Burns	Gregg	Mikulski
Byrd	Hagel	Murkowski
Campbell	Harkin	Murray
Chafee	Hatch	Nickles
Cleland	Helms	Reed
Cochran	Hollings	Reid
Collins	Hutchinson	Robb
Conrad	Hutchison	Roberts
Coverdell	Inhofe	Rockefeller
Craig	Inouye	Roth
Crapo	Jeffords	Santorum
Daschle	Johnson	Sarbanes
DeWine	Kennedy	Schumer
Dodd	Kerrey	Sessions
Domenici	Kerry	Shelby
Dorgan	Kohl	Smith (NH)
Durbin	Kyl	Smith (OR)
Edwards	Landrieu	Snowe
Enzi	Lautenberg	Specter
Feingold	Leahy	Stevens
Feinstein	Levin	Thomas
Fitzgerald	Lieberman	Thompson
Frist	Lincoln	Thurmond
Gorton	Lott	Torricelli
Graham	Lugar	Voinovich
Gramm	Mack	Warner
Grams	McCain	Wellstone
Grassley	McConnell	Wyden

NOT VOTING—1

Moynihan

The concurrent resolution (H. Con. Res. 92) was agreed to.

The preamble was agreed to.

Mr. MCCAIN. Mr. President, I move to reconsider the vote, and I move to lay that motion on the table.

The motion to lay on the table was agreed to.

MORNING BUSINESS

Mr. MCCAIN. Mr. President, I ask unanimous consent that the Senate now proceed to a period of morning business with Senators permitted to speak for up to 10 minutes each.

The PRESIDING OFFICER. Without objection, it is so ordered.

THE VERY BAD DEBT BOXSCORE

Mr. HELMS. Mr. President, at the close of business yesterday, Monday, April 26, 1999, the federal debt stood at $5,591,807,374,069.84 (Five trillion, five hundred ninety-one billion, eight hundred seven million, three hundred seventy-four thousand, sixty-nine dollars and eighty-four cents).

Five years ago, April 26, 1994, the federal debt stood at $4,561,451,000,000 (Four trillion, five hundred sixty-one billion, four hundred fifty-one million).

Ten years ago, April 26, 1989, the federal debt stood at $2,756,180,000,000 (Two trillion, seven hundred fifty-six billion, one hundred eighty million).

Fifteen years ago, April 26, 1984, the federal debt stood at $1,485,043,000,000 (One trillion, four hundred eighty-five billion, forty-three million).

Twenty-five years ago, April 26, 1974, the federal debt stood at $471,530,000,000 (Four hundred seventy-one billion, five hundred thirty million) which reflects a debt increase of more than $5 trillion—$5,120,277,374,069.84 (Five trillion, one hundred twenty billion, two hundred seventy-seven million, three hundred seventy-four thousand, sixty-nine dollars and eighty-four cents) during the past 25 years.

DAIRY POLICY REFORM

Mr. KOHL. Mr. President, I would like to take this opportunity to discuss the direction of our nation's dairy policy. When Congress passed the 1996 Farm Bill, we passed the most significant reform of our agricultural system since the Great Depression. In that bill, we ordered USDA to update our outdated milk pricing laws—something that had not happened for 60 years.

In taking these market oriented actions to drag dairy policy into—if not the 21st century—at least the second half of the 20th century, Congress may have spoken more boldly that we were willing to act. Congress has tried to put the brakes on USDA's milk pricing reform efforts from the moment they began. And now, mere days after USDA announced the reformed system, there are those who are seeking to insulate their home states from it by legislating compacts to set the price of milk artificially high in their regions.

These actions cannot stand. Though I understand my colleagues desire to protect the dairy farmers in their regions, I cannot let them do so at the expense of the productive dairy farmers in the upper Midwest—or at the expense of a national milk pricing system that, for the first time in sixty years, is market oriented and fair.

Expanding the anti-competitive Northeast dairy compact would regionalize the dairy industry and institutionalize market distorting, artificially high prices in one area of the country—just as the rest of the country is moving toward a simplified and more equitable system.

Dairy markets are truly national in nature. My region of the country, the Upper Midwest, has learned this lesson all too well. We have seen our competitive dairy industry decline, damaged by the distortion caused by an outmoded milk marketing order system. That system requires that higher prices be paid to producers the farther they are from Wisconsin. Sixty years ago, when the Upper Midwest was the hub of dairy production and the rest of the country lagged far behind, this regional discrimination had some justification. It encouraged the development of a dairy industry capable of producing a local supply of fluid milk in every region. But today, that goal is largely accomplished, and the continuation of the discriminatory pricing policy serves only to fuel the decline of the dairy industry in the Midwest.

