



April 15, 2004

The Honorable Colin Powell
Secretary of State
U.S. Department of State
2201 C Street, NW
Washington, DC 20520

Re: EU ruling on Microsoft illegal conduct

Dear Mr. Secretary:

It has come to our attention that you, others in the Administration, and many members of Congress, have recently been asked to hastily take extraordinary actions based upon serious misrepresentations of fact and law. We believe an accurate description of the situation is necessary to prevent an unfortunate outcome for the technology industry, one we believe you would not wish to be associated with.

Many U.S. based technology companies believe that they, along with consumers, will be major beneficiaries of the recent ruling by the European Commission. After 5 years of adjudication the EU has concluded that Microsoft has continuously been abusing its massive monopoly power. Innovation in our technology industry will be helped, not harmed, by this ruling, and more jobs are likely to be created.

Microsoft is seeking to build Congressional pressure to urge the Administration to intervene and overturn this fully justified decision, unanimously backed by every government in Europe. They are playing upon hostility and suspicion, unjustified in this case, towards Europe. They are urging rapid action before the ruling is made publicly available, since the details of their numerous anti-competitive and illegal actions will make defending them unsavory and harder to justify for all those truly committed to the rule of law.

Intervening at this stage [an appeal is under consideration] of a legitimate law enforcement proceeding is irregular in any event, but doing so when our parallel law enforcement agency has also found the most serious violations of our antitrust laws by Microsoft is shocking. Congressional "cover" is being sought because even Microsoft recognizes how potentially embarrassing it could be for the Administration to switch from prosecutor to defense counsel for such a politically supportive company even with such cover. If a blatant polluter was found to have willfully broken the law in the US, reached agreement to cleanup its act, but then continued to pollute all over the world,

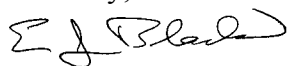
would you really want to be asked to intervene with other governments to leave the well connected polluter alone, and just rely on ineffective promises made to the EPA?

In an attempt to continue to defend its widely ridiculed settlement with Microsoft over two years ago, some in the Justice Department have contorted themselves into almost becoming a monopoly apologist. Other parts of the government ought not to follow that lead. In reality, the EU decision is based upon a factual and legal record even stronger than the solid one in the US case. It is in accord and harmony with the serious attention given to Microsoft's monopoly abuse under traditional antitrust law in the US and around the world. It is amazing that since the settlement Justice has not only stopped prosecuting continued anticompetitive behavior, but has become the protector of the company when others investigate law breaking.

CCIA has for over 30 years represented a broad array of technology companies, overwhelmingly based in the US, with combined annual revenues of over \$200 million. On Microsoft-competition related matters we have been working with numerous other well know US companies beyond our membership, many of whom participated in the exceedingly fair proceedings in the EU, some openly, and some, because of fear of Microsoft retaliation in business dealings, under promises of confidentiality. Some will feel free to speak now while many others will unfortunately, but understandably, remain silent. As you decide how to respond to Microsoft's entreaties, one of the many things that should persuade you to resist, is that while many respected US companies such as Real Networks, Novell, Sun Microsystems, Oracle, Webex, Intuit, and many others strongly and openly support the EU decision, a far greater number do so more quietly. The lack of support for Microsoft from companies in the industry is deafening much like the case of the dog that didn't bark. Except for a couple of new groups Microsoft spawned during its antitrust trial, all the other respected technology trade associations in Washington are either silent or supportive of the EU enforcing its laws.

In conclusion we urge you to wait until the actual ruling is available and analyzed, to examine the facts and positions of both sides, to not act in haste, to not side with Microsoft against many others in our industry, and to make it clear that political contributions and influence will not allow a company to operate above the law.

Sincerely,



Edward J. Black
President & CEO

Computer & Communications Industry Association
Vice Chairman of the State Department Advisory Committee on International
Communications and Information Policy