

Comparing The US And EU Microsoft Antitrust Prosecutions: How Level is the Playing Field?

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Abstract

The United States and the European Union have spent considerable time and resources pursuing antitrust cases against Microsoft over the past decade. While the antitrust cases began in similar fashions, the US and EU have diverged significantly in responding to Microsoft's business practices. Given the similarity of US and EU antitrust law, it is debatable why the Microsoft antitrust litigation developed differently in each jurisdiction. While the US case generally ended in a settlement that has been criticized as too lenient on Microsoft, the EU case ended in a decision imposing harsh remedial measures and a severe fine. We find plausible explanations for the disparity to include a differing focus between US and EU antitrust policy, various political considerations, and the different issues confronting regulators in each case.

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