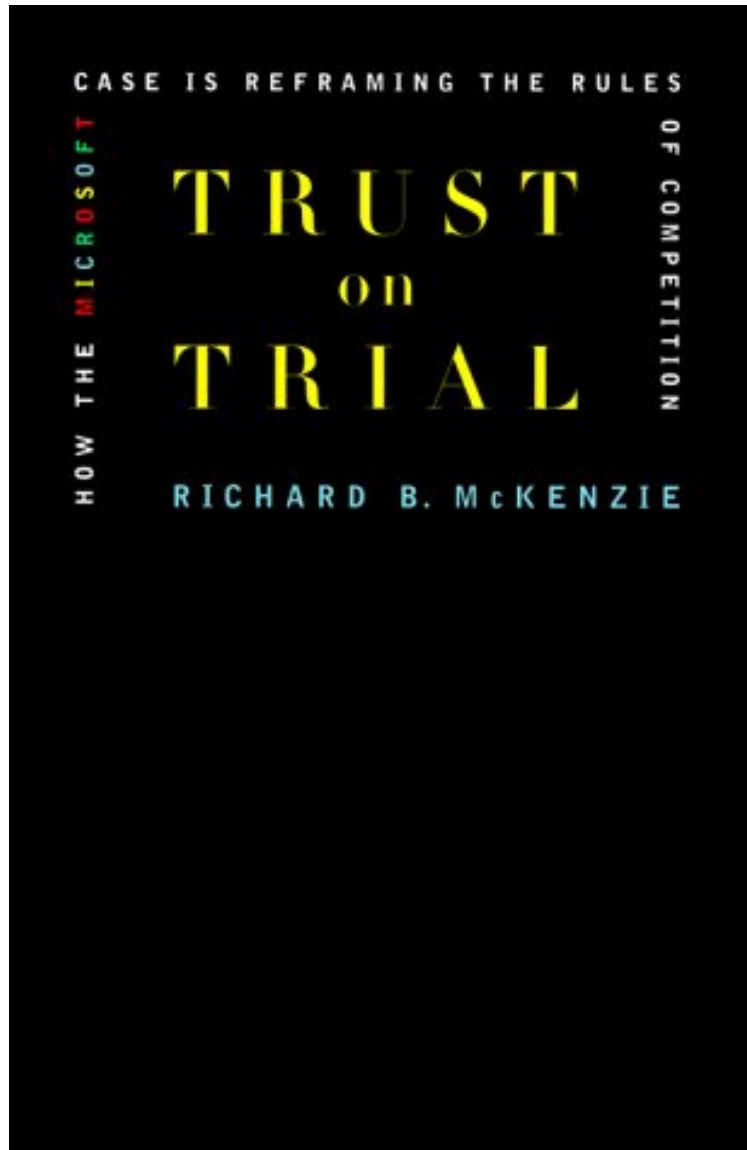


# Trust on Trial: How the Microsoft Case is Reframing the Rules of Competition

*Richard B. McKenzie*

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**Richard B. McKenzie : Trust on Trial: How the Microsoft Case is Reframing the Rules of Competition** before purchasing it in order to gage whether or not it would be worth my time, and all praised Trust on Trial: How the Microsoft Case is Reframing the Rules of Competition:

0 of 0 people found the following review helpful. good ideas, not enough followupBy A CustomerThis book makes

many correct arguments, but too often does not flesh them out sufficiently. This is especially frustrating because the meat is there to be had; the DoJ's case IS absurd. McKenzie could have used more input from someone well-versed in computers. An example: McKenzie mentions Jackson's "application barrier to entry", but doesn't bring up the obvious reasons why that particular argument falls flat on its face. Applications are not magic beans that can detect the underlying OS and only run on approved ones. They are just data that you feed to an OS, like you feed "data files" to applications. So it is entirely plausible to create an application which takes other applications as data. A straightforward extension of this idea is creating a program on, say, Macintosh that can execute Windows programs -- and in fact such programs already exist. This renders the "application barrier" nonexistent, and the entire monopoly charge right with it. But McKenzie missed this entire line of argument. And, of course, there is Java, which is essentially the same idea. The Judge seems aware of Java's "platform independence capability" but he is too technically ignorant to see that this undermines his entire applications barrier premise. Sadly, McKenzie is, too. Still a book worth reading, though.

