

## Complaint

## IN THE MATTER OF

**BROADCOM, INCORPORATED**CONSENT ORDER, ETC. IN REGARD TO ALLEGED VIOLATIONS OF SECTION 5 OF THE FEDERAL  
TRADE COMMISSION ACT

*Docket No. C-4750; File No. 181 0205*  
*Complaint, June 29, 2021 – Decision, November 4, 2021*

This consent order addresses Broadcom, Inc.’s violation of the FTC Act through anticompetitive practices. The complaint alleges that Broadcom, Inc. engaged in anticompetitive and exclusionary acts to enhance or maintain its monopoly power and unreasonably restrain trade in relevant markets. Under the order the Respondent is prohibited from entering into certain types of exclusivity or loyalty agreements with its customers for the supply of semiconductor components and retaliating against customers for working with Broadcom competitors.

*Participants*

For the *Commission*: Kathleen Clair, Joseph Baker, Michael Turner, Melissa Westman-Cherry, Patricia Jerjian, Stephanie Funk, Philip Kehl, and J. Wells Harrell.

For the *Respondent*: Daniel Wall and Josh Holian [*Latham & Watkins*]; Stephen Weissman [*Gibson Dunn*]; and Maureen Ohlhausen [*Baker Botts*].

**COMPLAINT**

Pursuant to the provisions of the Federal Trade Commission Act, as amended, 15 U.S.C. § 41, et seq., and by virtue of the authority vested in it by said Act, the Federal Trade Commission (“Commission”), having reason to believe that Broadcom Inc. (“Broadcom”), a corporation, hereinafter sometimes referred to as “Respondent,” has violated the provisions of Section 5 of the Federal Trade Commission Act, 15 U.S.C. § 45, and it appearing to the Commission that a proceeding by it in respect thereof would be in the public interest, hereby issues this Complaint stating its charges in that respect as follows:

**I. NATURE OF THE CASE**

1. Respondent Broadcom possesses monopoly power in markets for the sale of several semiconductor components (chips) used in connection with the delivery of subscription video and broadband internet service (as hereinafter defined, the “Monopolized Products”). The Monopolized Products are incorporated by Broadcom’s customers into video set-top boxes and broadband internet access devices.

2. Broadcom also is a supplier in markets for the sale of other semiconductor components related to the Monopolized Products (as hereinafter defined, the “Related Products”). The Related Products are also incorporated by Broadcom’s customers into video set-top boxes and broadband internet access devices.

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3. Since 2016, Broadcom has entered and maintained agreements with customers that require customers to purchase, use, or bid Monopolized Products and Related Products from Broadcom on an exclusive or near-exclusive basis. Broadcom secured these restrictive contract terms in part by threatening to retaliate against “disloyal” customers in various ways, including by withholding needed Monopolized Products, by charging higher prices for needed Monopolized Products, or by withholding support for previously purchased Monopolized Products. Broadcom employed threats of retaliation against other customers to deter these customers from using products supplied by Broadcom’s rivals. This conduct supplemented the foreclosure effect of its written agreements. Through these contracts and coercive tactics, Broadcom foreclosed rivals from a substantial share of the relevant product markets and harmed competition in these markets.

4. Broadcom entered such agreements and employed such coercive tactics as part of a deliberate strategy to hinder its competitors, to enhance or maintain its monopoly power in the markets for Monopolized Products, and to restrain competition in the markets for Related Products.

5. Broadcom’s conduct harmed consumers, competition, and the competitive process, in violation of Section 5 of the FTC Act.

## II. RESPONDENT

6. Respondent Broadcom Inc. is a corporation organized, existing, and doing business under and by virtue of the laws of the United States, with its principal place of business located at 1320 Ridder Park Drive, San Jose, CA 95131.

## III. JURISDICTION

7. At all times relevant herein Broadcom has been, and Broadcom is now, a corporation, as “corporation” is defined in Section 4 of the Federal Trade Commission Act, 15 U.S.C. § 44.

8. Broadcom has engaged in and continues to engage in commerce and activities affecting commerce in the United States, as the term “commerce” is defined in Section 4 of the Federal Trade Commission Act, 15 U.S.C. § 44.

## IV. INDUSTRY BACKGROUND

9. Broadcom designs, develops, and sells semiconductor components, including Systems-on-a-Chip (“SOCs”), Wi-Fi chips, and front-end chips (described further below), for a wide range of computing and telecommunications applications, including for video set-top boxes (“STBs”) that consumers use to access television and other video services, and broadband internet access devices such as modems and gateways (“Broadband Devices”) used to access internet service (collectively, “Customer Devices”). Broadcom also provides essential ongoing engineering and software support services (“ESS Services”) for devices containing its components.

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10. The products at issue in this Complaint are components incorporated into Customer Devices that are purchased by providers of subscription video (e.g., television) or internet connectivity services (“Service Providers”). Service Providers use Customer Devices to provide their services to end consumers. Examples of major United States Service Providers include AT&T, Charter, Comcast, DISH, and Verizon.

11. An STB is a hardware device that converts external source signals into video content for a television, whether such video content is transmitted via traditional (e.g., cable, satellite, fiber-optic) or Internet Protocol (“IP”) technologies.

- a. A “Broadcast STB,” also referred to as a “traditional” STB, is a Set Top Box that uses a broadcast interface to access subscription video services provided by a Service Provider, whether or not the Set Top Box also is capable of decoding IP signals to access video services.
- b. A “Streaming STB” is a Set Top Box that decodes IP signals to access video services provided by a Service Provider or other third party and that does not contain a broadcast interface to access subscription video services provided by a Service Provider.

12. A Broadband Device is a hardware device, such as a modem, gateway, embedded multimedia terminal adapter, passive optical network terminal, or router, used by a consumer to connect electronic devices to broadband internet service furnished by a Service Provider via a cable, fiber optic, or digital subscriber line (“DSL”) network.

13. Customer Devices are typically manufactured by one or more original equipment manufacturers (“OEMs”) to the specifications of a Service Provider. Because OEMs and Service Providers both play important roles in the selection of components for use in Customer Devices, major OEMs and major Service Providers are both key customers for component suppliers like Broadcom.

14. In the tender and design process for a new STB or Broadband Device, a Service Provider typically issues a request for proposals (“RFP”) to several OEMs, setting forth technical specifications. In some instances, a Service Provider may also specify by name required suppliers of key semiconductor components. The OEMs, working with component suppliers such as Broadcom, develop product designs and submit engineering and commercial proposals to the Service Provider.

15. When a Service Provider launches a device model, it provides the devices to its end-user customers. Once deployed on a Service Provider’s network, Customer Devices remain in service for approximately five to ten years, with STBs typically remaining in service longer than Broadband Devices. While a device is deployed, Service Providers rely on the device’s key component suppliers, including Broadcom, for ongoing ESS Services, including software support and maintenance, troubleshooting, bug fixes, software updates and upgrades, and testing.

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**V. RELEVANT PRODUCTS**

16. This action concerns the following products, each comprising a type of component incorporated into Customer Devices (and each, a “Relevant Product”):

- a. A Broadcast STB SOC is an integrated circuit that serves as the core component within, and directs functions and features of, a Broadcast STB;
- b. A DSL Broadband SOC is an integrated circuit that serves as the core component within, and directs functions and features of, a Broadband Device that accesses internet service via a DSL network;
- c. A Fiber Broadband SOC is an integrated circuit that serves as the core component within, and directs functions and features of, a Broadband Device that accesses internet service via a fiber optic network;
- d. A Streaming STB SOC is an integrated circuit that serves as the core component within, and directs functions and features of, a Streaming STB;
- e. A Cable Broadband SOC is an integrated circuit that serves as the core component within, and directs functions and features of, a Broadband Device that accesses internet service via a cable network;
- f. A Wi-Fi Chip is an integrated circuit that enables an STB or Broadband Device to connect to a wireless network;
- g. A Front-End Chip for an STB is an integrated circuit that converts incoming analog signals to digital signals to be read by the SOC in the STB; and
- h. A Front-End Chip for a Broadband Device is an integrated circuit that converts incoming analog signals to digital signals to be read by the SOC in the Broadband Device.