The new system proposed by USDA is not all that we in the Upper Midwest would want. But it is an improvement in the current system, and a move toward a national compromise on this divisive issue. It is a step forward.

The legislation introduced today to continue the Northeast Dairy compact is just the opposite—a step backwards. It would remove a region from the new national dairy pricing system and move toward a Balkanized dairy policy. It hurts consumers in the affected region—consumers who will pay artificially high prices for their milk. And it hurts our hopes of achieving long-overdue unity on dairy pricing reforms that are fair and good for all regions of the country.

For all of these reasons, I oppose the expansion of regional milk pricing cartels like the Northeast Compact, and I ask my colleagues to do the same. Lets enter the next millennium with a dairy policy that is market-oriented and consumer friendly—not one that ties us to the unjustified protectionism and unnecessary inequities of the past.

CELEBRATING MISSOURI HOME EDUCATION WEEK

Mr. ASHCROFT. Mr. President, as a parent and former teacher, it is a privilege for me to be able to recognize Missouri home schoolers, who will observe Missouri Home Education Week during May 2–8, 1999.

Home schooling has been legal in Missouri since the state's founding in 1821. Since that time, and especially in the last two decades, home schoolers have faced numerous challenges and successes.

Fortunately, legislators are increasingly recognizant of the importance of local decision-making and parental involvement in our children's education. Home Education Week reminds us that parents are the first and best educators of their children. Study after study has shown that parental involvement is the most important factor in a child's academic achievement.

It is, therefore, appropriate that we celebrate Home Education Week by acknowledging the hard work, dedication, and commitment to academic excellence of the more than 4,300 home school families in my home state. Recently, the Washington Post lauded the academic achievement of these families. The Post article describes a study of home-schooled children, stating that they ''score well above the national median on standardized tests [and] often study above their normal grade level.''

It was an honor for me to proclaim Missouri's first Home Education Week in 1989. Now, in 1999, I look forward to the continued success of Missouri home school families, and to working with them to promote the kind of freedom that encourages parents to take an active role in guiding the course of their children's education.

ANTITRUST SUITS AND SMALL BUSINESS

Mr. ABRAHAM. Mr. President, I ask unanimous consent that articles written by Karen Kerrigan and Raymond J. Keating of the Small Business Survival Committee, along with a letter addressed from Karen Kerrigan to certain Members of Congress, be printed in the RECORD at the conclusion of my remarks.

The PRESIDING OFFICER. Without objection, it is so ordered.

(See exhibit 1.)

Mr. ABRAHAM. The Small Business Survival Committee, or SBSC, is a nonpartisan, nonprofit small business advocacy group with more than 50,000 members. These materials give a small business perspective on recent actions of the Department of Justice's Antitrust division, and of the action against Microsoft in particular.

As the SBSC point out, we are in an era of renewed activism on the part of the Antitrust Division. Since 1994 that Division has pursued more than 274 antitrust cases. The Antitrust Division was set up to protect consumers and our free enterprise system. But these materials demonstrate that it is questionable whether this new activism is in fact helpful to small businesses and entrepreneurs.

In particular, the SBSC questions whether the government's action against Microsoft, along with the concomitant actions of the state attorneys general, will not actually hurt small businesses and entrepreneurs who have profited from Microsoft's innovative practice. Worse, significant harm may be done to our ability to compete and to our very system of free enterprise, by the draconian measures being put forward in these talks.

Breaking up Microsoft or worse yet subjecting it and its suppliers to government approved contracting procedures will destroy business flexibility and substitute bureaucratic empire-building for free market competition as the force behind new initiatives. This would be tragic for all Americans as it would deny us the economic growth, innovation and freedom that open competition has provided for so long.

I hope my colleagues will study these and other materials as we consider the proper course for antitrust law in our political and economic systems.

[From the Business Journal, January 18, 1999]

BIG ANTITRUST CASES WILL HURT 'LITTLE GUYS'

(By Karen Kenigan)

Small-business owners seldom go running to the federal government for protection when competition threatens their market position.

But that, unfortunately, has become the strategy for some big businesses who see their market share eroding due to aggressive competition from a rival.

The Antitrust Division of the Department of Justice is currently being used by America's top CEOs who give up on the marketplace, essentially using the government as a temporary cushion against bleeding market share.

But make no mistake, due to the desperate pleadings of such big corporations, small businesses as consumers, suppliers—and even competitors—of successful big companies under attack will suffer from this excessive meddling in the marketplace.

Headed by Joel Klein, the antitrust division is operating with renewed vigor. If you care to take a look at Justice's web site, it proudly lists more than 274 antitrust cases brought by the U.S. government since December 1994 (along with amicus curiae briefs in 31 other cases).