2 of 5 people found the following review helpful. Richard McKenzie: Trust on Trial By Richard L. Gordon As an economist specializing on public policy, I have found the Microsoft case fascinating enough to have plowed through the economists' testimony in the case, the briefs from DOJ and Microsoft, the judge's findings, and a bit of the interpretive writings. McKenzie proved an excellent guide. My assessment is that the government totally failed in establishing the critical premises that Microsoft had a monopoly and predatory practices were a plausible strategy. The government's case on these points barely existed, and its lead expert contracted himself and his prior writings. In contrast, Microsoft's expert economist presents a coherent argument about why Microsoft should not be considered a monopolist and why the charges of predation were invalid. The government sought to hide this deficiency by concentrating on the tertiary point that Microsoft was aggressive. The government's experts and the judge got so steamed up about the appearances that they forgot the fundamental economic point: the aggression without monopoly is useless. The judge showed no understanding of the economics and was not particularly astute about what any experienced computer user knows. For example, he swallowed the government nonsense about the difficulties of downloading. (If it were so difficult, this site would not be as good as it is.) McKenzie's careful, economically sound review of the case gives a perspective sadly lacking in the journalistic accounts that I have seen (including the press and magazine articles that were the basis for two of the three available journalistic accounts). McKenzie, in particular, concentrates on the germane issue of why Microsoft should not be considered a monopolist out to overcharge consumers. He shows that the case really is one of rivals, unable to compete in the marketplace, running to Washington for aid. The book is a readable introduction to these critical economic points. It tells how the case developed and what the underlying economics are. People wanting a treatment of what really matters in the case should skip the journalists and try McKenzie. He is evidence that technical problems that journalists fear to treat can be made understandable.

17 of 53 people found the following review helpful. Another computer-illiterate review of the Microsoft case By A Customer Unfortunately, most commentators on the Microsoft case have made only a minimal effort to understand the computer science expert testimony at the trial. This is crucial, because Judge Jackson's decision shows that he and his law clerks undertook a careful review of this testimony and found that the plaintiffs provided a more coherent and stable theory of the case than Microsoft. For example, the plaintiffs demonstrated that the fact that the operating system and browsing functions in Windows 98 share code does not mean that they are "integrated" and inseparable. This is a fact about software, not economics. McKenzie is an economist working with Microsoft's biased and inaccurate view of the computer science facts, which necessarily leads to a distorted analysis. Thus, he continues to claim that Professor Felten's program merely "hides" the browser in Windows 98, when Judge Jackson's Findings of Fact conclusively put this claim to rest. McKenzie's book is like Microsoft's post-trial PR spinning -- ignoring the court's Findings of Fact whenever they are inconvenient and failing to address the massive body of evidence and cogent analysis reflected in that actual document.

The Microsoft antitrust case is, and will remain, an event of historic proportions. It is a case that has very publicly pitted the legal power of the United States government, the free world's undisputed leader, against the legal power of the Microsoft Corporation. Trust on Trial presents dramatic and compelling reasons to recast our view of modern monopolies and rewrite the rules of business with regard to the new economy companies that hang in the balance. This groundbreaking book argues cleanly and convincingly that antitrust law -- the variety being tested in the current landmark case -- is useless in today's landscape where technology is changing the accepted standards of business. The author, a notable economist and professor at the University of California at Irvine, conducted a year-long study of the Microsoft antitrust case as the basis for this book. An exceptional narrative of new-economy business practices and an analysis of the most important antitrust case of the last half-century, Trust on Trial presents conclusions that will surely affect business here and abroad for decades to come.

.com Is Microsoft truly a classic monopoly, whose aggressive pursuit of markets for Internet browsers and operating systems is harmful to consumers and worthy of government intervention? Or has it actually been a victim of aggressive rivals (led by Sun, Novell, Oracle, and IBM) who called in high-level favors to keep Bill Gates Company

out of the lucrative market for network servers? Richard McKenzie, a noted economist with the University of California at Irvine and the author of more than 20 books, is convinced of the latter. He advances a formidable argument on that behalf in *Trust on Trial*, which maintains "the Microsoft case has shown--and not for the first time--how politics can taint the antitrust enforcement process." Starting with copies of major U.S. antitrust laws, McKenzie shows how cases such as this eventually may affect consumers in both the short and long term. With some people unconditionally opposed to anything out of Redmond, of course, his thesis won't convince everyone the government proceedings are a sham. But even many of Microsoft's detractors should concede that he makes a compelling point, particularly with his overriding contention that the process is usually political. "More than Microsoft is now on trial: trust in antitrust enforcement is on trial," he says. --Howard Rothman