**VI. BROADCOM’S ANTICOMPETITIVE CONDUCT**

17. Broadcom has long been the dominant supplier of Broadcast STB SOC, DSL Broadband SOC, and Fiber Broadband SOC (the “Monopolized Products”).

18. As early as 2016, Broadcom recognized that it faced competitive threats to its monopoly power as to the Monopolized Products from low-priced, nascent rivals. Broadcom understood that nascent rivals could, by working with key OEMs and Service Providers, become stronger, more effective competitors.

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19. One competitive threat arose from efforts by leading Service Providers and OEMs to lessen their dependence on Broadcom and to foster competition in Customer Device component markets. Both Service Providers and OEMs sought component supplier diversity for multiple reasons, including to promote competitive pricing and to ensure continuity of supply. OEMs also sought supplier diversity to maximize their ability to meet the component supplier preferences of Service Provider customers.

20. To this end, leading Service Providers at times have asked OEMs to submit multiple responses to RFPs, with each response incorporating components from a different supplier, or have asked OEMs to design and bid a device using particular identified component suppliers. OEMs, in turn, have sought to comply with these requests from their customers.

21. At other times, leading Service Providers sought to provide opportunities for capable but less established suppliers to gain experience and scale by, for example, considering them for partial design awards involving relatively low-end versions of Relevant Products, including Monopolized Products. And in 2016, at least one major OEM actively sought to develop products using non-Broadcom suppliers for Monopolized Products.

22. An important factor affecting demand for Relevant Products is that customers are increasingly “cutting the cord” to traditional broadcast (e.g., cable or satellite) television and instead accessing video content via an internet connection, for example, through a Streaming STB that accesses content via the home’s broadband modem. This has led to a decline in the use of Broadcast STBs (where Broadcom components are dominant) and to a relative increase in the commercial significance of Streaming STBs.

23. While demand for Broadcast STBs is declining, this decline has a “long tail.” Even as many consumers cut the cord, there are many other consumers who will continue using Broadcast STBs for some time to come. Additionally, once deployed, a Broadcast STB remains in use for several years, with Service Providers continuing to rely on Broadcom to provide support for their installed base.

24. As described below, these shifting market dynamics presented Broadcom with an incentive and opportunity to maintain its monopoly power over Broadcast STB SOC’s and to use that power to weaken rivals in the markets for Related Products, including components of streaming and cable broadband devices.

25. Broadcom recognized these threats and opportunities. It sought to maintain its monopoly positions by implementing a wide-ranging exclusivity program covering Monopolized Products. Broadcom also conditioned customers’ access to Monopolized Products on commitments to purchase, use, or bid Related Products from Broadcom on an exclusive or near-exclusive basis. Through a series of long-term contracts entered with both OEMs and Service Providers, and through an accompanying campaign of threats and retaliation, Broadcom induced customers to purchase or use Broadcom’s Relevant Products on an exclusive or near-exclusive basis. As a result, sales opportunities for Broadcom rivals were severely restricted.

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OEM Agreements

26. Between 2016 and the present, Broadcom negotiated and entered into agreements with leading OEMs, pursuant to which the OEMs agreed, for contract and renewal terms spanning multiple years, to purchase, use, or bid Broadcom Relevant Products in STBs and Broadband Devices on an exclusive or near-exclusive basis.

27. Broadcom induced OEMs to enter these agreements by communicating that OEMs that broadly committed to Broadcom would be treated as favored or “strategic” partners. Customers that did not broadly commit to Broadcom would be mere “tactical” customers, facing higher prices and less favorable non-price terms and conditions than their rivals, including disadvantageous technology access, product allocation, delivery lead times, and bid support. In other words, OEMs that did not accept exclusivity, the “tactical” customers, would find themselves at a significant commercial disadvantage relative to other, competing OEMs that did agree to purchase exclusively from Broadcom.

28. In all, Broadcom entered exclusive or near-exclusive agreements with at least ten OEMs, which collectively are responsible for a majority of STB and Broadband Device sales worldwide, and even higher percentages of STB and Broadband Device sales in the United States.

29. These OEMs included the largest and most capable Customer Device OEMs, those with the largest market shares, the most extensive engineering and design capabilities, and the strongest reputations and relationships with downstream Service Provider customers.

Service Provider Agreements

30. In parallel with its pursuit of exclusive agreements with OEMs, in 2016 Broadcom also began seeking exclusivity and high share commitments from major Service Providers, first in the United States, and later around the world.

31. As a lever to extract these commitments, Broadcom threatened that if a Service Provider did not limit its purchases from Broadcom’s rivals, Broadcom would implement large increases in the fees it charged for ESS Services on devices containing Broadcom Monopolized Products, including Broadcast STB SOCs, that were already deployed on the Service Providers’ networks.

32. Charging substantial fees for ESS Services was a departure from Broadcom’s prior practice and course of dealing with the Service Providers. Service Providers rely on Broadcom to provide these ESS Services, which are essential to the continued operation of STBs and Broadband Devices deployed on their networks. Service Providers cannot obtain ESS Services for Broadcom-based devices from anyone other than Broadcom, nor can they perform these services themselves.

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33. This initiative resulted in a series of agreements with major Service Providers pursuant to which the Service Providers committed, for contract terms spanning multiple years, to use Broadcom Relevant Products on an exclusive or near-exclusive basis for their STBs and Broadband Devices.

34. These Service Provider agreements, including agreements with key U.S. Service Providers, have reinforced and exacerbated the effects of Broadcom's OEM agreements on competition, including foreclosing rivals from significant sales opportunities.

Monitoring and Enforcement

35. Broadcom actively monitored customers' compliance with its restrictive agreements, refusing to grant requested exceptions to exclusivity even where Broadcom was not cost competitive or did not have an appropriate solution for a given RFP.

36. Broadcom communicated to customers that disloyalty as to even a single bid involving a single Relevant Product could mean loss of strategic partner terms, that is, the favorable price, supply, and support terms to which customers were otherwise entitled under their agreements, across numerous product lines.

37. Broadcom induced OEM counterparties to withdraw bids they had made using a rival's Relevant Product under the threat that Broadcom otherwise would charge higher prices for other products, including Monopolized Products.

Threats and Retaliation

38. Broadcom supplemented its formal, written agreements with ad hoc retaliation and threats thereof against Service Providers and OEMs that used, or considered using, Relevant Products from Broadcom's rivals. Targets of these tactics included Service Providers and OEMs that had not entered into written exclusive agreements with Broadcom. Broadcom adopted a strategy of imposing selective price increases as punishment to deter customers from supporting its rivals.

39. For example, when a major Service Provider considered awarding a minority share of a design award to a new supplier rather than to Broadcom, Broadcom thwarted its rival by threatening increased prices on Broadcom's current business with the Service Provider, as well as increased prices for ESS Services. Thereafter, the Service Provider awarded the entirety of the design award to Broadcom.

40. In another example, when an OEM that did not yet have an exclusive agreement with Broadcom submitted a bid to a Service Provider using a non-Broadcom component, Broadcom responded by cutting off all supply and support to that OEM and announcing significantly increased prices. As a result, and in order to reverse these adverse actions, the OEM withdrew its bid for that Service Provider opportunity. Also as a result of these actions, it entered an exclusive agreement with Broadcom.

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41. Broadcom also employed coercive tactics to prevent OEMs from submitting, or to induce them to withdraw, bids that presented a Service Provider with both a Broadcom and an alternative non-Broadcom option, even when the Service Provider specifically requested such alternative bids.

42. Broadcom's threats of retaliation were pervasive and effective, and customers learned to expect them. As one Broadcom employee noted, one only needed to inform a customer that a demand for exclusivity had "visibility" with Broadcom senior management, and the customer would foresee harmful retaliation.

