Weekly Insight:
Microsoft, case (almost) over
Commentary by... Andrés Font, Analysis and Prospective Manager, Fundación AUNA

EBCenter Article
How to stop intruders

Reports
The design look of a web site is key to its credibility
Software: the worse, the better
37% of Fortune 100 offer no reply to general inquiries submitted to their web sites

Companies
Nokia to create its own video console
Towards IM compatibility

We Recommend
Electronic billing and payment, the next step
Wireless industry: merging or dying

WEEKLY INSIGHT
Microsoft, case (almost) over
Antitrust victory for Microsoft. U.S. District Court Judge Colleen Kollar-Kotelly released a decision approving, with few changes, the settlement deal that Microsoft and the Department of Justice reached almost exactly one year ago. The move ends months of speculation as to whether the court would toss out the settlement in favour of imposing stricter penalties on Bill Gates’ company as pushed for by nine states that split from the coalition of 19 states that brought the original case. Despite the decision, the case may be far from over. The nine states that opposed the settlement could still appeal.

In addition, the software giant has to resolve legal troubles in Europe as well. The European Commission will take a preliminary decision by the end of the year. From The Mercury News [Full Story]

Highlights
- In spite of the ruling, in a 300-page opinion, U.S. District Judge Colleen Kollar-Kotelly states that Microsoft “has a tendency to minimize the effects of its illegal conduct”.
- The settlement between Microsoft and the Department of Justice requires the company of Redmond to disclose certain software source code so rival applications can run more smoothly on its Windows operating system. Makers of Windows-based PCs also would be able to highlight software from Microsoft’s competitors without fear of retaliation from the industry giant.
- In the U.S. legal system, a monopoly situation is not in itself illegal, although a company has 100% of the market share. What is illegal is if the company abuses its monopoly position. European laws are different, so the possibility that the Commission adopts a decision inconsistent with Kollar-Kotelly's ruling cannot be ruled out.
- The European Union’s Competition Commission is investigating allegations that Microsoft used its dominance in desktop operating systems to gain an unfair advantage in the server software market. On the other hand, the
Commission blames Microsoft for bundling its Media Player into the Windows operating system and, in this way, severely damaging software rivals.

- Ninety minutes before planned, the Kollar-Kotelly’s judgement could be seen on the Internet, shooting up Microsoft’s shares by 6.4%, to $56.39. A proof that investors were clearly relieved.

Press Review

**From Financial Times**

“The world’s largest company could breathe a sigh of relief. Its rivals could not, however. Commercially, Microsoft reigns supreme. When the antitrust action was launched nearly five years ago, the software giant seemed under threat from thousands of nimble dotcom start-ups, as well as Netscape’s Navigator internet browser and the Java programming language. Instead, most of the dotcoms disappeared. Netscape Navigator has less than 5 per cent market share, crushed by Microsoft’s Internet Explorer. Java has never developed into a meaningful alternative platform. Indeed, five years on, the global collapse in spending on information technology has paradoxically left Microsoft more dominant than ever.”

**From Gartner**

“Microsoft now has a very strong position to go after new markets enabled by its.NET initiative, handheld devices and television. But the battle hasn’t completely ended. The European Union continues to examine the issue, and private and class action lawsuits remain outstanding. After all, Microsoft was found guilty of abusing its monopoly powers, and authorities are investigating new allegations. However, neither the Appeals Court nor the original settlement nor Kollar-Kotelly’s ruling resolved the real legal issue — tying software products together. With no legal precedent set, the industry may see this issue reappear.

Gartner believes Microsoft will change little beyond the relatively subtle changes seen since the settlement”.

[Full Story]

**From The Register**

“Microsoft can, and you can bet, probably will use this procedure to sandbag future litigation: it adds several months to any future case as the respective lawyers set their meters running. A Sun Microsystems can probably afford the expense. A Borland, if it were inclined, probably couldn’t, and a start-up is even further away from a fair hearing than it ever was. Start-ups are the lifeblood of the tech industry, and anyone straying onto the Windows patch for the first time has a stark choice of either being bought, or murdered.

So now you know why capital has deserted the PC software business. Nothing goes in, and nothing comes out. It's a monoculture every bit as sterile as America’s cellphone business, which takes its cue from Qualcomm, a company with superb technology which almost from day one made sure it would be a backwater, thanks to its obnoxious licensing practices.

