



## **August antitrust bulletin**

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### **Antitrust Experts Urge Tougher Criminal Penalties for Corporate Violators**

D.C. Circuit Judge Douglas Ginsburg and George Mason law professor and Federal Trade Commissioner Joshua Wright have urged the U.S. Sentencing Commission to consider increasing prison sentences, fines and other penalties for corporate officers and directors responsible for antitrust violations. In their July 28, 2014, letter to the Sentencing Commission, Ginsburg and Wright also criticized corporate-level penalties for antitrust violations as ineffective and stated that existing individual penalties are “far too modest to induce optimal compliance with the law.” The letter was written in response to the Sentencing Commission’s request for public comment on its proposed priority policy issues, including studying antitrust offenses and related penalties.

### **Amici Line Up in Dental Board Antitrust Immunity Case**

More than a dozen amici curiae have submitted briefs to the Supreme Court in *North Carolina Board of Dental Examiners v. Federal Trade Commission*, No. 13-534, in which the court will decide whether the North Carolina Board of Dental Examiners is entitled to state-action immunity from federal antitrust law. Last week, a group of organizations including the Pacific Legal Foundation, the Cato Institute and legal information provider LegalZoom.com, Inc., urged the court to uphold the Fourth Circuit’s conclusion that the board is not exempt under the state-action doctrine because its membership is comprised of private dental practitioners who, as market participants, have a financial interest in restricting competition. In May, other groups – including the North Carolina State Bar, the National Governors Association, and the American dental and medical associations – urged the court to reverse the Fourth Circuit and extend state-action immunity to the board.

### **Apple E-book Settlement Approved While Anti-poaching Settlement Sent Back**

Despite concerns expressed earlier over a proposed \$450 million settlement by Apple Inc. of its e-book price-fixing class-action lawsuit, United States District Judge Denise Cote gave preliminary approval to the deal on August 1, ordering notification to the class and setting a final fairness hearing for November 21, 2014.

Meanwhile, Judge Lucy H. Koh of the Northern District of California denied approval of a proposed \$324.5 million class settlement, which would have ended litigation claiming that Apple and certain competitors illegally agreed not to poach software engineers from each other. Citing settlements from last year involving Intuit Inc., Lucasfilm Ltd. and Pixar, Judge Koh determined that the settlement amount should be at least \$380 million.