## **VII. BROADCOM'S MONOPOLY AND MARKET POWER**

43. Broadcom has exercised and continues to exercise monopoly and market power with respect to Broadcast STB SOC's, DSL Broadband SOC's, and Fiber Broadband SOC's.

44. Broadcom has been able to maintain prices for these Monopolized Products substantially above the competitive level. Broadcom has also been able to impose upon customers unusual and disfavored non-price terms and weaken competitors through its exclusive contracting practices.

45. Additionally, Broadcom has maintained high shares in the relevant markets for Monopolized Products, which have substantial barriers to entry.

46. There is a separate relevant market for each of the above Relevant Products.

47. Each of the above Relevant Products has distinct characteristics and uses, requires unique design and production capabilities, has distinct prices, and within the semiconductor industry is generally recognized as comprising a distinct market with distinct competitors and competitive conditions.

48. For each of the above Relevant Products, other products are not close enough substitutes to prevent a hypothetical monopolist of the Relevant Product from profitably sustaining a small but significant and non-transitory increase in price.

49. The relevant geographic markets are worldwide. Each supplier of Relevant Products generally ships the products worldwide, and there are no material geographic barriers to competition for sales of Relevant Products.

50. In early 2016, Broadcom's last remaining significant rival in the sale of Broadcast STB SOC's exited that market, leaving Broadcom as the sole remaining major supplier of Broadcast STB SOC's. The remaining suppliers of Broadcast STB SOC's have a significantly smaller market presence than Broadcom and focus on lower-end products. Broadcom has a recent track record of supplying all of the Broadcast STB SOC requirements of nearly all of the largest United States and European Service Providers. For the high-end Broadcast STB's that these Service Providers need, Broadcom is effectively the only supplier available.

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51. In both the DSL and Fiber Broadband SOC markets, Broadcom describes itself as holding a “dominant #1” market share position. In each of these markets, Broadcom’s market position dwarfs those of its rivals, which sell devices that target the low to middle tiers of these markets.

52. Broadcom is one of the few significant suppliers in each of the markets for Streaming STB SOC, Cable Broadband SOC, Wi-Fi Chips for STBs or Broadband Devices, Front-End Chips for STBs, and Front-End Chips for Broadband Devices (collectively, the “Related Products”).

53. The markets for Relevant Products are concentrated and have significant barriers to entry and expansion. Such barriers include the need to invest significant time and to invest sunk costs in capital resources to (i) research, develop, and maintain current technological capabilities; (ii) develop and maintain business and engineering relationships with OEMs and Service Providers; and (iii) participate, together with OEMs, in resource intensive Service Provider tender and design processes, from initial information requests through formal proposals, selection, qualification, production, and testing. In addition to these and other structural barriers, Broadcom’s anticompetitive practices as alleged herein have created further barriers to entry and expansion by limiting the number of OEM partners and the volume of sales available to would-be rivals.

### VIII. COMPETITIVE EFFECTS

54. Broadcom’s actions described above have foreclosed competitors from a substantial share of each of the relevant markets. This has harmed price and non-price competition and reduced innovation, as described below.

55. Broadcom’s conduct has also reduced customer choice. Service Providers and OEMs wish to diversify their supply base and work with multiple component suppliers in order to increase price competition, enhance innovation, and ensure security of supply. Broadcom’s conduct has substantially curtailed the ability of key Service Providers and OEMs to purchase and use Relevant Products supplied by Broadcom’s rivals in a way that harmed competition.

56. Further, by requiring exclusivity and loyalty commitments for Monopolized Products and by conditioning the availability of, or sales or support terms for, Monopolized Products on exclusivity and loyalty commitments for other Relevant Products, Broadcom has weakened rivals. Winning a design award for a Relevant Product covered by such a commitment would in effect require a rival to compensate its customers for the penalties—increased prices and/or degraded terms—that Broadcom would impose on the customer as to other projects and for other covered products. Broadcom’s actions thus thwarted the ability of rival suppliers of Relevant Products to compete with Broadcom on the merits, resulting in harm to customers.

57. Additionally, as Broadcom recognized, a major OEM or Service Provider could— if unencumbered by exclusivity or loyalty commitments to Broadcom—facilitate entry or expansion by a rival supplier of Relevant Products. But Broadcom’s conduct foreclosed rivals from the many significant benefits of engagement with major Service Providers and OEMs, including

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scale and engineering, business planning, relationship, and reputational benefits. Broadcom's conduct has also impeded rivals' product development efforts as it prevented or discouraged customers from engaging in development work with non-Broadcom suppliers. The loss of opportunities to work with key OEMs and Service Providers on important projects thus degraded rivals' ability to improve their capabilities, offer better products to customers, and position themselves to win business in the future. These opportunities are critical to ensure ongoing innovation and price and non-price competition.

58. Broadcom has further harmed innovation and impeded rivals from effectively competing on the merits because, as a result of Broadcom's conduct, Broadcom's rivals have diverted resources away from, divested from, and/or are considering exiting markets for Monopolized Products.

59. The acts and practices of Broadcom as alleged herein have had the purpose, capacity, tendency, and effect of maintaining Broadcom's monopoly power in the relevant markets for Monopolized Products and of restraining competition unreasonably in the relevant markets for all Relevant Products.

60. There are no legitimate procompetitive efficiencies that justify Broadcom's conduct or that outweigh the substantial anticompetitive effects thereof.

61. Any legitimate objectives of Broadcom's conduct as alleged herein could have been achieved through significantly less restrictive means.

## IX. VIOLATION OF FTC ACT

62. The allegations in all of the paragraphs above are re-alleged and incorporated by reference as though fully set forth herein.

63. Broadcom has willfully engaged in anticompetitive and exclusionary acts and practices that enhance or maintain its monopoly power in the markets for Monopolized Products. Broadcom has entered a series of agreements that unreasonably restrain trade in markets for all Relevant Products. These acts and practices constitute unfair methods of competition in or affecting commerce in violation of Section 5 of the Federal Trade Commission Act, as amended, 15 U.S.C. § 45. Such acts and practices, or the effects thereof, will continue or recur in the absence of appropriate relief.

**WHEREFORE, THE PREMISES CONSIDERED,** the Federal Trade Commission on the twenty-ninth day of June, 2021, issues its complaint against Respondent.

By the Commission, Chair Khan not participating.

## Decision and Order

**DECISION**

The Federal Trade Commission (“Commission”) initiated an investigation of certain acts and practices by Respondent Broadcom Inc. The Commission’s Bureau of Competition prepared and furnished to Respondent the Draft Complaint, which it proposed to present to the Commission for its consideration. If issued by the Commission, the Draft Complaint would charge Respondent with a violation of Section 5 of the Federal Trade Commission Act, as amended, 15 U.S.C. § 45.

Respondent and the Bureau of Competition executed an Agreement Containing Consent Order (“Consent Agreement”) containing (1) an admission by Respondent of all the jurisdictional facts set forth in the Draft Complaint, (2) a statement that the signing of said agreement is for settlement purposes only and does not constitute an admission by Respondent that the law has been violated as alleged in the Draft Complaint, or that the facts as alleged in the Draft Complaint, other than jurisdictional facts, are true, (3) waivers and other provisions as required by the Commission’s Rules, and (4) a proposed Decision and Order.

The Commission considered the matter and determined that it had reason to believe that Respondent has violated the said Acts, and that a complaint should issue stating its charges in that respect. The Commission accepted the Consent Agreement and placed it on the public record for a period of 30 days for the receipt and consideration of public comments; at the same time, it issued and served its Complaint. The Commission duly considered any comments received from interested persons pursuant to Commission Rule 2.34, 16 C.F.R. § 2.34. Now, in further conformity with the procedure described in Rule 2.34, the Commission makes the following jurisdictional findings,

1. Respondent Broadcom is a corporation organized, existing, and doing business under, and by virtue of, the laws of the State of Delaware with its executive offices and principal place of business located at 1320 Ridder Park Drive, San Jose, California 95131.
2. The Commission has jurisdiction over the subject matter of this proceeding and over Respondent, and the proceeding is in the public interest.

