

The Cantos transcript

For the full interview in video or audio log on - for free - at www.cantos.com



28 Apr 2006

SAGEZA GROUP

Clay Ryder, President, The Sageza Group Inc.

Microsoft: Wrong Target for EU Regulator

Regulatory problems anticipated for Microsoft's Vista

Q. Could you just start by outlining the problems Microsoft has got with the EU in regards to its forthcoming Vista operating system?

A. Microsoft recently sent an inquiry over to the regulators asking what, if any, issues there would be with Vista, sort of to gauge the temperature of the water, if you will. The responses that came back dealt with bundling certain technologies such as multi-media players and the such which has been an issue in the past with previous incarnations of the operating system, as well as issues relating to digital rights management and document formats. And these were some of the early indicators from the EU regulators of what they were going to take issue with Microsoft with regards to Vista. Just to be clear, Vista has not shipped, nor have there been any regulatory rulings yet about Vista. But this was the response to the initial inquiry by Microsoft to get the political temperature, if you will.

Q. And if we look at passed run-ins with Microsoft it looks as though there might be problems with Vista going forwards.

A. Yes, I think so because part of the EU's premise about bundling certain technologies or giving preferential treatment to certain technologies. Some of those technologies would be available to Vista, maybe in different forms but still the same basic functionality, so it's not surprising that the EU regulatory agency would have similar issues with Vista.

Q. And you've gone on the record recently saying that you felt Microsoft is being unfairly targeted by the EU Competition Commission. What's your reasoning here and aren't Microsoft's problems really of their own making?

A. Microsoft is in the somewhat unique position of being a huge juggernaut in the industry and as a result they can do lots of things well and they have the opportunity to do lots of things not well. There are certainly some issues which have been of their own making but I think that the EU Commission is so fixated on past transgressions or issues about how Microsoft's products are made and sold, that it is trying to portray those onto a future and a product that has not yet been shipped.

I don't agree with the assessment that Microsoft should be dictated to as to what components it can and cannot sell and it's technology - that may be a very American point of view but I don't agree with their basis for that. Even so, the EU's complaints have largely been that having similar technologies available for the marketplace and then available for the operating environment infringes on a customer's right to choose. With Vista they are talking about anti-spyware, potentially anti-viral things that come into play, much as they made issue with firewalls or multi-media players or browsers and so forth in the past.

Microsoft's an easy target and as a result they will get a lot lobbed at them. But at times I wonder if the EU truly has the best interest of consumers in mind. I'm thinking of consumers here, not necessarily business customers. If they are consumers and if they are forced to cobble together pieces of technology and get the solution they want, they're more likely to have trouble with that than having to buy something out of the box with everything already in place. And I think in some respect the EU may be missing that part of the value proposition.

Who would gain from Microsoft's loss?

Q. So if consumers might be losing out and clearly Microsoft might be losing out too, who would be set to gain from the EU's action?

A. Certainly any competitors or third parties who have the technologies that are in dispute would certainly stand to gain because there wouldn't be any perceived advantage, if you will, of one set of technology over the others. The third parties would do well. Also, what we would label the ABM community - that is, Anybody But Microsoft - will get some kind of jolt out of this because they are going to be able to point to the Evil Empire and in many cases those are companies that are selling competitive third-party products, and I suspect that they will have sense that they have won.

On the corporate side, companies with large IT staffs or a large amount of expertise may come out ahead if they can wiggle a few less euros or pounds in the licensing price because certain technologies aren't included. But then again, that's more the corporate market, not the end customer who is not a technical wizard and certainly we shouldn't have the expectation that they should become one in order to use a personal computer.

The new wave of access devices

Q. You've also written the EU's pursuit of Microsoft is misguided since it operates on a platform of diminishing importance. What exactly did you mean by this?