''The criteria for antitrust investigations or lawsuits seems to be if a company merges or wildly succeeds, then it may be ripe for antitrust action. When government moves against successful businesses, the entrepreneurial sector of the economy pays a price, too,'' said Small Business Survival Committee chief economist Raymond Keating.

Keating argues that antitrust actions generally seek to supplant the wisdom of consumers with government regulators as the final arbiter to protect politically connected businesses that fail to adequately compete. He says small businesses that have gained from the success and innovation of companies under attack—Microsoft Corp. being a good example—will ultimately lose from aggressive antitrust action.

Most troublesome is the permanent damage inflicted on the company under attack and the impact on its small-business suppliers.

Nobel Prize-winning economist Milton Friedman recently said that the companies of Silicon Valley that encouraged Justice action against Microsoft are displaying ''suicidal'' behavior. The door has been opened for new regulations in an ''industry relatively free from government intrusions,'' he warned the industry at a CATO-sponsored event.

A new period has dawned in corporate America where some feel safe running to the government for protection and solace rather than responding to competition with better ways to serve consumers.

An activist antitrust division has helped to fuel this rather co-dependent behavior. Its doors are thrust open to all pleaders who wish to use the government to sideline or district the competition. A costly government investigation is one way to put the best brains of a business competitor into nonproductive status, warding off potential bad press and other fallouts that often accompany an antitrust challenge.

The government's pursuit of Microsoft is a bogus venture, according to Citizens Against Government Waste. In October, the group released a survey that showed 83 percent of the public views the case against Microsoft as a waste of federal and state taxpayer funds.

''With new evidence every day of the weakness in the government's case, it's only a matter of whether the government wants to wait 13 years, as it did in the IBM case,'' said CAGW president Tom Schatz.

According to the antitrust division's own literature, its work is supposed to be focused on protecting consumers and our system of free enterprise. What's becoming more clear is that its work is doing much more to thwart competition by protecting whiny competitors at the expense of free enterprise.

[From Small Business Reg Watch, December 1998]

IS ANTITRUST ANTI-ENTREPRENEUR?

(By Raymond J. Keating)

Once again, merger activity in the U.S. economy has accelerated. Among the proposed or consummated corporate marriages of 1998 are Chrysler Corporation and Daimler-Benz, American Online Inc. and Netscape Communications Corp., Deutsche Bank AG and Bankers Trust Co., Unum Corp, and Provident Cos., Tyco International Ltd. and AMP Inc., MCI Communications Corp. and WorldCom Inc., Cargill Inc. and Continental Grain Co., Bell Atlantic Corp. and GTE Corp., Wells Fargo & Co. and Northwest Corp., AT&T Corp. and TeleCommunications Inc., Exxon Corp and Mobil Corp., along with a host of others.

Of course, such mergers raise the antennae of government antitrust regulations at the U.S. Department of Justice (DoJ) and the Federal Trade Commission (FTC). These days, however, it does not seem to take very much to get the attention of the rather activist antitrust division headed by Joel Klein at the DoJ. Indeed, at the DoJ's website, the antitrust division lists 274 antitrust cases brought by the U.S. government since December 1994, along with Amicus Curiae briefs in 31 other cases.

And a proposed merger certainly is not required to warrant antitrust attention. For example, an antitrust case was filed in early October 1998 against Visa USA and MasterCard International. The FTC has filed suit against Intel Corp. And of course, DoJ is now in court against Microsoft Corp.

The criteria for antitrust investigations or lawsuits seems to be if a company merges or wildly succeeds, then it may be ripe for antitrust action. Of course, this problem springs from the combination of vague legislation (i.e., primarily the Sherman Act of 1890 and the Clayton Act of 1914) with zealous government lawyers and regulators.

While at first glance the issue of antitrust may seem remote to most small businesses and entrepreneurs, it does have an impact on and should be a concern to the entrepreneurial sector of our economy. In general, antitrust actions are anti-entrepreneur, and the reasons go far beyond the basic idea that the next Microsoft lurks among today's small or start-up firms, and will some day have to face the wrath of antitrust regulators.

Entrepreneurs as Consumers. Perhaps most obviously, small businesses are affected by antitrust regulation in their role as consumers. For example, small businesses are customers in almost every industry touched by antitrust actions—from telecommunications to computers to gasoline to grain to the Internet.