**ORDER****I. Definitions**

**IT IS HEREBY ORDERED that**, as used in this Order, the following definitions apply:

- A. “Broadcom” means Broadcom Inc., its directors, officers, employees, agents, representatives, successors, and assigns; and the joint ventures, subsidiaries, partnerships, divisions, groups, and affiliates controlled by Broadcom Inc., and the respective directors, officers, employees, agents, representatives, successors, and assigns of each.

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- B. “Antitrust Compliance Officer” means the person appointed or retained to supervise Respondent’s antitrust compliance program described in Paragraph III.A. of this Order.
  - C. “Antitrust Laws” means the Federal Trade Commission Act, as amended, 15 U.S.C. § 41 et seq., the Sherman Act, 15 U.S.C. § 1 et seq., and the Clayton Act, 15 U.S.C. § 12 et seq.
  - D. “Broadband Device” means a hardware device, including a modem, gateway, embedded multimedia terminal adapter, passive optical network (“PON”) terminal, or router, used by a consumer to connect one or more electronic devices to broadband internet service via a cable, fiber optic, or digital subscriber line network.
  - E. “Broadcast Set Top Box” means:
    - 1. a Set Top Box that uses a broadcast interface (e.g., QAM, QPSK, 8PSK, DVB-T) to access subscription video services provided by a Service Provider, whether or not the Set Top Box is also capable of decoding Internet Protocol (“IP”) signals to access video services, with the following exception: a Set Top Box that is capable of decoding IP signals and has a broadcast interface that decodes only terrestrial (such as DVB-T) signals is not a Broadcast Set Top Box; or
    - 2. any Set Top Box identified in Appendix D.
- For the avoidance of doubt, any Set Top Box that uses a broadcast interface other than a terrestrial interface is a Broadcast Set Top Box.
- F. “Competitor” means a person other than Broadcom that manufactures (or has manufactured) any Product or sells any Product to Customers.
  - G. “Customer” means (i) a U.S. Service Provider, or (ii) an OEM.
  - H. “Customer Device” means a Set Top Box or Broadband Device for use by an end user to access subscription video or internet connectivity services from a Service Provider.
  - I. “Customer Device Category” means any group of Customer Devices that share one or more of the following characteristics: (i) type of Device (e.g., Set Top Box or Broadband Device), (ii) connectivity technology (e.g., cable, fiber optic, digital subscriber line (xDSL or copper), satellite), or (iii) a technological generation of Customer Devices (e.g., 4K or 8K video capability, DOCSIS 3.1 or 4.0, Wifi 5 (802.11ac), or Wifi 6 (802.11ax)).

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- J. “Customer Device Model” means a set of Customer Devices in which all individual units are identical and fully interchangeable and sold to only one Service Provider.
- K. “Derivative” means a variation of a Customer Device Model that uses the same Product SOC die number and is part of the same single tender process (request for quotation, request for proposal, or similar solicitation) as the Customer Device Model but which may contain different components or functionalities requested by the Customer. For purpose of this definition, a Product SOC die number means a unique number assigned to the die for an SOC.
- L. “DOCSIS” means Data Over Cable Service Interface Specifications.
- M. “Executive and Sales and Marketing Staff” means the Chief Executive Officer, Chief Operating Officer, and Chief Financial Officer of Respondent (or their equivalent positions regardless of job title); the General Managers and Vice Presidents of Respondent (or their equivalent positions regardless of job title) whose duties relate to the marketing, promotion, or sale of any Product; and the employees of Respondent whose duties relate primarily to the marketing, promotion, or sale of any Product.
- N. “Forecasted Requirements” means Respondent’s good faith expectation, at the time a purchase requirement for a Customer is established, of a Customer’s total Requirements from all suppliers, based on information reasonably available to Respondent, including any information provided by the Customer to Respondent.
- O. “Grouping” means (i) a subset of a Product that is used in a Customer Device Category (“Product Subset”) or (ii) a group of Product Subsets.
- P. “Legacy Service Provider Contract” means a contract between Respondent and a U.S. Service Provider that includes the sale or Purchase of a Product and expires no later than February 28, 2022. For the avoidance of doubt, a contract with an initial term that expires no later than February 28, 2022, but allows for renewal, is a Legacy Service Provider Contract only for the period prior to February 28, 2022.
- Q. “Majority Share Requirement” means an absolute or conditional requirement, whether formal or informal, with respect to a Product or Grouping, that a Customer, over the time period of the relevant requirement:
  - 1. Purchase from Respondent more than 50% of the Customer’s Requirements, whether in volume or dollars, or Purchase from Respondent a minimum volume of units Worldwide or for Customer Devices for end users in the United States if that minimum is more than 50% of applicable Forecasted Requirements for the Customer;

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2. Purchase a dollar amount from Respondent Worldwide or for Customer Devices for end users in the United States if that will require the Customer to Purchase more than 50% of its applicable Forecasted Requirements from the Respondent; or
3. Refrain from Purchasing from a Competitor; refrain from researching, designing, developing, testing, manufacturing, producing, distributing, marketing, promoting, or selling a Customer Device that contains a Competitor's Product; limit the volume of a Competitor's Product that the Customer may Purchase, or limit the amount the Customer may spend Purchasing the Product or Grouping from a Competitor,

*provided, however*, a requirement that a Customer Purchase an amount of a Product or Grouping from the Respondent that is no more than 50% of Respondent's Forecasted Requirements for the Customer, without more, shall not qualify as conduct falling under this Paragraph I.Q.3.

- R. "Non-Price Advantage" means an advantage that is not a Price Advantage, for example preferential Product Support Terms, lead-times, warranties, allocation, supply, delivery, or inventory levels, whether related to future or past sales by Respondent.
- S. "OEM" means a person that designs or manufactures Customer Devices who is not a Service Provider.
- T. "Past Award For Streaming SOC's" means an agreement, contract or contract term governing the Purchase of SOC's for Streaming Set Top Boxes (the "relevant SOC's") if the relevant SOC's are Purchased by:
1. A U.S. Service Provider that either (a) prior to the date this Order is issued, selects the relevant SOC's for use in a Customer Device Model, or (b) has a Legacy Service Provider Contract and, prior to the expiration of that contract, selects the relevant SOC's for use in a Customer Device Model; or
  2. An OEM for use in a Customer Device Model for a U.S. Service Provider that either (a) prior to the date this Order is issued, selects the relevant SOC's for use in a Customer Device Model, or (b) has a Legacy Service Provider Contract and, prior to the expiration of that contract, selects the relevant SOC's for use in a Customer Device Model.
- U. "Price Advantage" means a payment, discount, discounted price, or rebate.
- V. "Primary Product" means a product identified on Appendix A of this Order.
- W. "Primary Product Grouping" means a Grouping of Primary Products.

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- X. “Product” means a Primary Product or a Secondary Product.
- Y. “Product Support Terms” means the terms upon which Respondent provides any service, assistance, information, or other product support to a Customer, including (i) design and bid support, including in responding to requests for information, proposals or quotations; (ii) engineering support, including in relation to early technology access and product development, testing, qualification, and interoperability; (iii) aftermarket engineering support services, including in relation to warranty support, bug fixes, and firmware or software upgrades or updates.
- Z. “Purchase” or “Purchasing,” means purchase, source, bid, specify, use, or take-or-pay for.
- AA. “Retroactive Advantage” means a Price Advantage or Non-Price Advantage that is provided to a Customer based upon the Customer’s purchases of a Product reaching a specified threshold (in units, revenues, share, or any other measure), but excluding any Price Advantage or Non-Price Advantage provided to the Customer only with respect to the Customer’s purchases of a Product beyond such a specified threshold. By way of example, a discount of X% on all units if sales exceed Y units (including on the units sold up to and including Y) is a Retroactive Advantage, while a discount of X% on all units sold that are in excess of Y (but not on those units sold up to and including Y) is not a Retroactive Advantage.
- BB. “Requirements” means a Customer’s requirements of a Product or Grouping for use (a) Worldwide or (b) in Customer Devices for end users in the United States.
- CC. “Retention Custodians” means Respondents’ officers and employees serving in the positions listed on Nonpublic Appendix C.
- DD. “Secondary Product” means a product identified on Appendix B of this Order.
- EE. “Secondary Product Grouping” means a Grouping of Secondary Products.
- FF. “Service Provider” means a provider of subscription video or internet connectivity services, such as a telecommunications network operator or a provider of cable service.
- GG. “Set Top Box” means a hardware device that converts external source signals into video content for a television, whether such video content is transmitted via cable, satellite, or IP technologies.
- HH. “SOC” means an integrated circuit that serves as the core component within, and directs functions and features of, a Customer Device.

