

Press Release

Washington Legal Foundation

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FOR IMMEDIATE RELEASE

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VERDICT IN *MICROSOFT* IMPERILS FREE ENTERPRISE AND CONSUMERS

In the aftermath of the federal district court's issuing of its conclusions of law in *U.S. v. Microsoft*, the Washington Legal Foundation (WLF) today urged the public and commentators on the case to recognize the rulings's broader ramifications for free enterprise and the democratic rule of law.

"The judge regrettably accepted the Justice Department's highly expansive view of antitrust law and danced around directly applicable appellate court precedent, all to the detriment of consumers and our ever-expanding high-tech economy," said WLF Chairman Daniel J. Popeo. It is likely that a higher court will uncover the flaws in the judge's legal rationale and that in the end, the rule of law will be vindicated, Mr. Popeo also stated.

Even if the ruling is reversed, WLF expressed its deep concern over the precedent set by DOJ's and its state attorney general partners' pursuit of this action. The suit is a remarkable extension of government's increasing desire to seek legal and regulatory controls through the courts, rather than from democratically-elected legislators. As WLF has argued in numerous other contexts, litigation is a fatally imprecise policy making tool, a fact that is amplified in the context of rapidly changing markets such as software and computers.

WLF Legal Studies Division Chief Counsel Glenn Lammi noted that "thanks to this ruling, businesses in highly competitive markets must now practice a passive form of market capitalism, one that requires them to take care when they innovate and keep one eye on government bureaucrats and plaintiffs' lawyers." Lammi added, "it's impossible not to notice how federal and state governments have expanded their scrutiny of high-tech business conduct across the board. After this verdict, other successful businesses have to be wondering if they will be the next target."

Washington Legal Foundation, a national, non-profit public interest law and policy center, has opposed government abuse of the legal system for over 25 years. WLF's Litigation Department and Legal Studies Division have played an integral role in explaining the pitfalls of activist government litigation to policy makers and the public. Copies of WLF papers on *U.S. v. Microsoft* are available upon request.