(…)

Both Microsoft and Qualcomm are in the unenviable position of being beneficiaries of state protection, which is, you’d think, the last place red-blooded capitalists want to be. And so the American government protects two home-grown monocultures from real competition. As we’ve suggested, the long-term threats to America's technology industry come from co-operative models of business, such as GSM, and from the superior education and lower labour costs offered by India and China. To offer a protectionist blanket around Microsoft doesn’t really help anyone, right now, and it doesn’t even help Microsoft. It's an amazing conclusion to this case.

[Full Story]

**From USAToday**

“Judge Colleen Kollar-Kotelly’s decision on Friday permits Microsoft to repeat illegal acts and lets it retain all of the fruits of its illegal behaviour. The way is now paved for a Microsoft-owned Internet.

(…)

This case represents a systemic failure of the legal system to protect consumers, competition and innovators. It's supposed to make no difference whether a monopoly is illegally acquired or maintained -- either way, the government must ensure that competition is restored.

(…)

The legal policies adopted by the Justice Department in the Microsoft case allow Microsoft (and presumably any other monopolist) to kill new technologies in the crib. That precedent, if not reversed, will have disastrous effects on
Commentary by...
Andrés Font, Analysis and Prospective Manager, Fundación AUNA

Are the monopolies in the New Economy natural?
One of the major challenges of antitrust measures in high tech sectors is the difficulty to adjust sluggish legal processes to breakneck technological and strategic changes of these sectors. So, in the hypothetical case that Microsoft had wanted to go back to the market situation prior to the beginning of the presumed monopoly practices, this would have been impossible.

Among other reasons, this is because, in the meantime, Netscape had been acquired by AOL (America Online), which in turn, aroused suspicion of antitrust attitudes in the Internet access segment. And these suspicions increased with the merger between AOL and Time Warner.

These difficulties become more pronounced in markets which work as networks, due to the so-called ‘network effects’ that increase the value for the user when the number of users grows.

For instance, the more Windows users there are, the more applications for this operating system are developed. Some theorists state that the force of ‘network effects’ in this kind of market involves a structural tendency to monopoly. That is because, on the one hand, a desertion by a dominant operator, platform or standard means important ‘switching costs’ for the user. On the other hand, joining the new technology entails great ‘benefits of scale’ (a software applications developer has more incentives to develop applications for Windows than for any other operating system).

The addition of both aspects becomes an important entry barrier, which is called lock in, that requires major investments to overcome it. Hence, in the USA these markets are been defined as ‘winner takes most’.

To protect themselves from antitrust accusations, dominant companies of the sector, and Microsoft is not an exception, state that the very structure of the market turns them into ‘natural monopolies’.

However, they continue by saying that this dominant position must be played down, because it is threatened by continuous technological improvements, which can make obsolete the technology on which its pre-eminence is based and substitute it for another more innovative one.

In this sense, the main competition is not in the market (alternative products), but for the market (substitution systems). For example, the real competition for Windows (alternative) is not so much the Macintosh operating system as it is an open source one such as Linux (substitutive), which means a change of computer paradigm.

Given this scenario there are two sides: those who defend the impossibility of taking part in these sectors because of their innate technological volatility and in fact self-regulation; or those who think that, although the current free competition system is badly equipped to face new problems, a competition defence policy can and must be applied.

With Judge Colleen Kollar-Kotelly’s resolution, which prevents Microsoft from being divided into smaller companies, the first formula has prevailed. That is that the PC market (hence the Internet access market) is, at the present time, a Bill Gates’ plan. Let’s see if the dynamism of the New Economy is able to break this ‘natural monopoly’.

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EBCENTER ARTICLE
How to stop intruders
By Diego Sacristán, Manager of Security Practice, PwC

The introduction of Internet in business processes has multiplied the number of users who must access to business networks. The management of this access is a solved issue for new economy companies, but a pending subject for traditional enterprises.

Brian Subirana, IESE professor, says that companies are not prepared to incorporate identity management to their information systems, because it involves risks related to security, access control, and the identity data model, among others. [Full Story]

____________________________________________________________________________

REPORTS
The design look of a web site is key to its credibility
Title: How Do People Evaluate a Web Site’s Credibility?
Source: Consumer WebWatch (a project of Consumers Union, supported by grants from The Pew Charitable Trusts,
When people assessed a Web site’s credibility they did not use rigorous criteria. That is the major finding of a study developed by Consumer WebWatch and Stanford University, which shows that 46.1% of all consumers in the study assessed the credibility of sites based in part on the appeal of the overall visual design of the site. Consumer credibility-related comments about visual design issues occurred with more frequency with finance (54.6%), search engines (52.6%), travel (50.5%), and e-commerce sites (46.2%), and with less frequency when assessing health (41.8%), news (39.6%), and nonprofit (39.4%) sites.