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- II. “Streaming Set Top Box” means (i) a Set Top Box that is capable of decoding Internet Protocol (“IP”) signals to access video services provided by a Service Provider or other third party and that does not contain a broadcast interface to access subscription video services provided by a Service Provider, or (ii) a Set Top Box that is capable of decoding IP signals and terrestrial (such as DVB-T) signals but not other broadcast signals.
- JJ. “U.S. Service Provider” means a Service Provider that serves end users in the United States.
- KK. “Worldwide” means the entire world excluding the People’s Republic of China.

**II. Majority Share Requirements**

**IT IS FURTHER ORDERED** that in connection with the sale of a Product in or affecting commerce, as “commerce” is defined in Section 4 of the Federal Trade Commission Act, 15 U.S.C. § 44, Respondent shall cease and desist from, directly or indirectly, or through any corporate or other device:

- A. Entering into, maintaining, or enforcing an agreement, contract, understanding, term, condition, or policy that imposes upon a Customer or commits a Customer to a Majority Share Requirement for a Primary Product or Primary Product Grouping, including by:
  - 1. Conditioning sale of a Primary Product on a Majority Share Requirement for such Primary Product;
  - 2. Conditioning a Price Advantage or Non-Price Advantage for a Primary Product on a Majority Share Requirement for such Primary Product;
  - 3. Conditioning a flat or lump sum payment of monies (or any other item of pecuniary value) on the Customer implementing a Majority Share Requirement for a Primary Product or Primary Product Grouping; or
  - 4. Providing a Retroactive Advantage for a Customer’s Purchases of a Primary Product,

*Provided*, and for the avoidance of doubt, the fact that a Customer Purchases from Respondent more than 50% of the Customer’s Requirements for a Primary Product or Primary Product Grouping Worldwide or for use in Customer Devices for end users in the United States does not, without more, establish a violation of this Paragraph II.A.,

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*Provided, further*, and for the avoidance of doubt, the fact that a Customer classifies or refers to Respondent as an “authorized” or “preferred” provider (or a similar term), where such classification or reference does not impose upon the Customer or commit the Customer to a Majority Share Requirement for a Primary Product or Primary Product Grouping, does not, without more, establish a violation of this Paragraph II.A.,

*Provided, further*, and for the avoidance of doubt, tiered, volume-based discounts or rebates that are not Retroactive Advantages, are not, without more, prohibited by this Paragraph II.A.,

*Provided, further*, it is not a violation of this Paragraph II.A. for Respondent to achieve, continue, maintain, or enter into a Majority Share Requirement in a bid as part of a single tender process (that is, a single request for proposal, request for quotation, or similar solicitation) so long as (i) the Majority Share Requirement applies only to a Primary Product or Primary Product Grouping for use in a single Customer Device Model or a single Customer Device Model and Derivatives thereof, (ii) Respondent does not bid for more business than a Customer has asked Respondent to bid for within the tender process, and (iii) Respondent does not seek to impose a Majority Share Requirement on a larger volume of Primary Products or Primary Product Groupings than the Customer seeks to award to Respondent within the tender process,

*Provided, further*, it is not a violation of this Paragraph II.A. for Respondent and a Customer to agree to a Majority Share Requirement for a model of a Primary Product (“the EOL model”) so long as (i) Respondent’s ordinary-course roadmaps and planning documents reflect that the model is reaching the end of its ordinary-course lifecycle and that Respondent plans to discontinue the EOL model in the ordinary course; (ii) Respondent has sent written notice to Customers who use the EOL model informing them that the EOL model is reaching the end of its ordinary-course lifecycle and stating the date on which Respondent plans to discontinue the model (“discontinuation date”); (iii) the Customer requests that Respondent continue producing the model after the discontinuation date; and (iv) the Majority Share Requirement that Respondent and the Customer agree to (a) begins on or after the discontinuation date, (b) is limited to the EOL model, and (c) is no broader than reasonably necessary to justify Respondent producing the EOL model after the discontinuation date for the period that the Customer requests that Respondent continue to produce the EOL model, and

Finally, for the avoidance of doubt, Paragraph II.A. does not prohibit Respondent from seeking to sell to a Customer a volume of Products that in total amounts to more than 50% of the Customer’s Requirements for a Primary Product or a Primary Product Grouping so long as the Respondent seeks to sell the relevant Products in a manner that does not violate this Paragraph II.A.

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## B. Engaging in the following with respect to a Customer:

1. Conditioning the sale of a Primary Product, or any Price Advantage or Non-Price Advantage for a Primary Product, on a Majority Share Requirement for a different Primary Product, a Secondary Product, a Primary Product Grouping or a Secondary Product Grouping; or
2. Breaching or threatening to breach a Past Award For Streaming SOC's for the purpose, in whole or in meaningful part, of inducing or coercing the Customer to enter into a new Majority Share Requirement for any SOC's for Streaming Set Top Boxes, including breaching or threatening to breach Product Support Terms of a Past Award For Streaming SOC's.

## C. Engaging in the following with respect to a Customer:

1. Threatening to, or taking any action to:
  - a. terminate, suspend, or delay the sale or delivery of a Primary Product, or
  - b. withdraw or modify a Price Advantage or Non-Price Advantage for a Primary Product;
2. Offering or providing less favorable Price Advantages or Non-Price Advantages for a Primary Product than Respondent would have otherwise proposed or provided; or
3. Refusing to deal or threatening to refuse to deal with the Customer on terms and conditions generally available to other Customers for a Primary Product;

For the reason, in whole or meaningful part, that (i) the Customer does not agree to a Majority Share Requirement that violates this Order, (ii) the Customer does not acquiesce in Respondent achieving, continuing, or maintaining a Majority Share Requirement that violates this Order; or (iii) Respondent seeks to retaliate against the Customer because the Customer has engaged in, or considered engaging in, the research, design, development, testing, manufacture, production, distribution, Purchase, marketing, promotion, or sale of any Customer Device that uses a Product that is or will be manufactured or supplied by a Competitor (collectively "Prohibited Reasons");

For the avoidance of doubt, it is not a violation of this Paragraph II.C. for Respondent to take an action, including one of the following actions, if taken for independent, verifiable business reasons unrelated to one or more Prohibited Reasons:

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- a. enforcing the terms of an agreement with a Customer that do not otherwise violate this order, for example, terms requiring prompt payment;
  - b. offering a Customer terms and conditions that Respondent offers to other, similarly situated Customers (or offering a Customer terms and conditions different from those that Respondent offers to other Customers that are not similarly situated to the Customer);
  - c. implementing or offering a volume-based discount or rebate that is not a Retroactive Advantage; or
  - d. making product allocations among Customers when Respondent does not have the practical ability to supply a Product to all Customers in the quantities and on the timeframes they have requested.
- D. Notwithstanding any other provision of this Order, it shall not be a violation of this Order for Respondent to enforce a Majority Share Requirement in a Legacy Service Provider Contract until the earlier of termination of the contract or February 28, 2022, if:
  - 1. Within 5 days of issuance of this Order, Respondent notifies each Customer with a Legacy Service Provider Contract of the Customer's right to terminate its Legacy Service Provider Contract, without penalty or charge under the terms of such contract, by providing a copy of this Order and Exhibit C to such Customer; and
  - 2. The Customer does not terminate such Legacy Service Provider Contract by providing Respondent with 10 days' written notice of the intent to terminate the contract. The right to terminate shall expire 60 days after the date on which Respondent provides the notice pursuant to Paragraph II.D.1. above.

