

MACROCOSM

## After Broken Windows: Open Windows

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Donald Luskin

Two months after terrorists destroyed the New York buildings that stood as monuments to world trade, the US government has finally stopped trying to destroy the American company that contributes more than any other to world trade: **Microsoft**.

This is no coincidence. We are now forced to focus on real foreign enemies, not imaginary domestic ones. Face it: the **Department of Justice** can't even figure out where all that anthrax is coming from. The Beast of Redmond will just have to wait until peacetime.

**US District Court Judge Colleen Kollar-Kotelly** had the terrorist attacks in mind -- and a righteous sense of what's important and what's not -- when on September 28 she [ordered](#) Microsoft and the DOJ into fast-forward settlement talks, saying,

*In light of the recent tragic events affecting our Nation, this Court regards the benefit which will be derived from a quick resolution of these cases as increasingly significant...*

This was exactly the kind of thing I had in mind when I wrote the day after the attacks, that these "...horrors could be the catalyst the economy and the markets have been looking for. Forgive me if this seems mercenary in light of Tuesday's loss of lives -- but this could be a major buying opportunity" (["In Crisis, Opportunity," September 12, 2001](#)).

At the very least, the need to rekindle America's creative energies in order to win the war on terrorism -- a need reflected in the rapid Microsoft settlement -- is surely the reason why, after a brief panic, the markets have restored themselves to their pre-attack price levels -- despite every outward appearance of worsening economic conditions. In this sense, the famous "broken window fallacy" of 19<sup>th</sup> century economics literature -- in which the repair of a baker's window smashed by a vandal triggers an economic boom in the baker's village -- may not be a fallacy at all (["Beyond Broken Windows: What if the Market is Right?" October 29, 2001](#)).

In this case, the broken window has led to open **Windows** -- to the opening up of the Microsoft Windows operating system for personal computers, that is. Under the [terms of the settlement](#), Microsoft has agreed to give users, distributors, and competing software companies significantly greater control over how Windows is configured, and more access to information about the APIs (application programming interfaces) through which software interacts with the operating system.

While it is a major plus for the economy to have the Microsoft trial put to bed, is this particular settlement a good thing? As a pragmatic matter, it probably is. It is probably better than having the case drag on forever, and certainly better than the original outcome -- with Microsoft being arbitrarily dismembered. This settlement recognizes the reality that Windows has become so pervasive as to be a kind of public network operated for profit -- the settlement simply sees to it that the network will be operated in such a way that everyone can efficiently and equally plug into it.

It's far from the worst possible outcome, but it will not be without its costs. No public good is ever obtained by force without someone paying the cost. But that's never stopped politicians from delivering highly visible public goods to the voters -- they just ignore the invisible costs.

In his [column for the New York Times yesterday](#), **Paul Krugman** makes this basic error. Krugman points to the public good that opening up the Windows APIs will allow non-Microsoft software to work more seamlessly with Microsoft products. As an example of the problems that prevail today, Krugman says he has a tough time cutting and pasting in WordPerfect -- a non-Microsoft product -- when Microsoft PowerPoint is open at the same time on his PC.

You might think Krugman could solve Krugman's problem on Krugman's nickel by calling technical support and figuring this thing out. But Krugman says, "Experts are no doubt chuckling -- all I had to do was hit Ctrl-Alt-Shift-PgUp-PgDn-End, right? -- but the whole point of modern software is that you aren't supposed to have to be an expert to use it."

And for Krugman, the *whole point* of the modern regulatory state is to spend hundreds of millions of dollars in legal costs, destroy billions of dollars of Microsoft shareholder wealth, and to force the owner of intellectual property to use that property against his own judgment and against his own competitive interests -- so that the Paul Krugmans of the world don't have to bother to learn a sequence of keystrokes.

If Krugman's position seems absurd -- well, it *is*. But he's doing his best to find some shred of dignity in what is clearly a major defeat for the advocates of government intervention in markets. Krugman may be crazy, but he's not stupid: he's scared to death that the post-attack world will not be friendly to his cause. He concludes his column by saying,

*Judge Colleen Kollar-Kotelly urged a quick settlement in light of "the recent tragic events affecting our nation." That's not a good reason for haste in an antitrust proceeding, and a positively bad reason to push a settlement that one must admit is rather friendly to the monopolist. There are already enough people in the executive and legislative branches of our government who think that the way to show national unity in these trying times is to give giant corporations whatever they want...*

When an articulate spokesman like Krugman has nothing more persuasive to say than *that*, well... it smells like victory. At least a moral victory.

But the truth is it's only a small victory in the grand scheme of things -- only a beginning. So far, the power of unity and purpose for recovery and growth coming from the horrors of September 11 has been enough to stabilize the markets, but not enough to catalyze a new uptrend.

And the Microsoft settlement, in an important sense, is low-hanging fruit. It's something that the **Bush** administration had the power to make happen without cooperation from **Congress**. Indeed, even the Microsoft settlement won't really stick until the states attorneys general approve it, and *that's* still uncertain. On the larger stage of economic policy, President Bush seems to have no taste for using his 90% approval rating to force his growth agenda -- modest as it is -- through to completion. So a tepid "stimulus" package still staggers along through the halls of Congress.

So for now the equity markets are range-bound -- waiting for a clearer signal in a race against time. It's the power of focus and unity, pushing back against the tide of global recession.