

Microsoft: Tying and Exclusive Dealing

In 1998, the Department of Justice and 20 state attorneys general sued Microsoft for antitrust violations. They alleged that Microsoft had bundled its programs (especially its browser, internet explorer) with its operating system, resulting in illegal monopolization. The lawsuit became one of the highest-profile antitrust enforcement actions in U.S. history. *Microsoft* is a foundational monopolization case and shows how courts have approached network effects and nascent competition. But it did not start a trend; *Microsoft* remained the most recent federal antitrust case involving digital platforms until the DOJ's lawsuit over Google search in 2020.

Reading

Required Reading

You may wish to review the readings on tying and exclusion (*Dentsply*) from the monopolization module.

United States v. Microsoft Corp., 253 F.3d 34 (D.C. Cir. 2001) (en banc) (Section VI on Judicial Misconduct is optional)

W. Page & J. Lopatka, *The Microsoft Case: Antitrust, High Technology, and Consumer Welfare* ix–xiii (2007).

Andrew I. Gavil & Harry First, *The Microsoft Antitrust Cases* 309–330 (2014).

[C. Scott Hemphill & Tim Wu, *Nascent Competitors*, 168 U. Penn. L. Rev. 1879, 2020; New York University Law & Economics Research Paper No. 20–50 \(2020\)](#)

Recommended Reading

Daniel L. Rubinfeld, *Maintenance of Monopoly: U.S. v. Microsoft* (2001), in *The Antitrust Revolution* (John E. Kwoka, Jr. & Lawrence J. White eds., 17th ed.) (pp. 514–34).

McWane, Inc. v. FTC, 783 F.3d 814 (11th Cir. 2015)

Feng Zhu and Marco Iansiti, *Why Some Platforms Thrive and Others Don't*, *Harvard Business Review* (2019).