**III. Compliance Program**

**IT IS FURTHER ORDERED** that:

- A. Respondent shall design, maintain, and operate an antitrust compliance program to ensure compliance with this Order and the Antitrust Laws, and as part of such program shall:

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1. No later than 30 days from the date this Order is issued, appoint or retain an Antitrust Compliance Officer to supervise Respondent's antitrust compliance program (Respondent may replace the Antitrust Compliance Officer with another person at any time);
2. Upon issuance of this Order, provide in-person or online training concerning Respondent's obligations under this Order and an overview of the Antitrust Laws as they apply to Respondent's activities to Respondent's Executive and Sales and Marketing Staff:
  - a. No later than 30 days after this Order is issued,
  - b. No later than 30 days after an employee first becomes Executive and Sales and Marketing Staff, and
  - c. At least annually;

*Provided, however,* that if at the time the Order is issued Respondent has in place a program for training employees with regard to its Commitments with the European Commission in Case AT.40608, then Respondent can provide its first annual training under this Order so as to coincide with the training regarding its Commitments, and thereafter provide training on an annual basis from the date of such training.
3. Maintain policies and procedures for:
  - a. Executive and Sales and Marketing Staff to ask questions about, and report violations of, this Order and the Antitrust Laws confidentially and without fear of retaliation of any kind,
  - b. Disciplining Executive and Sales and Marketing Staff for failure to comply with this Order and the Antitrust Laws, and
  - c. The retention of documents and records sufficient to record Respondent's compliance with its obligations under this Paragraph III., including records showing that Executive and Sales and Marketing Staff have received all trainings required under this Order during the preceding two years.

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## B. Respondent shall:

1. Deliver a letter in the form of Exhibit A and a copy of this Order to each Customer that has a current contract for a Product with Respondent within 10 days of the date this Order is issued (except for Customers with a Legacy Service Provider Contract to whom Respondent has provided notice pursuant to Paragraph II.D. of this Order);
2. Deliver a letter in the form of Exhibit B to each OEM that bids to supply or supplies Customer Devices to a U.S. Service Provider and each U.S. Service Provider, to whom Respondent did not deliver either a letter pursuant to Paragraph III.B.1. or notice pursuant to Paragraph II.D. of this Order, no later than 10 days after the Customer completes Respondent's onboarding process that, inter alia, validates that the Customer is authorized to purchase Products from Respondent; and
3. Permit any Customer to whom Respondent is required to provide a letter under Paragraph III.B.2. and who wishes to terminate an agreement with Broadcom because the Customer believes it violates this Order, to terminate such agreement via written notice and without penalty or charge, if the Customer delivers the written notice no later than 60 days after Broadcom delivers to the Customer the letter required under Paragraph III.B.2.

**IV. Compliance Reports**

**IT IS FURTHER ORDERED** that Respondent shall file verified written reports ("Compliance Report") in accordance with the following:

- A. Respondent shall submit an interim Compliance Report 60 days after the date this Order is issued and an annual Compliance Report one year after the date this Order is issued and annually for the next nine years on the anniversary of that date; and additional Compliance Reports as the Commission or its staff may request.
- B. Each Compliance Report shall contain sufficient information and documentation to enable the Commission to determine independently whether Respondent is in compliance with the Order. Conclusory statements that Respondent has complied with its obligations under the Order are insufficient. Respondent shall include in its reports, among other information or documentation that may be necessary to demonstrate compliance:
  1. The name, title, business address, e-mail address, and business telephone number of the Antitrust Compliance Officer;
  2. A list of all persons who received the notice required by Paragraph III.B.1. or III.B.2. of this Order, together with proof of service of the notice; and

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3. A copy of each agreement or other document that contains or reflects a Majority Share Requirement for (a) a Primary Product or (b) a Secondary Product sold to a Customer that also purchases a Primary Product.
- C. For a period of 5 years after filing a Compliance Report, Respondent shall retain the following documents that are within the custody or control of Respondent's Retention Custodians and contain relevant information concerning whether or not Respondent is fulfilling or has fulfilled its obligations under this Order: written communications with any third party identified in the Compliance Report, and non-privileged internal memoranda and reports. Respondent shall provide copies of these documents to Commission staff upon request.
- D. Respondent shall verify each Compliance Report in the manner set forth in 28 U.S.C. § 1746 by the Chief Executive Officer or another officer or employee specifically authorized to perform this function. Respondent shall submit an original and 2 copies of each Compliance Report as required by Commission Rule 2.41(a), 16 C.F.R. § 2.41(a), including a paper original submitted to the Secretary of the Commission and electronic copies to the Secretary at [ElectronicFilings@ftc.gov](mailto:ElectronicFilings@ftc.gov) and to the Compliance Division at [bccompliance@ftc.gov](mailto:bccompliance@ftc.gov); provided, however, that Respondent need only file electronic copies of the 60-day report required by Paragraph IV.A. of this Order.

**V. Change in Respondent**

**IT IS FURTHER ORDERED** that Respondent shall notify the Commission at least 30 days prior to:

- A. The dissolution of Broadcom Inc.;
- B. The acquisition, merger, or consolidation of Broadcom Inc.; or
- C. Any other change in Respondent, including assignment and the creation, sale, or dissolution of subsidiaries, if such change might affect compliance obligations arising out of this Order.

**VI. Access**

**IT IS FURTHER ORDERED** that, for purposes of determining or securing compliance with this Order, and subject to any legally recognized privilege, upon written request and 10 business days' notice to Respondent, made to its principal place of business as identified in this Order, registered office of its United States subsidiary, or its headquarters office, Respondent shall, without restraint or interference, permit any duly authorized representative of the Commission:

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- A. Access, during business office hours of Respondent and in the presence of counsel, to all facilities and access to inspect and copy all business and other records and all documentary material and electronically stored information as defined in Commission Rules 2.7(a)(1) and (2), 16 C.F.R. § 2.7(a)(1) and (2), in the possession or under the control of Respondent related to compliance with this Order, which copying services shall be provided by Respondent at the request of the authorized representative of the Commission and at the expense of Respondent; and
- B. To interview officers, directors, or employees of Respondent, who may have counsel present, regarding such matters.

**VII. Term**

**IT IS FURTHER ORDERED** that this Order shall terminate 10 years from the date it is issued.

By the Commission.

**APPENDIX A****Primary Products**

| <b>Product</b>                   | <b>Description</b>                                                                                                                                                                                    |
|----------------------------------|-------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| SOCs for DSL Broadband Devices   | An integrated circuit that serves as the core component within, and directs functions and features of, a Broadband Device that accesses internet service via a digital subscriber line (DSL) network. |
| SOCs for Fiber Broadband Devices | An integrated circuit that serves as the core component within, and directs functions and features of, a Broadband Device that accesses internet service via a fiber optic network.                   |
| SOCs for Broadcast Set Top Boxes | An integrated circuit that serves as the core component within, and directs functions and features of, a Broadcast Set Top Box.                                                                       |

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**APPENDIX B****Secondary Products**

| <b>Product</b>                                         | <b>Description</b>                                                                                                                                                                     |
|--------------------------------------------------------|----------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| SOCs for Cable Broadband Devices                       | An integrated circuit that serves as the core component within, and directs functions and features of, a Broadband Device that accesses internet service via a cable (DOCSIS) network. |
| Front End Chips for Set Top Boxes or Broadband Devices | An integrated circuit that converts incoming analog signals to digital signals to be read by the SOC in a Set Top Box or Broadband Device.                                             |
| WiFi Chips for Set Top Boxes or Broadband Devices      | An integrated circuit that enables Set Top Boxes or Broadband Devices to connect to wireless networks.                                                                                 |
| SOCs for Streaming Set Top Boxes                       | An integrated circuit that serves as the core component within, and directs functions and features of, a Streaming Set Top Box.                                                        |

**NONPUBLIC APPENDIX C****Retention Custodians**

[Redacted From the Public Record Version, But Incorporated By Reference]

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**APPENDIX D****Broadcast Set Top Boxes**

The following Set Top Box models are included within the definition of “Broadcast Set Top Box”:

1. Dish Joey 3,
2. Dish Joey 4,
3. DirecTV C61,
4. DirecTV C61K,
5. Comcast Xi3,
6. Verizon IPC1100, and
7. Verizon IPC4100.

