

guide to the competitiveness of the market. But even if the current inquiry is prompted by the efforts of Microsoft's competitors, this motivation bears little relation to the facts of the case. Microsoft either is or is not behaving properly, and the antitrust laws either are or are not adequate for current circumstances wholly independently of what Microsoft's competitors are trying to accomplish.

For that reason we applaud your investigation, wish you every success, and offer to help in any way we can.

Yours sincerely,

JAMES C. MILLER III.  
DANIEL OLIVER.

Mr. HATCH. There are those who object that the Government should not interfere with the dynamic hi-tech marketplace. I agree with those who espouse a natural, instinctive skepticism toward any Government intervention in the marketplace. But enforcement of the antitrust laws may be all the more important if innovation in the most important, fast-growing sector of our present and future economy is being suffocated under the thumb of a company both willing and able to exploit its monopoly power.

The media campaign surrounding the public release of Windows 95 was accompanied by a theme song. As I recall, it was the Rolling Stones' hit song Start Me Up. For innovators seeking to compete with Bill Gates, for PC makers who feel that they have little choice but to steer clear of any actions that might upset their relationship with Microsoft, and for consumers, beholden to Microsoft for software products, I wonder whether the theme song for Windows 98 shouldn't be another Rolling Stones hit—Under My Thumb.

Mr. President, I yield the floor.

The PRESIDING OFFICER. The Senator from North Dakota.

#### THE FARM CRISIS IN NORTH DAKOTA

Mr. CONRAD. Mr. President, I rose yesterday to discuss the farm crisis in my home State of North Dakota. Yesterday, I showed a chart that showed what has happened to farm income in our State between 1996 and 1997, and I start today with that same chart because it shows North Dakota farm income being washed away in 1997.

In 1996, we had \$764 million of farm income in the State of North Dakota; in 1997, \$15 million—a 98 percent reduction in farm income from 1 year to the next. If that is not a crisis, I don't know what would constitute one. The total farm income of the State of North Dakota in 1997 was \$15 million. That is divided up among the 30,000 farmers of our State. In other words, the average farmer had a profit, or net income, of only \$500 for the entire year. That is a crisis.

The problems for agriculture go much further, deep into the pockets of farm producers. In my State and many other States, the economic difficulty in agriculture means trouble on Main Street. If the pockets of farmers are

empty, so are the pockets of bankers, grocers, implement dealers, cafe and gas station owners—you name it; any Main Street business is negatively affected, and so are the workers whose businesses are affected.

About a week and a half ago, a meeting was held on the border of northeastern North Dakota and northwest Minnesota, where the farm troubles in our region are the worst. At that meeting, which was held by the State Farm Service Agencies, there were agricultural lenders, implement dealers, agricultural suppliers, and other agribusinesses in attendance. Today I thought I would share some of the comments made at that meeting by those people who are dependent on the agricultural economy. These comments illustrate the problems we are facing in agriculture in North Dakota.

The first comments were made by agricultural suppliers—the providers of fuel, seed, fertilizer, and other farm inputs. Here is what two of them said at this meeting. The first one said:

My daughter sells seed to farmers. Earlier she distributed the seed, now she is going around to pick it up.

That is a very bad sign, when those who are selling seed are going around to pick it up after it has been distributed. That means acreage is not going to be planted, and it is not going to be planted because farmers can't cash flow. They didn't cash flow last year; they aren't going to cash flow this year. That is because of this stealth crisis that is occurring out in my State. I am alerting my colleagues, it is in my State today; it may be in your State tomorrow. This is a crisis that has no Federal response.

The second ag supplier said:

Yesterday, six farmers wanted anhydrous ammonia fertilizer. I turned four of them away. The question this year is not, "Do you have a loan?" but "Is that check any good?"

All across North Dakota, those are the kinds of questions that are being asked.

Also at this meeting there were implement dealers. The implement dealers also had some interesting comments. One said:

Last year, all the combines I sold went to senior citizens. That should tell you something about the condition of our young farmers.

The second implement dealer said:

In 1974 it took 5,600 bushels of wheat to buy a 250 horsepower four wheel drive tractor. Today it takes 26,000 bushels to buy the same horsepower, and it doesn't cover any more ground than the old one. There just isn't any buying power left in the bushels they produce.

When asked yesterday, Why are we having this crisis in North Dakota? It flows from a number of factors.

No. 1 is low prices.