Any time our most successful businesses come under regulatory assault, consumers are bound to lose. Entangle companies in antitrust litigation and resources are diverted away from serving consumers, and instead put toward battling the government. Just ask IBM. The increased costs of government arrogantly overruling decisions made in the marketplace ultimately fall on the backs of consumers. After all, the consumer acts as final judge and jury in the marketplace. They ultimately decide the success or failure of mergers, who gains market share, and who loses market share. Transfer this power to government bureaucrats, and consumers—including small businesses—obviously suffer.

Entrepreneurs as Suppliers. In addition, government overriding the wisdom of millions of individuals in the marketplace directly hurts small business and entrepreneurs who supply goods and services to the firm under antitrust assault. Businesses who serve customers well and gain market share as a result, or those pulling off successful mergers, create new opportunities for entrepreneurs and small enterprises. Consultants, construction businesses, food services, dry cleaners, retail stores, and seemingly countless other suppliers grow up around these larger businesses. These smaller businesses inevitably get hit with the fallout from an antitrust attack on the larger companies.

Entrepreneurs as Competitors. Some might believe that smaller enterprises favor antitrust action as a means to hobble a dominant competitor. In fact, an overwhelming number of antitrust assaults begin with a faltering or less efficient firm trying to get the government to impede their successful competitor.

However, this most certainly is a case against antitrust action, not for it. The only possible beneficiary would be the firm seeking government protection, and any resulting advantage for that business would at

best be temporary as the market would still be working to weed out inefficiencies and reveal their shortcomings—and justifiably so.

In general, the entrepreneurial sector of the economy gains nothing by having government step in and punish success, or dictate which companies are allowed to merge.

Entrepreneurs vs. Regulators. Indeed, any further empowerment of regulators does not serve the over-regulated entrepreneur at all. Government stepping in and dictating business practices, assaulting efforts to gain market share, and punishing success goes far in shaking the confidence in and of business. Under such circumstances, the business environment becomes inclement for all. And one can easily envision robust antitrust regulation spilling into other regulatory arenas.

Entrepreneurs and Economics. The fundamental problem with antitrust regulation is that it rests on unsound economics. In reality, the economy is not the sterile, neat model of perfect competition taught in economics textbooks and desired by government lawyers. Instead, it is a tumultuous, ongoing struggle among enterprises to create temporary monopolies through innovation, invention and efficiencies. Those temporary monopolies are subsequently attacked and surpassed by competitors. Entrepreneurs, unlike many in government, understand this rivalry between current and future competitors.

Indeed, it is difficult, if not impossible, to think of a true monopoly—i.e., one supplier in an industry with no real or close substitutes—ever emerging from the competitive marketplace. Where true monopolies have existed, it was the government that either created, aided, or protected it (e.g., telephony, electricity, and education). The vaunted idea of predatory pricing—whereby a business lowers it prices below cost in order to destroy competitors, monopolize the market, and then hike prices dramatically—fails the reality test. It's never happened. The potential losses such a strategy would have to incur would be enormous and unpredictable. And even if it were to eventually succeed, consumers would have benefited enormously, and subsequent price increases would bring competitors back into the market.

Antitrust regulation at its core is contradictory. It purports to protect consumers from evil monopolies and so-called ''anti-competitive activity,'' but it is, in fact, consumers who make the final decisions in the market. In this light, antitrust regulation is revealed to be little more than another elitist government effort to protect us from ourselves. Antitrust actions generally seek to supplant the consumer with the government regulator as final arbiter in order to protect politically connected businesses who fail to adequately compete.

In the end, small businesses and entrepreneurs are not immune to the costs of government antitrust activism. None of us are.

EXHIBIT 1.

SMALL BUSINESS SURVIVAL COMMITTEE,
Washington, DC, April 13, 1999.

Hon. DENNIS HASTERT,
Speaker of the House,
U.S. House of Representative, Washington, DC.
Hon. TRENT LOTT,
Majority Leader,
U.S. Senate, Washington, DC.

DEAR SPEAKER HASTERT AND SENATOR LOTT: The Small Business Survival Committee (SBSC), a nonpartisan, nonprofit small business advocacy group with more than 50,000 members, is very concerned about the growing antitrust activism exhibited by the U.S. Department of Justice. It often seems that an antitrust regulatory assault is launched simply because a business has served consumers well, become successful, and/or frustrated its competitors who now seek political remedies to their own economic challenges.

SBSC believes this is the case with the current antitrust assault against the Microsoft Corporation. Microsoft is the most successful U.S. company in recent memory. The firm gained market share by serving consumers well, not, for example, through any kind of government assistance. One would think that such a U.S. business exhibiting such global leadership would be praised, not punished.

