

U.s. government microsoft: antitrust



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The economic system of the United States is modeled after the theory of capitalism. Capitalism supports free enterprise – private business operating without government regulation (Janda 22). The United States does regulate private businesses. Sometimes special circumstances arise which threaten to weaken the overall economic stability of the country. In order to sufficiently deal with these situations, the United States government has passed many laws granting certain groups the authority to bring attention to and to stop the threat. This is extremely important in terms of its effects on individuals. It protects the freedoms of individuals, maintains order and stability, and attempts to promote equality. One example of the ability of the United States government to interfere with the natural progression of the American capitalist society, is the existence of antitrust laws. These laws regulate certain actions of individuals, trusts, corps, and combinations of corps in an attempt to prevent or forcibly end a monopoly (Gilbert 21). Since 1989, Microsoft has been repeatedly accused of violating antitrust laws. Many times these accusations have led to an antitrust case being filed against Microsoft. These antitrust laws and law suits are extremely important. Despite the verdicts of the cases, antitrust laws served their purpose – to maintain the balance of the concepts of freedom, order, and equality. Freedom is one of the three main concepts that government must pursue for its people. Freedom has two main contexts in which it is used which are freedom of and freedom from. Freedom of is the absence of constraints on behavior; it means freedom to do something (Janda 10). These types of freedoms guarantee individuals certain liberties such as freedom of speech, freedom of religion, freedom of the press, and all other civil liberties.

These individual liberties are extremely important in a democracy. Freedom from . . . suggests immunity from fear and want. Freedom from is also important in a democracy. It guarantees that certain things cannot be done to anyone (Janda 10). This is important because it places limits on the powers of the government. Another duty that government must pursue is maintaining order. Order is the rule of law to preserve life and protect property. Maintaining order is the oldest purpose of government (Janda A31). There is also a third aspect associated with the idea of order. This is a belief in maintaining traditional patterns of social relationships. Both the preservation of life and the protection of property are pursued in similar ways. The most common ways in which the government attempts to maintain order are through government legislation, interpretation of the law, and enforcement of the law. The final aspect of order is maintaining traditional patterns of social behavior, also called social order. Social order refers to established patterns of authority in society and to traditional modes of behavior (Janda 20). Social order is, therefore, what society feels is right. For this reason, social order is largely maintained by the society in question along with the government. As the values, beliefs, ideas, etc of a society gradually change over time, the social order will change as well. Even though the social order is continuously changing, it is not upset. The norms of the society change, but the change is gradual. The social order is upset when there is a sudden change in some value, belief, idea, etc of a large number of the people within a society that is in contrast with the norm of the society and causes the whole society to forget the original social order in order to argue and put an end to the new untraditional values, beliefs, ideas, etc that oppose the old societal norm. Order is a concept that applies to all systems.

Most of these systems use a completely unique way of maintaining order. Similarly, different areas that humans try to maintain order within may have other natural ways to better maintain its order. This is why the government must work very hard in order to maintain order; it must decide whether government intervention is needed or whether allowing the natural course of events is appropriate to maintain order in the most proficient way. The last concept that is essential for government to pursue is equality. The concept of equality has many different senses in which it can be used. In terms of what government should pursue, there are two main types of equality, political equality and social equality. Political equality is defined as each citizen has one and only one vote (Janda 14). The fact that all citizens have one and only one vote is crucial in order for the American system of democratic government to survive. From these two facts, equal votes for every citizen and a democratic form of government, one might falsely assume that political equality in the United States is in a perfect, ideological form where there is 100% political equality. However, this is not the case. Individuals and groups of individuals who control a large amount of some commodity such as wealth, power, or even a respected family name are able to use their commodity to influence the political agenda and the outcomes of legislation. The average American can simply vote on election days and has no more say-so into government affairs except for possibly writing a letter to or placing a call to a Representative, both with only a minimal chance of having much of an impact. In the meantime, the wealthy are also writing letters and making phone calls, but these letters and phone calls are different. The letters are accompanied by large amounts of money, and the phone calls are connected directly to a Representative. In this way, the

