

**Keeping the Internet open –
Comments on the EC's new case against Microsoft**

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INTERNATIONAL

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The EC's new case is about the future programming environment for the Internet

- **Web-based applications are already very popular and represent the future**
- **Will websites and web-based applications in the future be based exclusively on open Web Standards?**
- **Or will MSFT succeed in another version of its “embrace and extend” strategy by encouraging use of proprietary technologies such as Windows Presentation Foundation / XAML Browser Applications and Silverlight?**

Microsoft's strategy for taking control (slide 1 of 2)

- **Nearly all PCs sold by OEMs have IE as the default browser**
 - In theory, an OEM could sell the right to be the default browser on new PCs to another browser supplier
 - In practice, however, this doesn't happen
- **By including proprietary standards in IE and “evangelizing” the use of these standards, MSFT hopes to encourage developers to develop websites and write web-based applications that rely on protocols that are dependent on MSFT IP**

Microsoft's strategy for taking control (slide 2 of 2)

- **For MSFT to win, “tipping” of the programming environment is not necessary. MSFT wins if key applications and websites become based on MSFT proprietary standards**
- **If this happens users will find that IE is the only browser that properly displays some of the most important websites and web-based applications**
- **MSFT might decide to license its proprietary standards so that they can be supported in other browsers. But on what terms? What is MSFT's concept of FRAND?**

Potential adverse effects on innovation

- **Higher development costs.** Proprietary extensions are inconsistent with the “write once, render anywhere” promise of open Web Standards.
- **Diversion of resources.** Even if MSFT licenses, rival browser suppliers will have to spend time and money ensuring proper implementation of MSFT proprietary standards. Will this significantly divert resources from investment in innovation?
- **Reduced incentives to innovate.** Will rival browser suppliers be concerned that MSFT might be able to extract the value of their browser innovations through the royalty rates charged by MSFT for access to “must have” MSFT proprietary standards?

What remedies are implied by the theory of the new case?

- **The EC is highly unlikely to seek a remedy that forces MSFT to commit to having IE support open standards and only open standards**
- **A remedy that focuses on MSFT's ability to have IE installed as the default browser seems far more likely (e.g. "mandatory browser options at boot-up")**
 - Under the theory of the new case, it is MSFT's dominance in browsers that gives MSFT the opportunity to propagate its proprietary protocols and to start the feedback effects
 - The dominance in browsers in the consumer market derives in turn from IE's position as the default browser on PCs shipped by OEMs – a "mandatory browser options at boot-up" remedy would address this

