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Memorandum

To: Ozzie Osborne
From: Anne Sylvia
Date: Wednesday, June 26, 1996
Subject: Microsoft Questions

The estimated Microsoft volumes for the CDT Products in 1997 are as follows:

Product	Win 3.11	Win 95	Win NT	Other
Annihilator	640K 450	1.1 M	180K	0
Crossfire	0	0	50K	0
Firepower	10K	50K	0	0
Fireworks	40K	60K	0	0
Flashpoint	0	400K	80K	30K
Prowler	0	600K	400K	0
Raider	0	0	100K	0
Starfire	80K	100K	0	0
Total	890K	2.2M	810K	30K

The differences between Win 3.10 and 3.11 are dramatic. Win 3.11 fixes many bugs and offers additional printer device drivers. We also used the Win 3.11 source to fix a 32 bit disk access problem to support hard drives larger than 540 MB, Microsoft would not address this problem. The 3.10 source would not be acceptable to CDT. PSP has no plan to offer 3.10 or to upgrade to the mandatory changes.

The CDT NT plan is to offer 3.51 to address existing NT Crossfire and Flashpoint customers and then offer NT 4.0 on another Crossfire and Flashpoint model the day MS announces. We need more details on the following items relative to this plan:

1. MS OPK and GA schedules
2. 3.51 to 4.0 upgrade options
3. CD-ROM vs Preload limitations
4. Outlook for contract closure and projected prices

If you need more assistance let me know.

Regards,

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Santelli Microsoft Briefing 6/24/96

Santelli/Norris/Osborne/Dubinsky to call Kempin/Baber/Siruss/Ackerland at 6:30PM EST

Joachim:

Your team has made clear MS's desire to move all OEMs to the same terms and conditions for MS products. We understand the importance of the Windows Desktop Family Agreement to MS and IBM. We believe it is in IBM's interest to move to the WDF and would like to do so as soon as possible.

As we discussed on our prior call, we need your help in two areas in order to reach agreement:

1. Reducing the unplanned profit impact to IBM
2. Reducing the operational impact to IBM of the new terms and conditions

IBM disappointed in MS's position as expressed in the meetings last week.

IBM's proposal met the spirit of our prior discussions; we asked MS to reduce the Windows 95 price in order to offset the price increase in Windows 3.11 under the WDF agreement.

Joachim, what's your general position on this?

My team was hit with a few things last week:

1. MS will not consider any Windows 95 or Windows NT royalty reduction
2. MS not willing to consider IBM's profit neutrality
3. MS not very flexible on our operational concerns

-Profit impact

- MS is forcing IBM to give up its Windows 3.11 investment return by withdrawing the MDA from Windows 95/Windows NT: either take Win 3.11 at \$40 or no MDA for Windows 95.
- No MDA today for Windows 3.11 and MDA 96 Milestone Activities not aimed at Windows 3.11.

Joachim, why are you tying Windows 3.11 to our ability to get the MDA?

Is MS placing Compaq in a similar position?

Is MS stopping the Compaq Front-line Partnership?

-Operational Impact

-IBM needs greater flexibility than the MS statements of policy allow.

- IBM has drop in the box requirements
- Customers don't want documentation
- IBM needs distribution through everyone
- IBM needs better upgrade rights

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What IBM wants:

1. Reduced price for Windows 95 in order to offset the increase in Windows 3.11 (\$47.36 pre MDA)
2. Reduced price for Windows NT in recognition of IBM's \$85M+ investment in NT (\$90 pre MDA) [middleware (DB2/CICS/VisualAge for C++) porting, PowerPC, and field education]
3. Increased flexibility in operational issues

Joachim, what is your position on this?

If MS agrees with what we want we will send team back out to MS to finalize agreements.

If MS disagrees, some options are available.

Windows 95

1. MS to exclude Windows 3.11 from WDF agreement and IBM to accept Windows 95 price (with meaningful MDA) as is.
2. IBM willing to do separate agreements but need an MDA for Windows 95 effective October 1996.

Win NT

1. In return for Windows NT reduced royalty (\$90), IBM willing to also:
 - participate in Windows NT 4.0 Launch
 - create a Windows NT 4.0 marketing campaign
2. IBM willing to do separate agreements but need a meaningful MDA for Windows NT effective immediately.