wealthy are able to influence a large amount of political decisions despite their small percentage of the population. Because of these individuals and groups who use their wealth or power to unfairly influence politics, many people argue that equality in wealth, education, and status need to be guaranteed in order for true political equality to occur. This concept in which everyone is completely equal is the principle behind the second type of equality that government must pursue, social equality. The success of social equality relies on two main concepts. The first of these concepts is equality of opportunity. This guarantees that everyone will have an equal chance of succeeding in life (Janda 14). In early America this ideal was believed by almost everyone. The idea of laissez faire economics gave hope to everyone. It was said that everyone in early America was born bourgeois. From this middle class starting point it was believed that everyone controlled their own future. Even today, there is a sense of optimism in America. Equality of opportunity is not as much a part of modern beliefs as in early America, but the belief that with hard work anyone can succeed is still a firm belief held by most Americans. For true social equality to exist, equality of opportunity had to be complemented by the concept of equality of outcome, the concept needed for social equality. This concept calls for the redistribution of wealth and status and for the government to guarantee benefits such as housing, employment, medical care, and income equally to all citizens (Janda 14). Some argue that, if implemented, these two concepts would guarantee social equality and would, therefore, allow the ideal of political equality to be reached. Whether or not these concepts would work is under debate, but in terms of a system that has already been implemented and has proven itself to work, the American system of government has made huge steps in

assuring equality to all of its citizens. The United States government protects the balance freedom, order, and equality for its citizens in a number of ways. One of these means of protection is through antitrust laws. Antitrust laws are federal laws aimed at preventing individuals, trusts, corporations, or combinations of corporations from gaining or maintaining monopolies (Gilbert 27). Antitrust law was created by the Sherman Act (15 U. S. C. A. § 1et. seq.) of 1890. The Sherman Act came in response to a consolidation of a majority of the manufacturing and mining companies into nationwide monopolies. A few of these monopolies included the Sugar trust, John D. Rockefeller's Oil Trust, known as Standard Oil, and J. P. Morgan's Steel Trust, also called U. S. Steel. The Sherman Act was purposefully vague and barely even mentions restraint of trade or restrictions on monopolization. The act's ambiguity was reconciled by the rule of reason which gave a large amount of power to the Supreme Court allowing them a great deal of interpretation in ruling on antitrust cases. In 1914, the Federal Trade Commission Act was passed. This created the Federal Trade Commission (F. T. C) which was given the authority of administrative interpretation and enforcement of all antitrust cases (Guide 251-254). The last major influence that helped shape antitrust law was the Clayton Act (15 U. S. C. A. § 12et. seq.) of 1914. The Clayton Act amended the Sherman Act. It is used today to make four general business practices illegal. These illegal practices are price discrimination, tying and exclusive dealing contracts, corporate mergers, and interlocking directorates (Gilbert 27). Antitrust laws have changed very little since the Clayton Act but are still used in antitrust cases today. Microsoft, a computer software company, has been the target of many antitrust cases since 1989. Barely twenty years old, Microsoft is the second largest company in the world with <https://assignbuster.com/us-government-microsoft-antitrust/>

