



THE MICROSOFT PLAYBOOK

A REPORT FROM COMMON CAUSE

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The year is 1995. While Microsoft already is a dominant player as the computer revolution takes hold, the software giant is not a force in the nation's capital. Its presence in Washington consists of one lobbyist working out of Microsoft's sales office in Chevy Chase. Microsoft's political giving is, by Washington standards, modest. The company and its executives pony up only \$10,000 to national parties and less than \$33,000 to federal candidates in the 1993-94 election cycle. "I'm sorry we have to have a Washington presence," Microsoft chairman Bill Gates says to The Washington Post in May 1995.

To say that Microsoft has a "presence" in Washington in 2000 is a vast understatement. The company, first sued by the Justice Department in 1997 for its alleged anti-competitive practices, has dropped its indifference to the nation's capital like an outdated beta software program.

Playing catch-up, since 1997 Microsoft has spent more than **\$16 million** on lobbying and in contributions to federal and state candidates, national political parties, and party conventions, and has become a major player in the Washington big-money game. Microsoft's aggressive soft-money giving during the first eighteen months of this election cycle ranked the software giant as the nation's fifth largest soft money donor, according to Common Cause.

"The Microsoft example is a textbook case of how big money and politics intersect and are interwoven in Washington," said Common Cause President Scott Harshbarger. "Since the DOJ investigation began, Microsoft has jumped feet first into the Washington big-money game, purchasing influence and access, and bringing into this arena the same zeal it brought to its software business. The software giant has become a soft-money giant. While court decisions have been going against it, the corporation has its sights set on ultimate vindication by catering to Congress, lobbying the presidential candidates, and trying to win public support for its position.

"While Microsoft has legal troubles in the anti-trust arena, there's nothing at all new or illegal about what Microsoft is doing when it comes to the big money game in Washington," Harshbarger said. "In our nation's capital, money politics is business-as-usual. Indeed, Microsoft seems to have taken a page from the Philip Morris playbook, combining large political contributions with strategic giving to the favorite charities of lawmakers, substantial support to think tanks that agree with them, ad campaigns, and other efforts to stir up grassroots support. What is extraordinary, besides the breadth and speed of the Microsoft conversion from Washington outsider to consummate insider, is how blatantly and shamelessly and without any sense of irony Microsoft made the transition.

“What is also troubling is Microsoft’s attitude towards our judicial system. It used to be that disputes were settled in court on their merits. And Microsoft has every right to make the best legal case it can. But Microsoft hasn’t been content to leave this lawsuit in the hands of the courts. Using political money, the software giant has tried to bring pressure on the Justice Department’s handling of the case and to win the battle in the court of public opinion.

“Even more disheartening is that fact that the Microsoft experience now is being used to send a strong message to other businesses — either play the money game and get protection from powerful people in Washington or run the risk of having what happened to Microsoft happen to you and your company. In sum, the legal shakedown for soft money is more and more a protection racket,” Harshbarger said.

The \$16 Million Juggernaut

“Microsoft is rarely given much credit for innovation,” noted the *Wall Street Journal* recently. “But few companies are as good at taking an idea and running with it.”

That observation also characterizes the way Microsoft has tried to gain access and influence in the nation’s capital. The company didn’t invent lobbying and influence peddling. But once it realized what it had to do — when its very existence was in jeopardy because of the Justice Department suit — it jumped into the fray with both feet.

Microsoft now plays the Washington big money game on many fields:

- Between January 1, 1997 and June 30, 2000, Microsoft gave **more than \$3.3 million in political contributions** — more than \$2.6 million in unlimited, soft money donations to the national political parties and more than \$710,000 in political action committee contributions. That doesn’t

include the thousands of dollars the company spends to pay for trips for elected officials and their staffs to visit company headquarters in Redmond, Washington.

- Microsoft provided goods and services worth **about \$1 million each to the 2000 Democratic and Republican national conventions.**
- During the 1998 election alone, Microsoft gave **at least \$175,000 to candidates and political parties** in five states.
- From 1997 through 1999, Microsoft spent **more than \$10.5 million for lobbying** in Washington, according to federal lobbying reports.
- According to published reports, since 1998, Microsoft has doled out **more than \$750,000 to numerous conservative trade groups, think tanks, and foundations** that have spoken out in its defense.

