

RealNetworks Suit Shows Microsoft Antitrust Woes Will Continue

David Mitchell Smith

This latest antitrust litigation against Microsoft shouldn't come as a surprise. Microsoft customers should expect additional private lawsuits against the software giant but none that is likely to affect products or services.

NEWS ANALYSIS

Event

On 18 December 2003, RealNetworks, a digital media software and service provider, announced it has sued Microsoft for what it claims are violations of federal and state antitrust laws. The complaint, filed in a San Jose, California, federal court, alleges that Microsoft illegally used its monopoly power to restrict competition, limit consumer choice and attempt to monopolize the digital media market. RealNetworks claims that by abusing its monopoly power, Microsoft has caused RealNetworks substantial lost revenue and business. The lawsuit also seeks to force Microsoft to no longer bundle its Media Player with Microsoft operating systems.

In an 18 December statement, Microsoft countered that vibrant competition exists in this marketplace, and RealNetworks' own reported growth shows it has thrived on Microsoft Windows and many other operating system platforms. Microsoft also argued that computer manufacturers are free to install and promote any media player on new PCs, and that consumers are free to use any media player.

Analysis

RealNetworks' complaint is consistent with Gartner's prediction that Microsoft is vulnerable to private lawsuits that take advantage of a U.S. District Court's April 2000 ruling in which Microsoft was labeled a monopoly. Microsoft's Windows/Media Player bundle is also a focus of a European Union investigation, but Microsoft isn't likely to budge on this issue as part of any settlement in Europe or with RealNetworks. This is because Media Player is too strategic a technology for Microsoft in its next-generation platform where digital media plays an important role front and center.

Bundling, while not effective vs. Linux/open-source software, is still an effective strategy for Microsoft against commercial competitors such as RealNetworks. (A settlement Microsoft reached with the U.S. Department of Justice on 1 November 2002 gave Microsoft the right to innovate and integrate its products.) Microsoft's ability to continue to do this places RealNetworks in a difficult position, similar to the position Netscape Communications was in when its Netscape Navigator browser competed against Microsoft and a Windows-Internet Explorer coupling. RealNetworks has to balance portraying an image of success (to succeed) vs. the reality of being at a disadvantage and looking for help.

Although Gartner cannot predict the legal outcome of this latest litigation, digital media users should expect a long, drawn-out battle in which a settlement is not likely anytime soon. Microsoft customers should expect private antitrust litigation against Microsoft to be an ongoing thing. But impact on the software giant is likely to be small, as Microsoft has cash on hand specifically to address such potential settlements without product or service disruption.

Analytical Source: David Smith, Gartner Research

Recommended Reading and Related Research

- "Judge's Ruling Positions Microsoft for New Markets" — This 1 November 2002 ruling allowed Microsoft to go after new markets, but did not resolve the real legal issue: whether Microsoft can tie its software products together. **By David Smith**
- "Europe Antitrust Probe of Microsoft Likely Won't Affect the Market" — The European Commission says it has evidence that Microsoft's tying of Windows Media Player to the Windows operating system weakens competition. **By David Smith**

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