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NOTE: Where it is feasible, a syllabus (headnote) will be released, as is being done in connection with this case, at the time the opinion is issued. The syllabus constitutes no part of the opinion of the Court but has been prepared by the Reporter of Decisions for the convenience of the reader. See *United States v. Detroit Timber & Lumber Co.*, 200 U. S. 321, 337.

SUPREME COURT OF THE UNITED STATES

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CALIFORNIA DENTAL ASSOCIATION v. FEDERAL
TRADE COMMISSIONCERTIORARI TO THE UNITED STATES COURT OF APPEALS FOR
THE NINTH CIRCUIT

No. 97–1625. Argued January 13, 1999— Decided May 24, 1999

Petitioner California Dental Association (CDA), a nonprofit association of local dental societies to which about three-quarters of the State’s dentists belong, provides desirable insurance and preferential financing arrangements for its members, and engages in lobbying, litigation, marketing, and public relations for members’ benefit. Members agree to abide by the CDA’s Code of Ethics, which, *inter alia*, prohibits false or misleading advertising. The CDA has issued interpretive advisory opinions and guidelines relating to advertising. Respondent Federal Trade Commission brought a complaint, alleging that the CDA violated §5 of the Federal Trade Commission Act (Act), 15 U. S. C. §45, in applying its guidelines so as to restrict two types of truthful, nondeceptive advertising: price advertising, particularly discounted fees, and advertising relating to the quality of dental services. An Administrative Law Judge (ALJ) held the Commission to have jurisdiction over the CDA and found a §5 violation. As relevant here, the Commission held that the advertising restrictions violated the Act under an abbreviated rule-of-reason analysis. In affirming, the Ninth Circuit sustained the Commission’s jurisdiction and concluded that an abbreviated or “quick look” rule-of-reason analysis was proper in this case.

Held:

1. The Commission’s jurisdiction extends to an association that, like the CDA, provides substantial economic benefit to its for-profit members. The Act gives the Commission authority over a “corporatio[n],” 15 U. S. C. §45(a)(2), “organized to carry on business for its own profit or that of its members,” §44. The Commission’s claim that the Act gives it jurisdiction over nonprofit associations whose activi-

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ties provide substantial economic benefits to their for-profit members is clearly the better reading of the Act, which does not require that a supporting organization must devote itself entirely to its members' profits or say anything about how much of the entity's activities must go to raising the members' bottom lines. There is thus no apparent reason to let the Act's application turn on meeting some threshold percentage of activity for this purpose or even a softer formulation calling for a substantial part of the entity's total activities to be aimed at its members' pecuniary benefit. The Act does not cover all membership organizations of profit-making corporations without more. However, the economic benefits conferred upon CDA's profit-seeking professionals plainly fall within the object of enhancing its members' "profit," which is the Act's jurisdictional touchstone. The Act's logic and purpose comport with this result, and its legislative history is not inconsistent with this interpretation. Pp. 7–11.

2. Where any anticompetitive effects of given restraints are far from intuitively obvious, the rule of reason demands a more thorough enquiry into the consequences of those restraints than the abbreviated analysis the Ninth Circuit performed in this case. Pp. 11–24.

(a) An abbreviated or "quick-look" analysis is appropriate when an observer with even a rudimentary understanding of economics could conclude that the arrangements in question have an anticompetitive effect on customers and markets. See, e.g., *National Collegiate Athletic Assn. v. Board of Regents of Univ. of Okla.*, 468 U. S. 85. This case fails to present a situation in which the likelihood of anticompetitive effects is comparably obvious, for the CDA's advertising restrictions might plausibly be thought to have a net procompetitive effect or possibly no effect at all on competition. Pp. 11–14.

(b) The discount and nondiscount advertising restrictions are, on their face, designed to avoid false or deceptive advertising in a market characterized by striking disparities between the information available to the professional and the patient. The existence of significant challenges to informed decisionmaking by the customer for professional services suggests that advertising restrictions arguably protecting patients from misleading or irrelevant advertising call for more than cursory treatment. In applying cursory review, the Ninth Circuit brushed over the professional context and described no anticompetitive effects from the discount advertising bar. The CDA's price advertising rule appears to reflect the prediction that any costs to competition associated with eliminating across-the-board advertising will be outweighed by gains to consumer information created by discount advertising that is exact, accurate, and more easily verifiable. This view may or may not be correct, but it is not implausible; and neither a court nor the Commission may initially dismiss it as

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presumptively wrong. The CDA's plausible explanation for its non-price advertising restrictions, namely that restricting unverifiable quality claims would have a procompetitive effect by preventing misleading or false claims that distort the market, likewise rules out the Ninth Circuit's use of abbreviated rule-of-reason analysis for those restrictions. The obvious anticompetitive effect that triggers such analysis has not been shown. Pp. 14–21.

(c) Saying that the Ninth Circuit's conclusion required a more extended examination of the possible factual underpinnings than it received is not necessarily to call for the fullest market analysis. Not every case attacking a restraint not obviously anticompetitive is a candidate for plenary market examination. There is generally no categorical line between restraints giving rise to an intuitively obvious inference of anticompetitive effect and those that call for more detailed treatment. What is required is an enquiry meet for the case, looking to a restraint's circumstances, details, and logic. Here, a less quick look was required for the initial assessment of the CDA's advertising restrictions. Pp. 21–24.

128 F. 3d 720, vacated and remanded.

SOUTER, J., delivered the opinion for a unanimous Court with respect to Parts I and II, and the opinion of the Court with respect to Part III, in which REHNQUIST, C. J., and O'CONNOR, SCALIA, and THOMAS, JJ., joined. BREYER, J., filed an opinion concurring in part and dissenting in part, in which STEVENS, KENNEDY, and GINSBURG, JJ., joined.