While working the levers of political power in Washington, Microsoft has also sought to support those efforts by burnishing its public image through charitable giving and new advertising. Since 1999, Microsoft has given or pledged to give more than \$10 million in charitable contributions to organizations or causes dear to the hearts of Members of Congress, directly through the company or through the Gates Foundation, and is believed to have spent millions to air a series of ads designed to give the corporation and its executives a kinder, gentler demeanor.

Why They’re Playing the Game and What’s at Stake: DOJ’s Successful Anti-Trust Lawsuit

It’s easy to understand Microsoft’s newfound zeal for playing the Washington game. The company’s future depends on what happens in the courts, at the White House, and on Capitol Hill in the coming months and years.

On April 3, U.S. District Judge Thomas Penfield Jackson, in *U.S. v. Microsoft*, found that “Microsoft’s anti-competitive actions trammled the competitive process.” On June 7, Judge Jackson ordered the breakup of the company as a remedy. The software giant may be broken into two separate companies if the courts let Judge Jackson’s ruling stand.

A “structural remedy” was necessary, Judge Jackson wrote, because “Microsoft as it is presently organized and led is unwilling to accept the notion that it broke the law or accede to an order amending its conduct.” The company, the judge continued, maintains its innocence and predicts it will be vindicated on appeal and “has shown no disposition to voluntarily alter its business protocol in any significant respect.” Microsoft, Judge Jackson added, “has proved untrustworthy in the past.”

Microsoft’s troubles with the Justice Department had gone on for years. In 1994, Microsoft signed a consent agreement with the Justice Department, promising to change the way it dealt with its competitors. In 1997, however, the Justice Department charged that Microsoft had broken its promise and was bullying personal computer manufacturers into including its Internet browser if they wanted to install Windows on their machines. The Justice Department sued Microsoft in October 1997, over violations of its 1994 consent agreement. Then in May 1998, the Justice Department, joined by 20 state attorneys general filed an antitrust suit in U.S. District Court in Washington, charging that Microsoft used illegal tactics to trample its competition.

“What cannot be tolerated – and what the antitrust laws forbid – is the barrage of illegal, anti-competitive practices that Microsoft uses to destroy its rivals and to avoid competition,” said Assistant Attorney General Joel Klein.

The Justice Department lawsuit, and its final outcome, is vitally important for the future of the company. As *Dow Jones* columnist Alec

Appelbaum observed, Microsoft’s prospects are “murky” until the court case is resolved. “For all its bluster about the freedom to innovate, Microsoft wants above all else to remain a viably growing business, and its only formula for doing so rests in royalties. ... Microsoft fights for the right to get paid for its programming deals with other software providers, and to sign contracts with Internet service providers that would promote its wares.” These plans fly in the face of the restrictions that the government wants to impose on the company. The Justice Department case, if unresolved or ultimately lost by the company, would also put a damper on Microsoft’s latest plan — to offer its products as services provided via the Internet.

Microsoft has appealed Judge Jackson’s ruling, and the case is now before the Supreme Court, which this week may announce whether it will review the case. Microsoft contends that it has done nothing wrong, that the ruling punishes innovation, and that the lawsuit was instigated by its competitors. The company also has challenged the fairness of the trial, arguing that it did not get the chance to present evidence to show the harmful effects of a breakup of the company. Microsoft claims that a breakup “would hurt consumers, make computers harder to use and impact thousands of other companies and their employees throughout the high-tech industry.”

The Justice Department wants an expedited process that would have the Supreme Court hearing the case. Microsoft prefers that it be heard first by the U.S. Court of Appeals for the District of Columbia. If it took the case, the Supreme Court’s final ruling could be months away. The Appeals Court would be expected to take even longer, more than a year, to review the case. Either way, it is virtually certain that the Microsoft case will be finally decided under a new Administration.

And a new Administration could make a difference.