From Publishers Weekly

A professor in the Graduate School of Management at the University of California-Irvine, McKenzie uses the Microsoft antitrust trial to ask, "Are the efficiency goals of the U.S. economy as a whole best served by using existing antitrust legislation to assess the business practices of an industry leader in the New Economy?" His answer is a resounding "no": the motivations behind antitrust actions in the past century remain suspicious, he writes, and such actions ultimately hurt industry. McKenzie ardently believes that Microsoft's unusual profitability (its \$8 billion profit in 1999 represents a return on sales of 39%, the highest of any major American corporation) has nothing to do with any monopoly power; rather, he says, it stems from the company's production of superior products, which are sold at prices other firms can't match. The author posits a conspiracy among Microsoft's competitors, who he claims have courted and convinced (unnamed) corrupt politicians to exploit antitrust policy to crush the software giant. McKenzie's rigid ideological position ultimately limits the intellectual reach of his book. In wholeheartedly supporting Microsoft's freedom to act as it pleases, McKenzie often presents unfounded theories. For example, he ominously predicts that any penalties assessed against Microsoft will inhibit innovation in the software industry. Yet earlier he acknowledges that Microsoft regularly buys market-proven software developed by others, which it integrates into and distributes with its own existing products. Thus, McKenzie undermines his own credibility--and he also misses an opportunity to propose more appropriate corrections for market imbalances in the New Economy. (May) Copyright 2000 Reed Business Information, Inc.

"What a strange antitrust case. A "natural monopoly" facing many competing firms. A company driving market prices down after it becomes a "monopolist." Richard McKenzie 's insightful *Trust on Trial* lays out the often bizarre theories behind the government's case against Microsoft. With last week's verdict, the book could not be more timely. Even those steeped in this antitrust action will learn from Mr. McKenzie's account." -- The Wall Street Journal; 04/21/2000

Sometimes, when the telephone calls, faxes and e-mail messages pile up in The Standard's Washington bureau, it's easy to get the urge to live in a cave for a while. That's apparently what University of California at Irvine professor Richard B. McKenzie has been doing for much of the two-year antitrust battle that's been waged by the Department of Justice, the District of Columbia and 19 state attorneys general against Microsoft. Although the trial's endgame is still unfolding - as of this writing, U.S. District Court Judge Thomas Penfield Jackson has found Microsoft guilty of a laundry list of federal and state antitrust violations - McKenzie has put out *Trust on Trial: How the Microsoft Case Is Reframing the Rules of Competition*. The 229-page book - which was wrapped up at the end of last year, before Jackson issued his "conclusions of law" in the case - excoriates the government for daring to interfere with Microsoft's track record of software revolution and innovation. McKenzie's central thesis has two parts. First, the government used specious evidence in a failed attempt to prove its case against Microsoft. Second, federal and state antitrust laws are designed to protect nonmonopoly businesses, not consumers. Therefore, McKenzie argues, this case is spurred by Microsoft's competitors, including America Online, IBM and Sun Microsystems, and conducted by political opportunists (namely, U.S. Assistant Attorney General Joel Klein and the 19 state attorneys general) looking to make reputations in legal and political circles. It's probably true that folks like Scott McNealy and Larry Ellison are happy to see Microsoft burdened with its current legal troubles. But it's a bit cynical to suggest that Klein and the rest of the government's lawyers are in the employ of Microsoft's competition. Nevertheless, McKenzie brushes up against the dirty little secret of antitrust law: It's not about protecting consumers, as many government attorneys will piously allege; it's about protecting the viability of the capitalist system against malevolent actors armed with disproportionate resources. McKenzie repeats one of the Microsoft legal team's key trial mistakes: He tries to defend the indefensible position that Microsoft has monopoly power in the market for Intel-compatible personal computer operating systems. McKenzie counts 19 different operating systems offered by companies such as Wang, FreeBSD and GEM as proof that leading computer makers, contrary to what many of them testified in the trial, have viable commercial alternatives to the Windows operating system. "If the characterization is tolerably accurate," McKenzie writes, "it follows that Microsoft's main products can be represented by very long strings of 1s and 0s, which ... are not likely to be a source of vast and enduring monopoly power." McKenzie says that, unlike monopolists such as ATT and Standard Oil, Microsoft can't physically prevent new actors from usurping its dominant market position. Furthermore, he argues, Microsoft could easily be toppled by anyone with a good software idea and enough seed money. Although McKenzie defends Microsoft's conduct with computer makers, Internet service providers and others as merely good business, he neglects half the equation. Microsoft not only threw its market share around to promulgate its Internet Explorer Web browser, but it also actively penalized business partners for promoting

Netscape's Navigator browser. McKenzie attacks as chimerical the idea that a software "applications barrier to entry" reinforces and maintains Microsoft's monopoly. But the author misses a few key points: Software written for non-Windows operating systems tends not to work on Windows. At this point, sparking a groundswell of competition big enough to dislodge Microsoft is akin to persuading Americans to start driving their cars on the left side of the road. No one's opposed to the switch in principle, but they won't do it without looking over their shoulder to make sure everyone else is moving over with them. -- From The Industry Standard