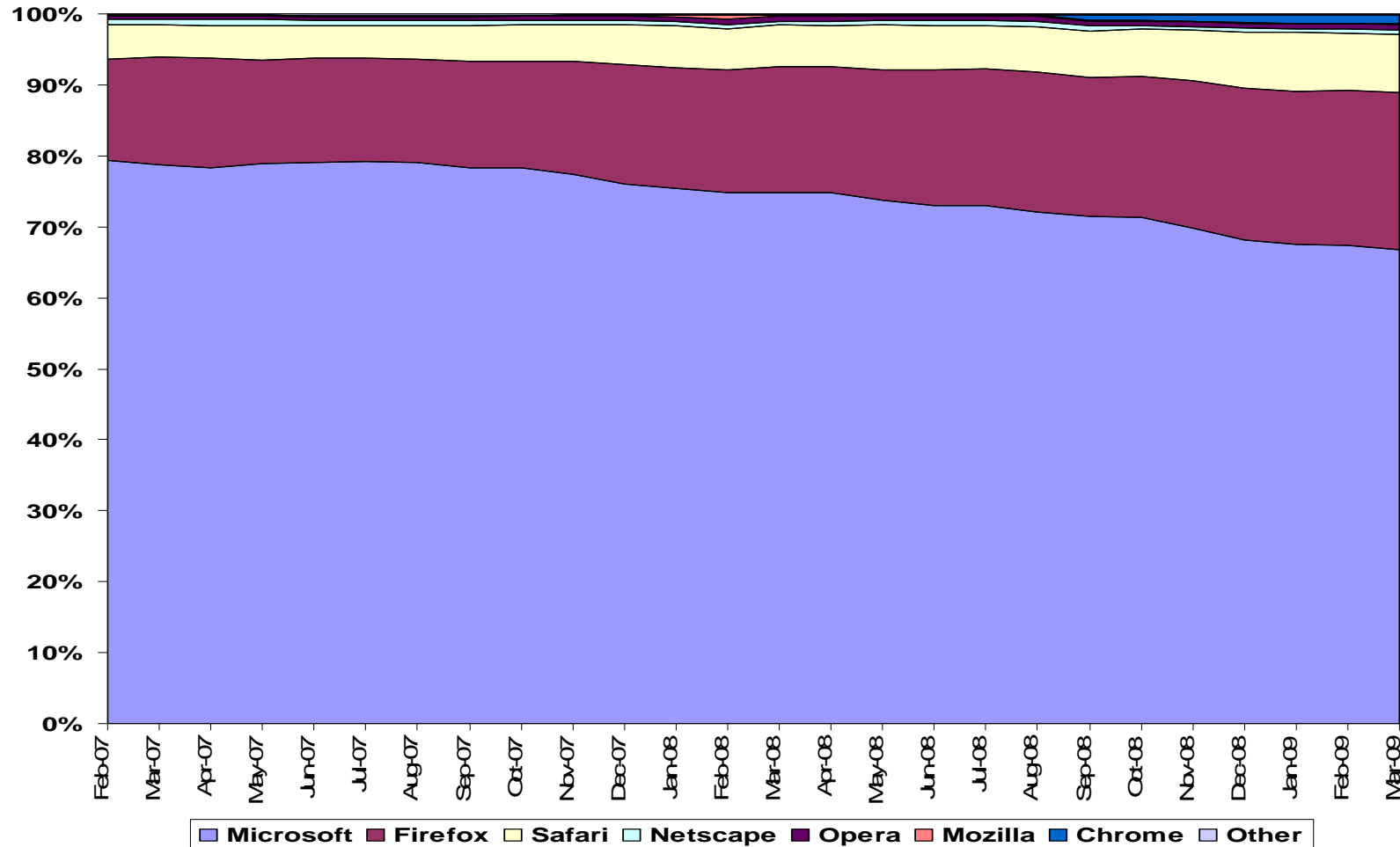
Testing the case – survey evidence on consumer behaviour

- **Survey consumers to determine the percentage who have downloaded additional browsers and who have also changed their default browser**
- **Survey consumers to determine the factors that determine which browsers consumers use as their default browser – for example, is it the case that many consumers have little patience and so, when one or two sites don't function within Firefox or Opera, they quickly revert to IE?**

Testing the case – survey evidence on developer and website behaviour

- **Survey websites to determine the incidence of websites and web applications for the consumer market that either do not display or display sub-optimally on non-IE browsers**
- **Survey developers to determine the extent to which developers of web applications for the consumer market write code that is “IE specific” in some respect**
 - Focus in particular on the developers’ most recent code; what is the uptake of MSFT’s Windows Presentation Foundation, Silverlight, etc?

Testing the case – explaining recent trends in browser usage



Source: NetApplications

Testing the case – other issues

- **What about the growth in the use of mobile phones and other small devices to access the Internet?**
 - IE traditionally has been weak in this area
 - Will the growth in Internet use from such devices protect open Web standards?
- **What is the impact (if any) of having IE installed by OEMs as the default browser on the kind of web applications that are developed for enterprise users?**
 - Don't most corporate IT departments routinely erase the software that an OEM has installed and install their own software?

Summary

- **The EC case appears to be based on a coherent economic theory**
- **The possible remedy however will strike many as unorthodox and quite intrusive (“mandatory browser option at boot-up”)**
- **Especially because of this, the EC should present more than a coherent theory**
- **The EC should also present evidence on the likelihood that, in the absence of intervention, support for MSFT proprietary web standards will become a “must have” feature for any browser supplier**

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