Even if the case were pending before the courts, a new Administration — with a new Attorney General and other high-level Justice Department officials — in theory could press for a settlement and/or take a lax approach to enforcing any future restrictions on the company that a court orders. But that wouldn't totally resolve Microsoft's problems, since the 19 Attorneys General who filed along with the Justice Department have pledged to continue the lawsuit. "If for some reason a new Administration would want to produce a remedy that Microsoft can work around and continue to do what they have been doing, the 19 states would be resolute and say no," Iowa Attorney General Tom Miller told *The New York Times*. "We would be even more determined than we are today, if that is possible," Miller added.

But a new President holds another potential lever of influence on the case. He will choose the men and women who will fill any openings on the Supreme Court that may occur. If the Supreme Court is called upon to finally resolve the case, the makeup of the Court will have a major impact on whether Microsoft wins or loses.

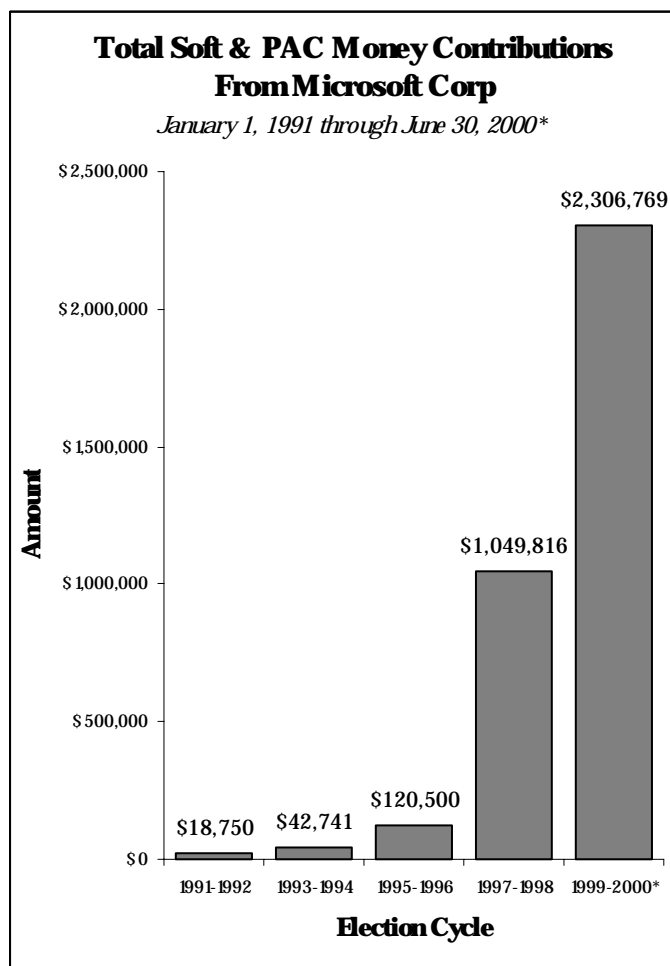
How Microsoft Played the Game: A Detailed Strategy

After being burned by the Justice Department suit, Microsoft has turned to campaign contributions, lobbying, a massive public relations campaign, and gifts to charitable organizations and think tanks to ensure that the company is not put in this situation again and that it has plenty of friends among Washington's policy makers.

Soft & PAC Money Contributions at the Federal Level

Between January 1, 1995 and June 30, 2000, Microsoft contributed nearly \$3.5 million in political contributions to the national parties and to federal candidates. Much of this came during the first 18 months of the 2000 election cycle, when the company contributed \$2.3 million.

Microsoft's soft money contributions take up a lion's share of this total. And its soft money donations have soared over the past three election cycles. Indeed, Microsoft and its executives gave more in soft money donations to the national political parties in the seven days preceding Judge Jackson's April 3 ruling in its antitrust case — \$286,542 — than it contributed to federal candidates and national political parties combined between 1989 and 1996.



Through the first 18 months of the 2000 election cycle, Microsoft contributed more than \$1.8 million in soft money. This amount is more than double the \$837,816 that the company gave during *all* of the 1997-1998 election cycle, and more than 23 times what it gave during the 1995-1996 cycle, when its soft money donations totaled \$77,000.