Surprisingly, less than 10% of the participants’ comments (or 8.8%) referred to the identity of the site or its operator. Nearly 7% (or 6.4%) of consumers in this study made comments about a site’s customer service or related policies when assessing credibility. On the other hand, nearly 3% (or 2.3%) of consumer comments referred to a site’s sponsorships when assessing credibility, and people mentioned privacy policies in less than 1% of their comments.

**Software: the worse, the better**

**Title:** Customer Satisfaction and Royalty 2002  
**Source:** Millar-Williams  
**Date:** 2002  
**Abstract:** If a company drives satisfaction levels higher, does loyalty follow? It depends on the sector, but, in the case of software, it doesn’t. This document reveals that the software industry shows a slightly negative correlation, meaning that when one increases, the other decreases.

So the more dissatisfied a customer becomes, the more loyal they become. The authors explain this strange behaviour because, considering the high investments required for enterprise systems, companies are forced to be loyal regardless of their satisfaction.

The consulting firm points out that the value drivers leading to Customer Loyalty are completely different for each industry. Service and price plans are the value drivers for telecom (wireless), while costumer service is the value driver for personal computer. Lastly, brand strength is the value driver for e-commerce. (A free register is required)

**37% of Fortune 100 offer no reply to general inquiries submitted to their web sites**

**Title:** 2002 Online Customer Respect Study  
**Source:** CustomeRespect.com  
**Date:** October 2002  
**Abstract:** The 2002 Online Customer Respect Study unveils that the Internet is not yet viewed seriously by many Fortune 100 companies.

The report found that 37% of Fortune 100 companies offered no reply to a general inquiry submitted to their Web site, despite offering either an online form or email contact details for inquiries. Some companies sent an auto-responder, but then failed to follow up with a full response.

According to the study, one such company was Ford. The company failed to provide any further response to a general inquiry about the location of its European headquarters, despite guaranteeing a reply within 48 hours. By contrast General Motors provided an auto-response within hours, followed by a full reply within a working day.

The survey reveals that 45% of sites force customers to opt out if they don’t wish to receive unsolicited emails from them. On the other hand, 15% of sites sell customer data without seeking permission to do so. Last, 83% of sites offer no auto-response function to notify customers that their communication has been received and will be acted upon.

**COMPANIES**

**Nokia to create its own video console**

Mobile phone maker Nokia has entered a new market as it unveiled a new device that doubles as a game console and takes aim at Nintendo’s teenage hit product Gameboy Advance. The device will be introduced in February of 2003. From Reuters
Towards IM compatibility
The Internet Engineering Task Force, the group that sets the technical standards for the Internet, gave the go-ahead to the creators of open-source instant-messaging application Jabber to create a working group based on that technology. From News.com [Full Story]

WE RECOMMEND
Electronic billing and payment, the next step
Although most companies today buy and sell goods or services online and use the Web to manage their logistics, its billing and payment are still done the old-fashioned way, on paper. CIO magazine states that the next logical e-business step is adopting electronic invoice presentment and payment (EIPP), a technology that many companies are increasingly using as the wave of the future to save money and improve efficiency.

Among its benefits there are that, in addition to lowering invoice processing costs, companies can reduce billing errors, improve cash flow, provide better customer service, and obtain more timely and accurate data for analyzing how they spend money or sell their products.

However, there are still may hurdles to overcome. For instance, the break-even point for bill recipients is less clear. The key to deriving the most value from EIPP technology is, according to this article, to integrate it with back-office applications. From CIO [Full Story]

Wireless industry: merging or dying
The industry landscape has been reshaped by multibillion-dollar acquisitions and ambitious partnerships that produced giants. Now, wireless companies are facing a disturbing truth: growth is slowing. Moreover, cellular companies are locked in a no-win round of price wars.
To extricate themselves from this hammerlock, we believe cellular companies will begin a second wave of consolidation, acquiring large and small competitors. To be successful in the next phase, cellular phone carriers must gain four key strategic outcomes: economies of scale, reduced competition, stronger bargaining position, and solutions to spectrum scarcity.

The authors have identified two consolidation approaches.
The first one would be network migration. The resultant company would cut the total cost per subscriber per month in the first year by about 5% and cash flow should turn positive after just over one year. By contrast, if the acquisition had not been made, it would taken at least two additional years for the combined cash flow of the these separate companies.

In the second case, two distinct networks would be maintained: one for price-sensitive, low-value customers and another for high-value customers. The dual network approach would generate positive cash flow in the third year of the new company’s existence, nearly two years earlier than if the acquisition had not taken place.
From Strategy+Business [Full Story]

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