You may be wondering, why should small business be concerned about the welfare of corporate giants and their battles with DoJ? As the attached report points out, what eventually happens with these various antitrust cases will have a dramatic impact on small businesses both as consumers and as entrepreneurs. I would even argue that renewed DoJ activism has helped to embolden the regulatory spirit, across-the-board, within the federal government.

What eventually happens with the Microsoft case-Whether it be more regulation, or one or more of the various ''remedies'' that have been publicly floated and discussed (most recently by the state AG's)—will have a deep and long-lasting impact on the high-tech industry. Small businesses, entrepreneurs and their workforce will be the ultimate losers—not to mention the economy and all consumers. The ''remedies'' being discussed by opponents of Microsoft, as well as the wish-list drawn up by the attorneys general who have joined the federal government's lawsuit are draconian-plain and simple. As a country whose free enterprise system has made the United States the envy of the world, SBSC is both ashamed and disturbed that these ''remedies'' are even being discussed.

The very notion of monopoly or monopoly power in today's dynamic, extremely fluid computer market is rather preposterous. Make no mistake, Microsoft competes against current, emerging and future competitors. Does anyone seriously doubt that it Microsoft slips and does not stay at the cutting edge. It will falter just like any business in a highly competitive industry?

In the accompanying materials, SBSC discusses many of these antitrust issues, as well as others. I particularly draw your attention to the report by our chief economist Raymond J. Keating which asks the question ''Is Antitrust Anti-Entrepreneur?'' The answer, as you shall see, is ''yes.''

Finally, I would like to mention two recent articles in the Seattle Times and New York Times which report on a wish list of punishments against Microsoft contemplated by the state attorneys general. I say the least, these are quite disturbing.

The 19 state attorneys general who joined the federal government's misguided antitrust lawsuit against Microsoft are considering several punishments if the government's lawsuit succeeds, including breaking the company into two or three parts based on product lines, breaking the company into three equal parts with each possessing Microsoft's source code and intellectual property, or forcing the company to license or auction off its Windows trademark and source code to other companies. Other proposals reportedly under consideration include extensive fines, giving government regulators ongoing access to the company's e-mail and documents, that Microsoft seek government approval before acquiring any software company, and forced standardization of Microsoft contracts.

These would be outrageous governmental intrusions into one of the top U.S. businesses in the world. If carried out, the precedents set for current and future businesses would be quite dangerous.

Unfrotunately, Microsoft has been cornered into a quagmire that no American company should be forced into by its own government. From our perspective the ''settlement talks'' now taking place are a bogus set up against Microsoft. Having approached ''settlement'' with reasonable alternatives to the draconian regulations and ''remedies'' sought by those hounding the company, the federal government and attorneys general will undoubtedly portray Microsoft as ''unreasonable'' and ''greedy'' because they will not forsake principles that could cause long-term damage to the industry. Of course, they owe their biggest competitors nothing since they are the ones who instigated the suit and prodded the DoJ in the first place.

This good-old boy gang up by the government and participating AG's is a farce and a waste of tax dollars. They have lost perspective, and their law-enforcement priorities are horribly misplaced.

I urge Members of Congress to review the following materials, and take a close look at current antitrust policies, which work against entrepreneurship, business, U.S. economic leadership and consumers. We believe the Congress has the obligation to ask why the DoJ is placing such a priority on the ''get Microsoft'' effort when more important law enforcement issues appear to be in the greater national interest.

Sincerely,

KAREN KERRIGAN,
President.

DAIRY COMPACTS

Mr. FEINGOLD. Mr. President, I rise in strong opposition to legislation introduced today by my colleagues Senator JEFFORDS, Senator LEAHY, Senator COCHRAN and Senator SPECTER. They have introduced a measure which will further aggravate the inequities of the Federal Milk Marketing Order system. Their legislation will make permanent and expand the Northeast Interstate Dairy Compact and will authorize the establishment of a southern dairy compact.

Despite the discrimination against dairy farmers in Wisconsin under the Federal Dairy policy known as the Eau Claire rule, the 1996 Farm Bill provided the final nail in the coffin when it created and authorized for 3-years, the existence of the Northeast Interstate Dairy Compact. The Northeast Interstate Dairy Compact sounded benign in 1996, but its effect has been anything but, magnifying the existing inequities of the system.

The bill which authorized the Northeast Interstate Dairy Compact established a commission for six Northeastern States—Vermont, Maine, New Hampshire, Massachusetts, Rhode Island, and Connecticut. This commission set minimum prices for fluid milk higher even than those established under Federal Milk Marketing Orders. Never mind that the Federal milk marketing order system, under the Eau Claire rule, already provided farmers in the region with minimum prices higher than those received by most other dairy farmers throughout the nation.

The compact, which controlled three percent of the country's milk, not only