**SOFT MONEY CONTRIBUTIONS
TO NATIONAL PARTY COMMITTEES**
*January 1, 1991 through June 30, 2000**

<u>Cycle</u>	<u>Democrats</u>	<u>Republicans</u>	<u>Total</u>
1991-1992	\$0	\$0	\$0
1993-1994	5,000	5,000	10,000
1995-1996	32,000	45,000	77,000
1997-1998	208,000	629,816	837,816
1999-2000*	809,292	996,478	1,805,770
Total	\$1,054,292	\$1,676,294	\$2,730,586

Microsoft's PAC contributions have also increased significantly over recent years. Through the first 18 months of the 2000 election cycle, Microsoft contributed \$500,999 in PAC contributions to federal candidates. This is more than double the \$212,000 it gave during *all* of the 1997-1998 election cycle, and is more than 11 times the \$43,500 it gave during the 1995-1996 cycle. In 1998, according to *The Washington Post*, Microsoft beefed up employee contributions to its PAC committee. Within 60 days, its PAC fund grew from \$31,000 to \$326,000.

**PAC CONTRIBUTIONS
TO FEDERAL CANDIDATES**

*January 1, 1991 through June 30, 2000**

<u>Cycle</u>	<u>Democrats</u>	<u>Republicans</u>	<u>Total</u>
1991-1992	\$14,750	\$4,000	\$18,750
1993-1994	26,191	6,550	32,741
1995-1996	17,500	26,000	43,500
1997-1998	70,750	141,250	212,000
1999-2000*	218,500	282,499	500,999
Total	\$347,691	\$460,299	\$807,990

Not only has Microsoft learned to give, it has mastered the art of giving strategically. It has hedged its bets, giving not only to Republicans but increasingly to Democrats. And it has also started giving not only to candidate committees but to the Leadership PACs of influential Members of Congress.

Of the nearly \$1.2 million in PAC and soft money contributions Microsoft contributed between 1995 and 1998, 72 percent went to Republicans. But during the first 18 months of the 2000 election cycle, Microsoft, aware of the closeness of congressional races this fall, has upped its giving to Democrats. Of the \$2.3 million Microsoft has given in PAC and soft money this election cycle, 55 percent has gone to Republicans.

During the first 18 months of the 2000 election cycle, Microsoft also gave \$155,167 to congressional Leadership PACs, with PACs for Senate Minority Leader Tom Daschle (D-SD), House Speaker Dennis Hastert (R-IL/14), and House Republican Majority Leader Dick Arney (R-TX/26) getting the maximum of \$10,000. Representative Arney has been a staunch defender of the corporation against the Justice Department. In February, Senator Daschle encouraged the Justice Department and Microsoft to seek a settlement in the case.

Another Microsoft ally, Senator Slade Gorton (R-WA), whose campaign committee and leadership PAC have received \$22,500 from the corporation since 1997, led the charge in Congress when Microsoft in 1999 tried — unsuccessfully — to get Congress to penalize the Justice Department for its lawsuit. Microsoft lobbied hard to cut the budget of the Department of Justice's anti-trust division. A spokeswoman for Gorton told *The Washington Post* last year that a budget cut would “express total dissatisfaction with the way Justice is handling the case against Microsoft.”

Microsoft spokesman Rick Miller told *Roll Call* that the company largely follows a “very basic business strategy to giving and that's a 60/40 approach — 60 percent to the party in the majority and 40 percent to the minority.” Miller

**TOP RECIPIENTS OF PAC MONEY FROM MICROSOFT
AMONG LEADERSHIP PACS**

January 1, 1999 through June 30, 2000

<u>Committee</u>	<u>Politician</u>	<u>Total</u>
Dedicated Americans For The Senate And The House PAC (DASHPAC)	Daschle (D-SD)	\$10,000
Keep Our Majority PAC (KOMPAC)	Hastert (R-IL/14)	10,000
Majority Leader's Fund	Armey (R-TX/26)	10,000
Bluegrass Committee	McConnell (R-KY)	7,500
Northwest Leadership PAC	Gorton (R-WA)	7,500
Republican Majority Fund	Nickles (R-OK)	7,500
Fund For American Opportunity	Abraham (R-MI)	7,000
Searchlight Leadership Fund	Reid (D-NV)	7,000
The Freedom Project	Boehner (R-OH/8)	6,000
Fund For A Responsible Future	Bliley (R-VA/7)	6,000

added, however, that while two years ago, Republicans were Microsoft's defenders, now the company is also seeing a number of Democrats take up its cause.

