

**Statement of Commissioner Maureen K. Ohlhausen**

U.S. Dep't of Justice & Fed. Trade Comm'n, Antitrust Guidelines for the  
Licensing of Intellectual Property

January 13, 2017

Intellectual property is the foundation of a successful innovation policy. Its intersection with antitrust thus affects the new economy. Unfortunately, there has been a worrying trend as some overseas enforcers wield their antitrust laws in unprincipled fashion to dilute IP rights. That approach discounts the importance of dynamic efficiencies to long-term economic growth, exaggerates the short-term gains to technology users of reduced input prices, and inappropriately morphs antitrust into a tool of price regulation.

In response to skepticism in some quarters about the value of IP in spurring technological advance, I have made the case for robust patent and copyright protection. *See, e.g.*, Maureen K. Ohlhausen, *The Case for a Strong Patent System* (June 8, 2016), <https://www.ftc.gov/public-statements/2016/06/case-strong-patent-system>; Maureen K. Ohlhausen & Dan Schneider, *Intellectual Property and the National Security Issue*, WASH. TIMES, Dec. 1, 2015. My study of

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x The rule of reason governs vertical IP-licensing restraints, including minimum resale price maintenance (§§ 5.2, *passim*).

Those notable features are by no means exhaustive, but reflect key principles to which the Agencies commit to adhere. Read in conjunction with the Agencies' other joint reports in the antitrust-IP space—*see, e.g.*, U.S. DEP'T OF JUSTICE & FED. TRADE COMM'N, ANTITRUST ENFORCEMENT AND INTELLECTUAL PROPERTY RIGHTS: PROMOTING INNOVATION AND COMPETITION 30 (2007) (“[L]iability for mere unconditi6 Tm (P)O 12 0 0 12 3288,Ng

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