

The main purpose of this final thesis is to make comparison of two antitrust cases against one of the biggest and most successful companies in the world, Microsoft. The Department of Justice (“DOJ”) in the United States and the European Commission (“the Commission”) in the European Union have spent considerable time and effort pursuing prosecution and law suits against Microsoft. While the US case had been finally closed few years ago, the EU case can be overruled by the forthcoming judgment of the Court of First Instance.

At the beginning, both cases in the US and the EU began in a similar way, but diverged significantly in responding to Microsoft’s business practices. The US court initially was very harsh, ordering the break up of Microsoft into two separate companies, but the appellate court overturned the district’s court decision, so Microsoft was no longer forced to divide the company and the case eventually ended by the settlement with the DOJ. By contrast, the Commission was not so lenient towards Microsoft, imposing rather strict remedies and fining Microsoft by € 497 million.

Although EU competition law and US antitrust law appear to be similar and we would expect similar outcomes in cases on both sides of the ocean, the Microsoft case has proven opposite. Why the Microsoft case developed so differently in US and EU? While it is very difficult to answer this question clearly and without any doubts, another aim of this thesis is to highlight the differences that might caused the disparate treatment in both jurisdictions.

In this final thesis, I will focus only on certain aspects of the cases; especially I have chosen to make comparison of tying parts of the cases in the US and the EU. Due to the size and difficulty of the cases, I will not discuss other issues concerned with the cases.