the book could not be

more timely. Even those steeped in this antitrust action will learn from Mr. McKenzie's account."

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