No. 2, it flows from widespread disease as a result of 5 years of overly wet conditions.

No. 3 is a very weak Federal farm policy.

Those are the fundamental causes for the crisis in our State.

It is not just the implement dealers at this particular meeting who are talking about it. In addition, I have also heard from other implement dealers in recent news articles about the crisis in agriculture. Jon Sundby, a farm machinery dealer in Hillsboro, ND, said:

A year ago at this time, I think we sold 42 tractors. This year we have sold three.

Mr. President, that reflects the depth of the crisis that is hitting North Dakota.

Bob Lamp, the executive vice president of the North Dakota Implement Dealers Association, said:

At this point, there isn't much of a market for machinery because of the economy.

Comments from implement dealers and others reflect what is happening all across our State. It is not just implement dealers. Ag lenders are also weighing in. They were at this April 23 meeting. About a week and a half ago that meeting occurred. As anybody in agriculture knows, if you don't have money to operate your farm, you simply can't farm. It is rare in my State for producers to farm without loans to cover their operating expenses. That is why ag lenders are critically important to farmers.

Here is what some of them are saying about our current agricultural economy.

One ag lender said at this April 23 meeting:

Too many are trying to farm this year on credit cards—

On credit cards—

That is a recipe for disaster.

I was just with somebody from the State department of agriculture. He had been looking at farm plans. He saw one farmer who had credit card advances of \$130,000—\$130,000 on credit cards—to farm. That is a recipe for disaster.

A second ag lender said:

The farmers in trouble are good, honest producers who are suffering in silence. USDA needs to raise loan limits and make interest assistance more widely available on existing loans.

A third said:

This is, by far, the worst year ever, even considering the 1980s.

Mr. President, suffering in silence, I found that. I just took a tour of my State, held farm meetings all across North Dakota during the 2-week break in April, and what I found was that farm producers are shellshocked. They are suffering in silence. They don't know where to turn.

One recommended that "USDA needs to raise loan limits." He is exactly right. The Secretary of Agriculture supports lifting the caps on commodity loans, but does not have the authority to do it. The Congress has the authority. We are the ones who have to make a decision to provide some relief.

Those loan levels are unusually low. In the 1996 farm bill, caps were set on wheat at \$2.58 a bushel. There is no one who can farm and make it on \$2.58 a

bushel. That doesn't cover your operating expenses.

Were we to simply remove the caps, we calculate the loan rate would be 62 cents higher, \$3.20 a bushel. That, too, is inadequate, but it would be a help and it is the one thing we could do quickly to put some money in the pockets of these farm producers who are otherwise going to go under.

I indicated yesterday that we are going to lose 3,000 farmers in North Dakota this year. We only have 30,000. Ten percent of the people are going to go out of business this year, and the situation next year, unless we act, is going to be far worse.

I very much hope that my colleagues are listening, because this is a crisis. Last year, we had a very visual crisis in North Dakota with the floods, the fires and the most powerful winter storm in 50 years. The news media paid attention. As a result, we received a strong response. Well, the disaster continues, but there is virtually no attention being paid to it. That is why I say we have a stealth disaster this year. The conditions are undermining our agricultural producers in a way that is unprecedented. We have never seen such economic hardship on the farm, and yet there is almost no Federal response.

If we are going to avert disaster, the Federal Government needs to respond; this Congress needs to respond. Why is it? Because Congress passed a farm bill that forces farmers to face greater risk and succeed or fail based on the whims of the marketplace. It is because Congress has failed to act on the research title of the farm bill and has placed in jeopardy not only the future of agricultural research, but stability in our crop insurance system and rural development in the Fund for Rural America. Those items are funded in the research bill. It is because our crop insurance system is based on a formula which unfairly penalizes producers who experience repeated disaster, and it is especially because when our farmers face a disaster in crop production, there is no program to help.

As I indicated yesterday, if you have a disaster in agriculture today, the only help is a low-interest loan. So we are saying to these people at the very time they don't have the money to cash flow, "Go deeper into debt." That is no answer.

All of these problems need to be addressed, and they need to be addressed as soon as possible. The livelihood of our farmers, our Main Street businesses, our rural infrastructure and the very health of our Nation depend on it.

I have one last comment from an ag lender. This is in North Dakota, and he said:

Agriculture needs to be on the top of the agenda for the President, the Secretary and Congress, but, unfortunately, it doesn't seem to be.