Contributions to State Parties

In 1998, Microsoft gave at least \$175,000 to state candidates and parties in five states, according to published reports and the National Institute on Money and State Politics. Just before the 1998 election, Microsoft gave \$25,000 to the South Carolina Republican Party. Three weeks later, South Carolina Republican Attorney General Charles Condon pulled the state out of the anti-trust lawsuit filed against Microsoft. A spokesman for Condon told *USA Today* that the Attorney General was not aware of the Microsoft

contribution. In 1999, however, Condon sought and gained a \$3,500 contribution to his campaign from Microsoft, also according to *USA Today*.

In California in 1998, Microsoft gave \$60,000 in contributions to gubernatorial and state legislative candidates. That total included a \$10,000 donation to winning gubernatorial candidate Gray Davis, a Democrat. Davis' Republican opponent was Dan Lungren, who had been one of the 20 attorneys general who sued Microsoft. Microsoft also gave \$25,000 to California Republican attorney general candidate Dave Stirling, who lost his race.

In Illinois in 1998, Microsoft gave \$5,000 to Republican gubernatorial candidate George Ryan, and \$1,000 to Republican candidate for lieutenant governor, Corrine Wood. Both won their elections.

**PAC CONTRIBUTIONS FROM MICROSOFT TO MEMBERS OF COMMITTEES
WITH JURISDICTION OVER ISSUES IMPORTANT TO THE COMPANY**

*January 1, 1995 through June 30, 2000**

<u>Committee</u>	<u>1995-1996</u>	<u>1997-1998</u>	<u>1999-2000*</u>
House Committee on Commerce	\$12,000	\$30,500	\$84,000
House Committee on the Judiciary	8,000	26,000	63,999
House Committee on Ways & Means	3,000	13,000	28,500
Senate Commerce, Science & Transportation Committee	4,500	29,000	44,000
Senate Finance Committee	5,000	10,000	16,000
Senate Judiciary Committee	1,000	13,000	39,000

Microsoft also gave \$1,000 to Maine legislator Michael Saxl.

And in its headquarters state of Washington, Microsoft in 1998 gave at least \$84,000 to state candidates, according to the *Associated Press*.

Convention Gifts

Both national parties benefited from Microsoft's donations to their respective conventions. The software giant provided about \$1 million in services, equipment, and software to each political party. Since these donations were made to the host committees, and not directly to the parties, Microsoft gets the tax advantage of claiming that they are charitable contributions and thus tax deductible. Microsoft's gift also made it possible for convention workers at each site to have a personal computer equipped with Windows 2000 and Office 2000.

Contributions to Influence Policymakers

Microsoft has given other charitable contributions that are closely linked to key policymakers. This spring, The Bill and Melinda Gates Foundation confirmed that it had pledged \$10 million to build a visitors center at the U.S. Capitol. News of the pledge became public ten days after Judge Jackson's April 3 decision, but a foundation spokesman said there was no connection. "We're really pleased to support such a good project," Trevor Neilson, Gates Foundation public affairs director told *Roll Call*.

Microsoft also curried favor with African-American Members of Congress through its gift of \$50,000 to the Congressional Black Caucus Foundation.

Microsoft gave at least \$250,000 to help the federal government observe the 50th anniversary of NATO, one of only 13 corporations to make such a substantial gift to the NATO ceremonies.

And the company supported Senator Rick Santorum's (R-PA) Good Neighbor Partnership Fund, which Santorum says will help the poor and highlight Presidential candidate George Bush's theme of compassionate conservatism. Microsoft was the first corporation to kick in a donation, giving \$25,000.

According to *The Washington Post*, Microsoft also gave \$184,000 in funds and services to the Burns Telecommunications Center at Montana State University, named for Senator Conrad Burns (R-MT), who has been a major fund-raiser for the institution. Burns, formerly a Microsoft critic, chairs the Senate Commerce Committee's communications subcommittee.