Does MS have any additional options they want to explore?

fixed price reduced

*notes - on server
MS office US smart suite*

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Windows Desktop Family License Meeting Summary - 6-19-20/96

- Meeting Attendees and Objectives
 - Attendees
 - Microsoft: Baber, Struss, Miller
 - IBM: Norris, Sclove, Romero, Avallone, Dubinsky
 - Objectives
 - Royalties
 - Operational Issues
 - Market Development Agreement MDA
- Royalties: Team quickly reached an impasse on Royalties
 - MS is not willing to negotiate Royalties
 - No interest in profit Neutrality for IBM
 - After Consent Decree - MS change in policy standardized pricing for all OEMs
 - Based upon Volumes
 - MDA Royalty Reductions
 - Considerations given on Technologies
 - MS states that Compaq is the only exception - FLP Agreement predates
 - IBM is also an exception - based upon IBM's investment
- Meeting Broke for Day1: MS to work on IBM requests
- MS returns with Final Position (Stated Final Offer by Kempin and Gates)
 - Will allow IBM to continue with current licenses with i-IDA expiration 9/96
 - This is unacceptable w/o an MDA
 - Windows Desktop Family License Agreement
 - \$5 Million from Settlement Agreement returns to Escrow
 - Opportunities can still be explored till 7/97
 - WindowsNT and Windows95 royalties will not change
 - Win3.11 royalties - \$40 w/ \$20MDA opportunity
 - Pricing to take effect August 1st
 - ELAA still OK, w/o IBMers on site, excluding certain geography's
- IBM Response
 - Total rejection of Microsoft Offer
 - Attempt by MS to force IBM off existing agreement (\$9 Win3.11)
 - Royalty Discontinuation - leading to impasse
 - Moved to Operational Issues
 - MS rejected eight out of ten issues (two still in review)
- Agreement for Next Steps
 - Agreed to elevate discussions to Santelli / Kempin
 - Prior to final offer, Kempin unwilling to meet with IBM
 - MS to review this position and contact IBM on Monday, 6/24.

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BACKGROUND

After Consent Decree - MS change in policy: standardized pricing for all OEMs

- Based upon Volumes
- MDA Royalty Reductions
- Considerations given on Technologies
- MS states that Compaq is the only exception - FLP Agreement predates
 - IBM is also an exception - based upon IBM's investment in Win3.11

IBM WDFLA Objectives:

- Move users from Win3.1 to Win95 and WinNT
- Revenue Growth \$60M → 250-300 Million
- Satisfy End Users
- Keep IBM Profit Neutral & Settlement off the Books
- Operational Efficiencies

Discussion:

- IBM requested profit neutrality - This is not important to MS
- Discussion again moved to the expiring MDA for Win95
- Baber stated again he will review with his executives

Options:

- Sign WDF
- Stay with current agreements
 - MDA-95 expires Oct 1
 - Potentially sign modified MDA-96
- Sign Modified WDF
 - Current Win 3.11 royalty expires 9-97
 - Exclude Win 3.11 from WDF while maintaining MDA96

MS to review the options Internally

- Banc Akersland
- Peter Miller
- Joachim Kempin

MS Comeback

- IBM can continue with current licenses without Win9X MDA
- WFLA
 - \$5 Million - decoupled
 - Mills/Waldalecki-Berger Internet/Intranet
 - Other opportunities can still be explored
 - Extend another 6 mos till 7/97
 - NT and Windows95 royalties will not change
 - Win3.11 royalties - \$40 w/ \$20MDA
 - Pricing to take effect August 1st
 - ELAA still OK, w/o IBMers on site
 - Company by company approval

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- Deny based upon - geography's - companies in breach

IBM Response:

- Forcing IBM to move to the WFLA
 - Need Straight discussion do not hiding the Issue
 - No MDA for Windows95 is unacceptable
 - Is MS forcing Compaq to give up the FLP
 - \$5Million in Settlement Agreement

MS Response:

- Been Working on the Relationship
- IBM is nothing like COMPAQ on campus

Operational Issues:

- Package Deal - Do not uncouple
- List of Operational Issues:
 - Preload Requirement - Open Bay / RTC limited to 10%
 - ELAA - MS is open, but not reviewed
 - Encryption - No, until a policy change at MS
 - Will agree to language, offered generally (except Compaq)
 - PowerPC
 - PowerPC Separate Agreement
 - Min commit → # systems/4 pay up front
 - agreement early next week
 - Server
 - Meeting next week, general business meeting
 - Preinstallation is a requirement - Server at impasse
 - Separate Agreement for NT Server
 - agreement early next week
 - Win 3.5.1 Upgrade Charge
 - Want to upgrade through RETAIL
 - Therefore price is close to RETAIL price
 - Policy is as above \$55.
 - Competition does this as part of MSP program via LAR
 - Win3.11 to WinNT 4.0 Upgrade - no OEMs will get this
 - Dual Install
 - Need to expire 2nd Qtr 1997
 - Out of IBM's inventory by 2nd Qtr
 - MS Policy - Will work for compromise
 - Recovery CD Distribution
 - requires a list of companies
 - compusion required
 - Document Distribution
 - Policy - SKU / End User
 - Demo / Internal Usess Copies
 - Policy - 2000 - Demo, 0 - Internal Use
 - Royalty Issue
 - Average of 3mos to requalify - MS to look into

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