A. Again, speaking in the consumer space, 10 years ago the laptop or desktop computer was definitely the growth area and many people would make access to the internet or have access to computer technologies in the home. But it's not 1996 anymore, it's 2006 and if we look at the consumption devices that are out on the market that can access information and can access data, we have PDAs, we have pocket PCs, we have Windows mobile-based telephones, we have other operating systems-derived telephones that have Java engines inside of them, we have lots of Bluetooth devices that can hang on the side of things, we've got game consuls that sell in tremendous numbers. And if you look at the technology, just, for example, telephones and certainly game consuls, there's more computational capability in those devices that existed in desktop computers 10 years ago. Consumers are buying these devices in large numbers. In the Northern Hemisphere, just look at mobile telephone penetration, it's phenomenal. Game consuls are very high and there's always some kind of new pocket device coming out of the market. All these are having access to packet data networks, cell networks, or the internet and people are increasingly accessing information through these devices and this is the growth area of the market, not so much the laptop or the desktop. So while the regulatory agencies are focused on Microsoft and the desktop, I would be much more concerned about what kind of competition is taking place in the mobile phone market or the networks that supply 3G content or in the case of gaming consuls. Those are what are coming into homes in increasing numbers and that's really the next wave of access device, not the relatively mature market of desktop and laptop computers - again, from a consumer perspective.

Q. So do you think we could see the regulators taking on the Nokias of this world or maybe Microsoft again in a different format, say, with its Xbox - one of the gaming consuls in question.

A. Certainly the Xbox is and so is the Windows Mobile as on the OS platform, although it doesn't have the penetration of several others. But part of the question is, does the Commission *have* to go after someone? Government agencies have to justify their existence by finding the next big crisis to go after because after all that's their job. But I would be far more concerned that gaming consuls that access the internet do not provide the same degree of access that mobile phones, particularly in North America... if you get a mobile phone from Horizon, you can't use that phone on the singular network as a singular customer, you might be able to roam on it but you can't just take that device and walk it to another supplier like you can in other parts of the world. That is very much a monopolistic practice where customers have no choice and yet regulators don't seem concerned about that. In the EU roaming charges are finally being questioned as to whether they are reasonable. These are devices that are getting into more people's hands than laptops or desktops and particularly with younger users are becoming their primary access point. Their iPod has information more than just music - calendar information, addresses and video. Mini telephones have that capability now. And those game consuls in front of the TV are playing multi-player internet-based games and yet largely going through some kind of proprietary solution right now. Why aren't those being investigated or considered because I think ultimately that is where far more people are going to get their access rather than the traditional desktop computer.

Propriety issues of the future

Q. How do you see these propriety issues developing as we go forward?

A. The issue becomes when a particular product becomes dominant in the market place and if it engages in behaviour that makes it incompatible with others. With the gaming console, I don't know if it really matters that much if the next Xbox game is not able, over a network, interplay with a, let's say, a GameCube or PlayStation player. I don't know if any form of international security is going to fall as a result of that. But when these devices are used to access, say, email or to go on to the internet to get certain information related to gaming or use in a method beyond that of simply a games console, it starts to become that general-purpose multi-purpose internet device and at that point it becomes a real issue that these things are limited in what they can access on the network or how they interact on the network itself. Similar arguments were made along the lines of, well what if Microsoft had maintained 12 years ago now that NetBEUI and NetBIOS would be the only internet working capability allowed on the desktop PC and TCP/IP was not going to be supported, that could have caused a very huge issue. But they went with the standard device IP and as a result all kinds of devices can talk amongst each other. With the cellular phones, with the games consoles, or with the pocket devices, if we are going to be playing on that same network and accessing the network, we need to make sure these devices have an equal footing and ability to interchange on that network and customers aren't limited to one provider or have equipment that will not be allowed for strictly technical reason to be able to access other networks.

Q. So these will be issues for the EU Competition Regulator to be taking care of in the future?

A. Yes, going forward because right now most people aren't thinking about it and in many cases there are few people who have only one of those devices. But I think it's still a far bigger issue to be looking at as to whether Windows Vista has a copy of Windows media player on it. That's such a small fraction of the overall offering. It seems to be very misguided and a lot of this stems out of this stoical desire by many parties to get even with Microsoft with respect to what happened with Netscape Navigator. My goodness - that's a 10-year-old battle! Can't we put it to rest?

Past share performance cannot be relied on as a guide to future performance