Gifts to Opinion Molders

Microsoft has made its case in the court of public opinion with the help of many other, ostensibly independent, voices. But an investigation paid for by Oracle Corporation, a Microsoft competitor, revealed that Microsoft contributed to several think tanks, trade groups, and foundations that have done pro-Microsoft studies, letters, and statements.

Microsoft has given more than \$200,000 to the National Taxpayers Union (NTU) in the past two years, according to *The Washington Post*. The NTU recently released a study that concluded that the Microsoft lawsuit had hurt the performance of state pension funds that had invested in the software giant. NTU president John Berthoud charged that by suing Microsoft the Attorneys General had produced "massive state pension funds losses."

Another Microsoft defender, Citizens for a Sound Economy (CSE), received \$380,000 from the software giant. In the state of Florida, participants in CSE forums on Social Security were provided with letters addressed to Florida Attorney General Robert Butterworth, objecting to his participation in the Microsoft lawsuit, and asked to sign them, according to *USA Today*. Anyone who signed and turned in a letter got a free tee shirt from CSE.

Microsoft is one of 2,000 members of the Independent Institute, a conservative think tank based in Oakland, California. Each member pays annual dues of about \$10,000. But in 1998, the Institute received an additional \$153,000 from Microsoft to cover the cost of full-page ads in *The Washington Post* and *The New York Times* in June 1998. The ads displayed a letter to President Clinton signed by 240 professors, claiming that the government's pursuit of antitrust cases harmed consumers — an argument Microsoft was making before the courts. Professors signing the letter did not know that *Microsoft* was paying to have it disseminated, according to *The New York Times*. A Microsoft spokesman acknowledged that the company paid for the ads. "We thought this was an important, substantive letter, and we were interested in contributing to make it visible," the spokesman said.

Microsoft even started up its own grassroots group, Freedom to Innovate, which consists of customers, retailers, and shareholders and numbers more than 100,000 members, according to published accounts. Microsoft describes the group as a "non-partisan grassroots network of citizens and businesses who have a stake in the success of Microsoft and the high-tech industry." Its website encourages visitors to e-mail their views to their elected officials.

Other groups supported by Microsoft include Americans for Technology Leadership, and the Association for Competitive Technology, which gets most of its funds from the computer giant. Americans for Technology Leadership retained national polling firms to survey public opinion on Microsoft in six states. Polling results supported the company's position, but the group did not include its Microsoft connection when it released the survey conclusions, according to *The Washington Post*.

Lobbying : The Presidential Candidates

While neither presidential candidate has specifically commented on the Microsoft case, stating that it would be inappropriate to speak while the case is still pending, Microsoft has not sat on the sidelines.

Governor Bush

In April 1999, Gates visited Governor Bush at the Governor's Mansion in Austin, a visit which *Newsweek Magazine* termed "part of a delicate political dance between the software giant and the Republican Party. ... Dollar signs in their eyes, GOP leaders covet big political contributions from Microsoft coffers. In turn, Microsoft executives, plagued by the Clinton Justice Department's lawsuit, hope that a Republican president and Congress might shut down efforts to punish the company." Gates, asked whether a Republican Administration would be a positive development for the company, said it would be "helpful."

In the spring of 2000, the company also hired a top Bush campaign adviser, Ralph Reed, who runs Century Strategies. Microsoft retained Century Strategies for the stated purpose of improving the company's public image. But *The New York Times* cited e-mails from Century strategists that laid out a plan to contact Bush supporters throughout the country and ask them to write Bush letters emphasizing their support for the Microsoft position on the lawsuit. The day after the *Times* story was published, Century Strategies apologized for the lobbying efforts on behalf of Microsoft. "It's an error that we regret," the firm said in a statement. The statement also emphasized that neither Century nor Reed had ever contacted Bush or his staff and asked the Governor to take a position on the Microsoft case.

But Microsoft has other Bush pals to rely on. It has retained Haley Barbour's lobbying firm,

Barbour, Griffith & Rogers, and has paid the firm hundreds of thousands of dollars to lobby on its behalf. Barbour is former chair of the Republican National Committee, and a Bush campaigner.

