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Joel Klein, the third-rate lawyer/political hack who is in
charge of the government's Microsoft persecution, recently
tried to rationalize the lawsuit by saying that it was in keeping
with the long history of consumer protection regulation,
beginning with the Sherman Antitrust Act of 1890. In reality,
the history of antitrust has been a history of politically-
inspired witch hunts launched against America's most
innovative and entrepreneurial businesses.

In the June 1985 issue of the *International Review of Law and Economics* I showed
that the industries accused of "monopolization" by Senator Sherman and his
colleagues in 1890 were expanding production four times more rapidly than the
economy as a whole for the decade prior to the Sherman Act (some as much as ten
times faster) and were dropping their prices even faster than the general price level
was falling during that deflationary period.

The trusts "have made products cheaper, have reduced prices," admitted
Congressman William Mason, who nevertheless was in favor of an anti-trust law. He
was in favor of the law because he, and most of his congressional colleagues, wanted
to protect less-efficient businesses in their districts from competition. Antitrust has
always been a protectionist racket.

Judge Thomas Penfield Jackson, the grossly biased judge in the Microsoft case, has
frequently compared Bill Gates to John D. Rockefeller, thereby perpetuating another
statist myth -- that Rockefeller's Standard Oil Company was a "monopoly." But
Standard Oil caused the price of refined petroleum to fall from over 30 cents per
gallon in 1869 to 5.9 cents by 1897 while stimulating an enormous amount of
innovation in the industry, just as Microsoft has stimulated innovation in today's
computer industry. For this great service to consumers, Rockefeller was prosecuted
and forced to break up his company.

In his masterpiece, Antitrust and Monopoly: Anatomy of a Policy Failure
(http://mises.org/product.asp?sku=B011) , Dominick Armentano carefully examined
fifty-five of the most famous antitrust cases in U.S. history and concluded that in
every single case, the accused firms were dropping prices, expanding production,
innovating, and generally benefiting consumers. It was their less-efficient
competitors who were "harmed," as they should have been.

For example, the American Tobacco Company was found guilty of "monopolization" in 1911, even though the price of cigarettes (per thousand) had declined from $2.77 in 1895 to $2.20 in 1907, despite a 40 percent increase in raw material costs.

In what is perhaps the best example of nonsensical double-talk in antitrust history, in 1944 Judge Learned Hand found Alcoa guilty of "monopolizing" the virgin ingot aluminum market by employing "superior skill and foresight" which the judge feared had "forestalled" competition by those businesses with less skill and foresight. He condemned Alcoa for being extremely adept at correctly anticipating market demand for its product and then supplying that demand, to the "exclusion" of its less efficient competitors.

Alcoa "embraced every new opportunity" with a "great" organization, said the judge, and manned the organization with "elite business personnel." It was obvious to the confused and befuddled Judge Hand that gaining market share through entrepreneurial excellence should be illegal.

In 1962 the government forbade the Brown Shoe Company, which had 1 percent of the shoe market, from acquiring Kinney Shoes, which also had a 1 percent market share. A company with 2 percent of the shoe market, according to the government, constituted a monopoly.

In 1969 IBM, the Microsoft of the day, had a 65 percent market share in the computer market and was sued by the government for allegedly monopolizing the industry. IBM was mired in a court battle for thirteen years before the government finally gave up on the case. In the meantime, the company was eclipsed by Intel and other competitors while Microsoft had just produced, in 1981, its first copy of MS-DOS.

The government's assault on IBM undoubtedly weakened the company and weakened the level of competition in the industry as well. This has happened time and again as a result of Quixotic antitrust prosecutions.

In 1962 the government forced the Schwinn Bicycle Company to divorce itself from its network of dealers; foreign competition eventually drove Schwinn into bankruptcy.

General Motors was never prosecuted, but because of the company's fear of antitrust it was official company policy from 1937 until 1956 to never let its market share top 45 percent, for any reason. This fear of antitrust prosecution contributed to the industry's dramatic losses in market share to the Japanese and German automakers during the 1970s and '80s.

RCA was prohibited by antitrust regulators from charging royalties to American licensees, so the company licensed its products to Japanese companies. The entire Japanese electronics industry is based on this.

Antitrust regulation killed Pan American World Airways by forbidding it from acquiring domestic routes. Lacking "feeder" traffic for its international flights, the company went bankrupt.

Most Americans have never heard of any of these facts because they have been fed the Official History of antitrust, which is that free markets are a source of monopoly power which must restrained by enlightened antitrust regulators.

The truth is that monopoly is impossible in a free market; government is the true source of monopoly; and antitrust itself has never done anything but render American industry less competitive while inflicting great harm on consumers. The standard

account of antitrust regulation being in "the public interest" is truly Orwellian.

Thomas DiLorenzo teaches economics at Loyola College. Send him **Mail** (mailto:tdilo@aol.com) .

See also Mises.org on Microsoft (http://mises.org/microsoft.asp) .