**EXHIBIT A****Letter to Customers**

[Broadcom letterhead]

[Name and address of Customer]

Dear [name of Customer]:

Broadcom is required to send you this notice by the FTC’s Decision and Order in *In re Broadcom Inc.*, C-xxxx. The Decision and Order reflects a settlement without litigation between the FTC and Broadcom and does not constitute an admission by Broadcom that it has violated the law or that any of the facts alleged by the FTC regarding Broadcom’s conduct are true. Attached is a copy of the Order. You also may read and download a copy of the Order from the FTC’s website at [web link to case on FTC website]. Broadcom’s obligations under the Order are set out in Paragraph II. of the Order. Capitalized terms used in the Order are defined in Paragraph I. of the Order. All capitalized terms in this letter refer to terms defined in the Order. **Please read the Order carefully. If anything in this letter conflicts with the terms in the Order, the terms in the Order apply.**

Generally, the Order prohibits Broadcom from requiring you to purchase from Broadcom more than 50% of your requirements for certain components used in certain Set Top Boxes and Broadband Devices, subject to the exceptions set forth in the Order. For the term of the Order, this prohibition applies to your existing agreements with Broadcom and to any new agreements you

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enter with Broadcom. The Order also prohibits Broadcom from conditioning the sale of certain components to you (or price or non-price advantages for those components) on you purchasing more than 50% of your requirements for certain other components from Broadcom, subject to the limitations in the Decision and Order. Finally, the Order prohibits Broadcom from retaliating against customers for using an alternative source of any relevant component.

If you have concerns in the future about whether Broadcom is complying with its obligations under the Order, you may contact us, the FTC, or both. You may contact Broadcom through the [sales] staff with whom you do business, or contact our corporate offices directly by phoning or e-mailing [name] at [phone number and e-mail address]. You may contact the FTC by phoning or e-mailing [name] at [phone number and e-mail address].

Sincerely,

[name and title]

**EXHIBIT B****Letter to New Customers**

[Broadcom letterhead]

[Name and address of Customer]

Dear [name of Customer]:

Broadcom is required to send you this notice by the FTC's Decision and Order in *In re Broadcom Inc.*, C-xxxx. The Decision and Order reflects a settlement without litigation between the FTC and Broadcom and does not constitute an admission by Broadcom that it has violated the law or that any of the facts alleged by the FTC regarding Broadcom's conduct are true. You may read and download a copy of the Order from the FTC's website at [web link to case on FTC website]. Broadcom's obligations under the Order are set out in Paragraph II. of the Order. Capitalized terms used in the Order are defined in Paragraph I. of the Order. All capitalized terms in this letter refer to terms defined in the Order. **Please read the Order carefully. If anything in this letter conflicts with the terms in the Order, the terms in the Order apply.**

Generally, the Order prohibits Broadcom from requiring you to purchase from Broadcom more than 50% of your requirements for certain components used in certain Set Top Boxes and Broadband Devices, subject to the exceptions set forth in the Order. The Order also prohibits Broadcom from conditioning the sale of certain components to you (or price or non-price

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advantages for those components) on you purchasing more than 50% of your requirements for certain other components from Broadcom, subject to the limitations in the Decision and Order. Finally, the Order prohibits Broadcom from retaliating against customers for using an alternative source of any relevant component. These prohibitions apply for the term of the Order to agreements you enter with Broadcom for the covered products, either now or going forward.

You are receiving this letter because Broadcom considers you a new customer for the covered products. If you believe the terms of your customer agreement with Broadcom do not comply with the Order, **you have the right within 60 days of your receipt of this letter to terminate that agreement without penalty or charge.** In addition, if you have concerns in the future about whether Broadcom is complying with its obligations under the Order, you may contact us, the FTC, or both. You may contact Broadcom through the [sales] staff with whom you do business, or contact our corporate offices directly by phoning or e-mailing [name] at [phone number and e-mail address]. You may contact the FTC by phoning or e-mailing [name] at [phone number and e-mail address].

Sincerely,

[name and title]

**EXHIBIT C****Letter to Customers with Legacy Service Provider Contracts**

[Broadcom letterhead]

[Name and address of Customer]

Dear [name of Customer]:

Broadcom is required to send you this notice by the FTC's Decision and Order in *In re Broadcom Inc.*, C-xxxx. The Decision and Order reflects a settlement without litigation between the FTC and Broadcom and does not constitute an admission by Broadcom that it has violated the law or that any of the facts alleged by the FTC regarding Broadcom's conduct are true. Attached is a copy of the Order. You also may read and download a copy of the Order from the FTC's website at [web link to case on FTC website]. Broadcom's obligations under the Order are set out in Paragraph II. of the Order. Capitalized terms used in the Order are defined in Paragraph I. of the Order. All

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capitalized terms in this letter refer to terms defined in the Order. **Please read the Order carefully. If anything in this letter conflicts with the terms in the Order, the terms in the Order apply.**

Generally, the Order prohibits Broadcom from requiring you to purchase from Broadcom more than 50% of your requirements for certain components used in certain Set Top Boxes and Broadband Devices, subject to the exceptions set forth in the Order. For the term of the Order, this prohibition applies to your existing agreements with Broadcom, except as described below, and to any new agreements you enter with Broadcom. The Order also prohibits Broadcom from conditioning the sale of certain components to you (or price or non-price advantages for those components) on your purchasing more than 50% of your requirements for certain other components from Broadcom, subject to the limitations in the Decision and Order. Finally, the Order prohibits Broadcom from retaliating against customers for using an alternative source of any relevant component.

**You have the right to terminate your current agreement with Broadcom without penalty by providing Broadcom at least 10 days' notice in writing.** Your right to terminate shall expire 60 days after the date on which you receive this letter. If you do not terminate your current agreement, any Majority Share Requirement in the agreement will remain in effect through the remaining term (or, where applicable, initial term) of the agreement, or until February 28, 2022, whichever is earlier, at which time Broadcom is required to cease enforcing any terms of the agreement that are prohibited by the Order.

If you have concerns in the future about whether Broadcom is complying with its obligations under the Order, you may contact us, the FTC, or both. You may contact Broadcom through the **[sales]** staff with whom you do business, or contact our corporate offices directly by phoning or e-mailing **[name]** at **[phone number and e-mail address]**. You may contact the FTC by phoning or e-mailing **[name]** at **[phone number and e-mail address]**.

Sincerely,

[name and title]

## Analysis to Aid Public Comment

**ANALYSIS OF CONSENT ORDER TO AID PUBLIC COMMENT****I. Introduction**

The Federal Trade Commission has accepted, subject to final approval, a consent agreement with Broadcom Incorporated. Broadcom designs, develops, and sells semiconductor components for a wide range of computing and telecommunications applications, including for set-top boxes (“STBs”) and broadband devices such as modems. (STBs and broadband devices are sometimes collectively referred to as customer premises equipment or “CPE” or “CPE devices.”)

As further described below, the consent agreement contains a proposed order addressing allegations in the proposed complaint that (1) with regard to certain components used in CPE devices, Broadcom unlawfully maintained a monopoly and unreasonably restrained trade through exclusive dealing and related conduct, and (2) with regard to certain other components used in CPE devices, Broadcom unreasonably restrained trade through cross-product conditioning, all in violation of Section 5 of the Federal Trade Commission Act, 15 U.S.C. § 45.