And Microsoft chief operating officer, Robert Herbold, is an ardent Bush supporter. Herbold, who is an advisor to Bush on high-tech issues, held a fundraiser in 1999 for Bush, which drew many Microsoft executives.

Microsoft also is paying Feather, Hodges, Larson & Synhorst, a Republican consulting firm, to gin up its grassroots lobbying efforts, according to *The New York Times*. This firm also is working for the Bush campaign. Tony Feather is political director for Bush.

Before the Judge Jackson decision was issued, a Bush spokesman noted that the Governor “stands on the side of innovation, not litigation.”

Vice President Gore

When he met with Microsoft employees in November 1999, Vice President Al Gore was peppered with questions about the wisdom of the Justice Department action against their company. Gore held his ground. While avoiding any specific comment on the Microsoft case, Gore noted: “If competition is valuable, which I think it is, then antitrust laws have a place in embodying the values of our country.”

However, there are still connections between Microsoft and the Gore campaign that could help Microsoft make its case in a Gore Administration. Gore’s daughter, Karenna, worked for a time for Microsoft-owned *Slate* magazine. Jeff Raikes, a Microsoft executive, serves on Gore’s national finance committee, according to the *Associated Press*. Former Gore press secretary Ginny Terzano last year took a position as a Microsoft lobbyist.

Craig Smith, Gore’s former campaign manager, who had also served as political director of the White House and the Democratic National

Committee (DNC), now is a paid consultant to Americans for Technology Leadership, a group financially supported by Microsoft, according to *The Washington Post*. In May, Smith sent a memo to the chairman of the DNC urging Democrats not to support the breakup of Microsoft. Such talk, he wrote, “would make us vulnerable to attack in the general election.”

Thomas Downey, another Gore campaign insider and a former Democratic Representative, has been retained by Microsoft for several years. Carter Eskew, now a media adviser to the Gore campaign, helped craft Microsoft’s 1999 ad campaign that featured the software giant helping people, including a blind child, who used a computer to do her homework. Another Microsoft hire, Tom Jurkovich, worked on Gore’s 1988 presidential campaign, and during the 1990s worked for then Representative Vic Fazio (D-CA), first as national field director for the Democratic Congressional Campaign Committee, and then as chief of staff of the House Oversight Committee.

Lobbying Congress

In early 1998, Representative Billy Tauzin (R-LA/3) called on Gates bearing a lemon meringue pie — a reminder of the pie in the face Gates had taken earlier that year by someone with a bone to pick against Microsoft. Tauzin, who chaired a House subcommittee that had jurisdiction over the high-tech industry, reminded Gates that he needed friends. “I told him he was being demonized,” Tauzin recalled in an interview with *The New York Times*. “I said he had to win [against the Justice Department] in court, but there was also the court of public opinion.”

That court of public opinion included Members of Congress, and Gates has learned his lesson. Microsoft has hired lobbyists with strong ties to Congress on both sides of the aisle. Those

insiders on the Microsoft team include Kerry Knott, former chief of staff to House Majority Leader Dick Armey (R-TX/26), and an Armey former policy analyst, John Sampson, who are part of the company's in-house staff.

Former Members of Congress and congressional staffers employed by lobbying firms to represent Microsoft include: former Republican Representative Vin Weber; Alison McSarrow, former deputy chief of staff to Senate Majority Leader Trent Lott; Ed Kutler, former assistant to then House Speaker Newt Gingrich; Mitch Bainwol, former chief of staff to the Senate Republican Conference; and Mimi Simoneaux, Representative Tauzin's former legislative director.

LOBBYING EXPENDITURES	
<u>Year</u>	<u>Amount</u>
1996	\$1,180,000
1997	2,120,000
1998	3,740,000
1999	4,660,000
Total	\$11,700,000

Democrats working for Microsoft include Jamie Houton, formerly associate director of the Senate Democratic Steering Committee and former Democratic Representative Vic Fazio.

