Author: JCole@symantec.com at Internet
e: 05/14/1999 3:36 PM
ɔrity: Normal
ıo: RICHARD MOONEY at LWSFPOST
Subject: Responses to your questions
---------- Message Contents ----------

Hi,
Gordon worked on the message for Dan Gillmor's column over the weekend. This is what he sent early this morning. Dan has already responded that it looks fine. I'm not sure when Dan's column is going to appear - probably over the next 2 weeks sometime. As soon as it's published, could you please make sure that Cindy or Wendy send a message to Michael Senger so the CEO News & Views page is updated? Thanks,
Amy
---------- Forwarded by Amy Savage/Cupertino/Cal/SYMANTEC on 10/05/98 08:26 AM ----------

From: Gordon Eubanks on 10/05/98 06:16 AM

To: dgillmor@sjmercury.com
cc: Amy Savage/Cupertino/Cal/SYMANTEC@SYMANTEC
Subject: Responses to your questions

Dan, below are some thoughts around the questions that you asked. I hope this is of some help. The major themes are that we have a bigger issue for the government to focus on i.e. making the right public policy decisions to build the infrastructure for the information age and this effort should not be overshadowed by the drama of the battle with Microsoft and second the pace of technological change is more effective arbitrator than the legal system in creating a healthy technology market.

I did not try to address specific sections to specific questions but at the end I tried to give you some specific thoughts on the Microsoft case itself.

Finally, this work is really a joint effort between myself and Derek Witte of Symantec. Derek is our General Counsel and our public policy expert. He works the BSA, Y2000 issues etc. for us. If you were to attribute this in it really is from both Derek and myself.

Warm regards,

Gordon

Building the infrastructure for the information age should be a priority for our government, the technology industry, and for us as individuals. If the United States is going to retain its leadership position, it must also emerge as the

[illegible] infrastructure. We must be the innovators and the pioneers. The key question is what is the governments role? What should the priorities be? I believe the government should participate where it can have the most impact. The anti-trust case against Microsoft must be viewed in the context of these overarching goals in public policy. The government should focus on the broad public policy issues not become over-involved in issues that are better left to be decided by the marketplace.

The driving force in the information age is the ability for large numbers of people to exchange amazing amounts of information quickly and cheaply. To allow people to easily receive information from others, technological standards have emerged to ensure that information can be quickly and easily received and understood. Some of these standards have been established by standards boards, but most have been established by the marketplace. Windows and Intel processors are good examples of the latter. When a standard has been established, those who control the standard have a great deal of influence in the marketplace. In some cases this influence can result in a "natural monopoly"; i.e., a situation where it is more efficient for society to have an important resource controlled by a single person or company.

A historical parallel for a natural monopoly is the railroad industry. Certainly it would not be a good use of society's resources to have competing railroad companies each run their own tracks between the same two cities when only one track is needed to handle the required capacity. Since it makes sense to only have one set of tracks, the company that controls the tracks has a great deal of power -- and the opportunity to abuse this power. It was this very abuse of power by the railroads that was one of the driving forces behind the adoption of our antitrust laws in the late 19th and early 20th centuries. In some cases this allowed the government to break up companies and in other cases it was the basis for the government to come in an regulate certain industries, like the railroads.

While I think that there are strong economic parallels between the natural monopolies of the industrial age and those of the information age, I have doubts that the solutions should be the same. Government regulation, while sometimes needed, is almost never efficient. Because regulation is the creature of law, it is also slow to recognize and react to change. Change occurs much more quickly in the information age than it did in the industrial age. Barriers to entry are controlled by the customers. In fact, government regulation simply cannot keep pace with technology changes today. For this reason, I think it would be a mistake for our society to ask -- or to allow -- the government to regulate the information age.

Given the choice between the possible abuse of power by people who control the standards and the damage that could be done by having the government try and regulate the standards, I would much rather take my chances with a technology driven marketplace. One of the great things about technology is that it can drive change quickly. If the person who controls the technological standards abuses

CONFIDENTIAL

abandon the old standard in favor of a different standard. We have seen this time and again.

So how does all of that relate to the current case against Microsoft? If Microsoft has violated the law, the government should make their case. What we should not do is to try and have the government use this case as a platform to regulate the information age. There are so many issues that the government can handle better than private parties that I don't think our society is helped if we divert the focus of public policy toward Microsoft at the expense of those other issues.

I feel we are moving to a focus on playing the child's game of king of the hill where companies try and use their influence with the government to knock down the industry leaders. Instead, we should be outwardly focused on the need for strong global leadership.

As far as the strength of the DOJ and Microsoft cases go, I am not in a position to judge the legal merits. I would say the following. Improvements in the operating systems provide new opportunities for developers like Symantec - we would not be in business for the long term if we operated under the belief that Microsoft has no right to include the functionality that we provide in the next version of the operating system. Our business and core competency is extending the operating systems and adding value for customers. Consumers have benefited from improvements in the operating system and from the products that add value to the operating system. Our products have helped make using computers more productive and reliable. In our experience, Microsoft has one of the best developer support programs in the industry. So from my perspective to date customers and the industry have benefited from improving the operating system.

CONFIDENTIAL