Mr. President, we have to make it part of the agenda or we are going to have a calamity in North Dakota. I say

to my colleagues, we are the first to experience this. Others of my colleagues will probably not be far behind, because if you have a weather disaster, if you have a series of bad years, as we have experienced, you will find there is precious little Federal assistance. That is because of the changes that have been made in the farm bill and other measures taken by Congress.

I alert my colleagues, North Dakota may be experiencing this stealth disaster today, but our colleagues are probably not far behind. I urge them to pay attention to this problem. We are an early warning signal, just like they used to send the birds down the mine shaft to see if there was air. North Dakota is the little bird in the mine shaft warning the rest of the Nation that we have a badly flawed farm policy in place. A 98-percent reduction in farm income in 1 year—98 percent. I don't think there is another industry that could survive that kind of fiscal calamity. I know our industry cannot.

Mr. President, how much time do I have remaining?

The PRESIDING OFFICER (Mr. GRASSLEY). One minute, 24 seconds.

#### MANAGED CARE

Mr. CONRAD. Mr. President, on another matter, I want to address the issue of a young man named Ethan Bedrick. Let me put up Ethan's picture so we can see who we are talking about. This is Ethan. Ethan was born on January 28, 1992. His delivery went badly, and as a result of asphyxiation, he has suffered from severe cerebral palsy and spastic quadriplegic which impairs motor functions in all of his limbs.

You can see him. He is a fighter. Look at that look on his face. He is a happy young fellow, even though he faces severe restrictions.

He was put on a regimen of intense physical, occupational and speech therapy to help him overcome some of these obstacles.

At the age of 14 months, Ethan's insurance company abruptly cut off coverage for his speech therapy and limited his physical therapy to only 15 sessions per year. Mr. President, can you imagine, this little boy was damaged at birth, and when he is 14 months old, the insurance company cuts off coverage for his speech therapy, limits his physical therapy to 15 sessions a year. At 14 months, when the insurance company made these decisions to cut off this young child from the therapy he needed, the change was recommended by an insurance company representative performing a utilization review of his case. The reviewer cited a 50 percent chance that Ethan could walk by age 5 as a minimal benefit of further therapy.

Further, the reviewer never met personally with Ethan, his family, or Ethan's team of regular doctors. Upon review, the insurer affirmed its position with a second company doctor,

citing a single New England Journal of Medicine article on physical therapy and child development. That article was published in 1988, 4 years before Ethan was born.

I want to go back to the point here that was made by the insurance reviewer. The change was recommended by the insurance company reviewer, citing a 50 percent chance that Ethan could walk by age 5 as a "minimal benefit." Shame on that reviewer; shame on that company. A 50 percent chance of walking is a minimal benefit? How would they feel if it were their child? How would they feel then? A 50 percent chance of walking is a minimal benefit?

Further, the doctor declared the prescribed therapeutic equipment, including a bath chair designed for aiding his parents and care providers in his bathing, and an upright walker to allow him upright movement and muscle development, were merely convenience items—convenience items—and costs not to be covered by his insurance. Can you imagine if you were the parents of this little boy and you were told a walker is a convenience item? You were told that a device to help in the bathing of this multiply handicapped child was a convenience item?

The Bedricks, the parents, didn't feel that way. They filed suit. In 1996, the fourth circuit ruled that the insurer's decision to restrict therapy was arbitrary and capricious because the opinions of their medical experts were unfounded and tainted by conflict. Further, the court concluded that neither the insurance plan nor corporate guidelines require "significant progress" as a precondition to providing medically necessary treatments. The court noted, "It is as important not to get worse as it is to get better. The implication that walking by age 5 would not be significant progress for this unfortunate child is simply revolting." Those are the words of the court, that the position of this insurance company "is simply revolting."

This is a quote from the attorney for young Ethan. "The implication that walking by age 5 would not be a 'significant progress' for this unfortunate child is simply revolting. . . . The delivery of health care services should be based on the promotion of good health and not the margin of profit."

During the time of review and litigation, Ethan lost 3 years of vital therapy, and ERISA, the Employee Retirement Insurance and Savings Account which governs HMOs, left the Bedricks with no remedy for compensation for Ethan's loss of therapy. The Bedricks' ability to give justice for what the HMO did to Ethan was erased because of ERISA.

I raise this issue today because very soon Congress is going to have a chance to act and we, in conscience, must insist that children like Ethan have a fair shot at fair treatment. This little boy, now 6 years old, should not be told that a 50/50 chance of being able