The lobbying, combined with the junkets and campaign contributions, have given Microsoft many stalwart defenders on both sides of the aisle. Last February, Senator Robert Torricelli (D-NJ), chair of the Democratic Senate Campaign Committee, wrote a letter to Attorney General Janet Reno and Microsoft president Steve Ballmer urging them to negotiate a settlement. Break up of the company, Torricelli wrote, was an "extreme position" that should be avoided.

In June, House Majority Leader Armey said that he'd rather break up the Justice Department than break up Microsoft. "[W]e punish success," Armey said.

Lessons Learned: The Microsoft Example

When the financial services modernization bill moved through this Congress at the end of 1999, Wal-Mart, the world's largest retailer, was a loser. Despite support from both Senate Banking, Housing and Urban Affairs Chairman Phil Gramm (R-TX) and a key member of the Arkansas congressional delegation, they failed to get Republican leaders to "pull some strings" to insert a provision in the moving through Congress to allow them to operate savings and loans in the national chain of retail stores, according to *Roll Call*.

Subsequently, in a private meeting, Senate Majority Leader Trent Lott (R-MS) and Representative Jay Dickey (R-AR/4) gave Wal-Mart executives a blunt reminder that the loss was an alarming wake-up call: "If the company did not hire more lobbyists, contribute more campaign money and raise its profile in Washington, the company would risk the same fate in upcoming legislative fights," *Roll Call* reported. "The bottom line," said a senior House GOP leadership source, "is they don't give money, they don't have Washington representation — so nobody here cares about them."

The lessons from the Microsoft experience have not gone unnoticed. Told by the Senate Majority Leader they need to play the big-money game in Washington, Wal-Mart decided to hire a Washington representative, open an office in D.C., hire more lobbyists, beef up "its lackluster" PAC, and to consider making soft money contributions.

In other words, they took steps to avoid being the next Microsoft.

"That same message is conveyed in hundreds of different ways hundreds of times a week by powerful Members of Congress and party officials to those who come asking to be heard in Washington," according to Harshbarger.

"The general take in Washington power circles on what happened to Microsoft — losing a major

anti-trust case in court and facing serious financial consequences — is that the whole thing might well have been avoided. This is how the thinking goes in those power circles: With the right Washington presence and representation, with wise and savvy political contributions, with skilled playing of Washington’s big money game, the corporation could have called on a wide array of powerful allies to either have turned back the DOJ lawsuit to begin with, or to have forced a more palatable settlement. According to this viewpoint, Microsoft’s ignorance, naiveté, and even arrogance about how Washington really works left the company to the vagaries of the government bureaucracy and resulted in the failure to use power politics to their corporate advantage.

“Now,” Harshbarger said, “Microsoft is almost a shorthand in Washington as a threat about all the bad things that can happen to companies if they fail to become part of the game and pony up. The lesson and message is clear: Resist this legal shakedown and you may pay a steep price.

“When the playbook gets this outrageous, however, there’s a backlash,” Harshbarger said. “And that’s what’s happening now. Leading business executives, including billionaire investor Warren Buffett, are saying, ‘Enough.’ Business groups such as Campaign for America and the Committee for Economic Development have joined with citizens in a call for campaign finance reform and an end to the soft-money system. The movement for political reform is gaining strength in this country, something our elected officials are noting. Working together,” he said, “we can change the game in Washington and make the Microsoft Playbook as obsolete as Windows 95.”

Methodology

Soft money contribution figures in *The Microsoft Playbook* are based on national political party committee reports of their non-federal, or soft money, accounts filed with the FEC covering the period January 1, 1989 through June 30, 2000 and political action committee (PAC) reports of Microsoft’s contributions to federal candidates during the same period.

Under current law, corporations and labor unions are prohibited from making contributions in connection with a federal election, while individuals and political action committees (PACs) are subject to federal limits. The term ‘hard money’ refers to contributions that are legal under federal law for federal elections, while ‘soft money’ refers to contributions made outside the limits and prohibitions of federal law, including large individual or PAC contributions and direct corporate or union contributions.

National political party committees were required to disclose their soft money contributions beginning in 1991, after Common Cause filed a petition with the FEC, challenging the way in which it was treating soft money.

For more information on soft money and the most recent contributors, contact the **Common Cause Press Office** at 202/736-5770.

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