an estimated value of \$200 billion as of March 1998 (Levy 38, 40). The beginning of the antitrust battle between Microsoft and the government was late in 1989. Hearing of a deal made between Microsoft and IBM in which Microsoft agreed to quit working on Windows so that IBM could further enhance its own version of Windows, the F. T. C. began an investigation of Microsoft because its deal with IBM was collusion, an illegal secret agreement between two companies. By the time the F. T. C. had its case, the agreement between Microsoft and IBM was over because of an argument between the two. Although no charges were filed, the F. T. C. now had a company to investigate. In 1991, the antitrust battle began full swing. The F. T. C. learned that Microsoft was talking to Novell about buying it for an estimated \$2 billion. The importance of this possible buy-out was that Novell was the only main competitor besides Microsoft in the networking software market. If Microsoft would have purchased Novell then it would then it would have had a monopoly on the networking software market. It is widely speculated that Microsoft would have been immediately regulated by the F. T. C. if it had closed the Novell deal. Microsoft escaped yet another antitrust suit by not buying Novell, but while working with Microsoft, Novell learned that Microsoft bundled programs, was using per-processor contracts, and made Windows so that it was incompatible with many programs made by other companies, information that ended up causing three antitrust cases to be filed against Microsoft by the F. T. C. It was not until February, 1993 that the decisions were made. On both February 5 and 21, 1993 the vote of the full F. T. C. commission was deadlocked (www. site Microsoft). Immediately following this decision, Mary Lou Steptoe, the head of the F. T. C.'s investigation of Microsoft, handed the case over to the Department of

Justice. From now on, Microsoft would be dealing with the Department of Justice (Lewyn 32, 34, 36-38). Nothing else happened until 1995. At this time the Department of Justice got Microsoft to sign a settlement that required minor changes in how Microsoft licenced DOS and Windows to manufacturers. The settlement was overturned by Federal District Judge Stanley Sporkin. Janet Reno had the settlement signed but called for the Microsoft case to be reopened. The new investigation found one more alleged violation of antitrust law which was the fact that Microsoft installed its Internet browser on its newly released Operating System, Windows 95 (Cook 64-66). Between 95 and 97 the Department of Justice investigated Microsoft, had Microsoft officials and lawyers meet with the committee of the Department of Justice, and Microsoft was sited with violating the 95 settlement that dealt with licencing. To date, Microsoft has hardly been affected at all by antitrust violation cases, but the most important days in determining the fate of Microsoft are right around the corner (Levy 43, 44). The Microsoft antitrust cases are an example of the government challenging something perceived as a threat to the balance of freedom, order, and equality. The outcomes of these cases will directly affect the balance of these concepts among businesses. The balance of freedom, order, and equality among businesses is maintained in one simple way, the use of antitrust laws. These laws allow the continuous change, free enterprise, and equality (of outcome) guaranteed by capitalism, but they also place certain limits on the freedoms of businesses and can regulate some aspects of order. These laws will ultimately be the reasons for the decisions concerning the suits against Microsoft. In theory, the overall balance of freedom, order, and equality should remain similar to the way it is now despite the final

rulings on the cases. If this is not the case, then the present laws need to be changed. As a job, governments are supposed to pursue the concepts of freedom, order, and equality and to ensure a balance of them to all of its citizens. Because the government has this job, it must be willing to exert its power in order to protect these concepts but also must act rationally when ruling on a case that deals with them. Two dilemmas arise when government addresses changing the balance between freedom, order, and equality. These two dilemmas are weighing the importance of freedom versus the importance of order and weighing the importance of freedom versus the importance of equality. In relation to businesses, the government has already decided its stand on these dilemmas, the acts establishing antitrust law. Antitrust laws act as the government's official position dealing with the balance of freedom, order, and equality among competing businesses. If this balance begins to fail then the government must act to remedy the situation and restore the balance. Antitrust laws could be called the civil rights of businesses. Under capitalism a business is guaranteed unchecked freedom in terms of its economic choices. The government of the United States, however, felt that order and equality were critical in relation to the economy. Antitrust laws act to guarantee these concepts; therefore, antitrust laws are what guarantee the balance of freedom, order, and equality among businesses in America. Maintaining this balance is extremely important to any government. A government must maintain order simply by the definition of government. Laws are made in order to maintain this order which establish what individuals cannot do. What is not forbidden is, therefore, allowed, an individual freedom. And lastly, when individuals possess different freedoms, the government, whose laws are the reason for this inequality,

must, therefore, address the problem. This illustrates the idea that all governments must choose a balance of freedom, order, and equality. The balance of these concepts may differ a great deal from one government to another, but the balance that is chosen will prove to be a critical factor in determining the future of that government.

Governmental Issues