The proposed order has been placed on the public record for 30 days in order to receive comments from interested persons. Comments received during this period will become part of the public record. After 30 days, the Commission will again review the consent agreement and the comments received and will decide whether it should withdraw from the consent agreement and take appropriate action or make the proposed order final.

The purpose of this analysis is to facilitate public comment on the proposed order. It is not intended to constitute an official interpretation of the complaint, the consent agreement, or the proposed order, or to modify their terms in any way. The consent agreement is for settlement purposes only and does not constitute an admission by Broadcom that the law has been violated as alleged in the complaint or that the facts alleged in the complaint, other than jurisdictional facts are true.

**II. The Complaint**

The complaint makes the following allegations.

**A. Background**

Consumers use STBs and broadband devices in their homes to access television and internet services. Service providers such as telecommunications and cable companies supply their customers with the CPE devices needed to access television and internet services.

## Analysis to Aid Public Comment

Broadcom makes semiconductor components that are used in CPE devices. These include a “system on a chip” or “SOC,” which is the core component directing the functions and features of a CPE device; a “front-end” chip, which converts incoming analog signals to digital signals to be read by the SOC; and a “Wi-Fi” chip, which enables a device to connect to a wireless network. Original equipment manufacturers (“OEMs”) incorporate these components in STBs and broadband devices, which they typically build to service-provider specifications and sell to service providers.

Broadcom has long been the dominant supplier of (i) SOC for traditional “broadcast” STBs,<sup>1</sup> (ii) SOC for DSL broadband devices, and (iii) SOC for fiber broadband devices (the “Monopolized Products”). In addition, Broadcom is one of few significant suppliers of (iv) Wi-Fi chips for CPE devices, (v) front-end chips for CPE devices, (vi) SOC for “streaming” STBs, and (vii) SOC for cable broadband devices (collectively, the “Related Products,” and together with the Monopolized Products, the “Relevant Products”).<sup>2</sup> Broadcom also provides essential ongoing engineering and software support services for devices containing its components. The markets for Monopolized Products and Related Products are concentrated and have significant barriers to entry and expansion.

As early as 2016, Broadcom recognized that it faces competitive threats to its monopoly power in Monopolized Products from low-priced, nascent rivals. Broadcom understood that nascent rivals could, by working with key OEMs and service providers, become stronger, more effective competitors. Leading service providers and OEMs were seeking to lessen their dependence on Broadcom and to foster competition in CPE component markets. These customers sought component-supplier diversity for multiple reasons, including to promote competitive pricing and to ensure continuity of supply. Another factor threatening Broadcom’s monopoly power was the ongoing “cord-cutting” trend, whereby consumers were beginning to move away from traditional “broadcast” (e.g. cable or satellite) television service and instead to access television and other video content via a “streaming” internet connection. This trend threatened Broadcom because its market position was stronger in “broadcast” STB SOC (where it has monopoly power) than in “streaming” STB SOC.

These market conditions presented Broadcom with the incentive and opportunity to engage in anticompetitive conduct aimed at maintaining its monopoly power in markets for Monopolized Products and to use that power to weaken rivals and harm competition in markets for Related Products.

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<sup>1</sup> “Broadcast” STBs, sometimes referred to as “traditional” STBs, access television signals over a broadcast interface (e.g., cable, satellite, or fiber), as distinct from “streaming” STBs, which access only streaming “internet protocol” (IP) signals, often over an internet connection.

<sup>2</sup> The proposed order refers to Monopolized Products and Related Products as “Primary Products” and “Secondary Products,” respectively.

**B. Broadcom's Anticompetitive Conduct**

Broadcom acted to maintain its monopoly positions and unreasonably restrain competition by implementing a wide-ranging exclusivity program in which it conditioned customers' access to Monopolized Products and support services for these products on commitments to source Relevant Products from Broadcom on an exclusive or near-exclusive basis. Broadcom implemented this exclusivity program through a series of long-term contracts entered with both OEMs and service providers, and through an accompanying campaign of ad hoc threats and retaliation. As a result, sales opportunities for Broadcom's rivals were severely restricted.

Between 2016 and the present, Broadcom negotiated and entered agreements with lead OEMs pursuant to which the OEMs agreed, for contract and renewal terms spanning multiple years, to purchase, use, or bid Broadcom's Relevant Products in STBs and broadband devices on an exclusive or near-exclusive basis. In all, Broadcom entered exclusive or near-exclusive agreements with at least ten OEMs which collectively are responsible for a majority of STB and broadband device sales worldwide and even higher percentages of STB and broadband device sales in the United States. These OEMs included the largest and most capable CPE OEMs – those with the largest market shares, the most extensive engineering and design capabilities, and the strongest reputations and relationships with downstream service provider customers.

Broadcom also negotiated and entered a series of agreements with major service providers pursuant to which the service providers committed, for contract terms spanning multiple years, to use Broadcom's Relevant Products on an exclusive or near-exclusive basis for their STBs and broadband devices. As with the OEMs targeted by Broadcom, these were among the largest, most advanced, and most innovative service providers in the world 0 those that were best positioned, absent their agreements with Broadcom, to enable Broadcom's nascent competitors.

In the course of securing and policing these long-term agreements, and also of obtaining exclusive or near-exclusive business from customers with which it did not enter formal long-term agreements, Broadcom routinely employed coercive leveraging tactics grounded in its monopoly power and spanning across product categories. For example, Broadcom communicated to OEM customers that disloyalty for even a single bid involving a single Relevant Product could mean loss of favorable price and non-price terms across numerous product lines, including Monopolized Products unrelated to that specific bid. And it communicated to service providers that if a service provider did not limit its purchases from Broadcom's rivals, Broadcom would implement large increases in the fees it charged for support services on devices containing Broadcom Monopolized Products that were already deployed on the service providers' networks.

**C. Competitive Impact of Broadcom's Conduct**

Broadcom's exclusivity program weakened competitors by foreclosing them from substantial portions of the markets for Relevant Products. It raised its rivals' costs by forcing rivals competing for a design award to be prepared to compensate customers for the penalties – increased prices and/or degraded terms – that Broadcom threatened to impose on the customer as to other designs and other covered products.

## Analysis to Aid Public Comment

Broadcom's conduct deprived rivals of opportunities to work with key OEMs and service providers, thereby degrading rivals' ability to obtain scale and commercial validation, improve their engineering capabilities, offer better products to customers, and position themselves to win business in the future. As a result, rivals diverted resources away from, divested from, and/or considered exiting markets for Monopolized Products.

By foreclosing rivals from substantial sales opportunities other than through competition on the merits, Broadcom has maintained its monopoly in the markets for Monopolized Products and has unreasonably restrained competition in the markets for all Relevant Products, in each case harming price and non-price competition, reducing innovation, and reducing customer choice.

There are no legitimate procompetitive efficiencies that justify Broadcom's conduct or that outweigh the substantial anticompetitive effects thereof, and any legitimate objectives of Broadcom's conduct could have been achieved through significantly less restrictive means.

### III. Legal Analysis

Section 5 of the FTC Act prohibits unfair methods of competition, including agreements in restraint of trade prohibited by Section 1 of the Sherman Act and monopolization prohibited by Section 2 of the Sherman Act.<sup>3</sup> Under section 1, a plaintiff must show (1) concerted action that (2) unreasonably restrains competition.<sup>4</sup> A section 2 monopolization offense requires proof of "(1) the possession of monopoly power in the relevant markets and (2) the willful acquisition or maintenance of that power as distinguished from growth or development as a consequence of superior product, business acumen or historic accident."<sup>5</sup>

#### A. Monopolization and Restraint of Trade as to Monopolized Products

An exclusive dealing arrangement is "an agreement in which a buyer agrees to purchase certain goods or services only from a particular seller for a certain period of time."<sup>6</sup> Exclusivity need not be expressly defined by a written contract, but can also be identified by "look[ing] past the terms of the contract to ascertain the relationship between the parties and the effect of the agreement in the real world."<sup>7</sup> No single contract needs to require 100% exclusivity.<sup>8</sup> The assessment must look beyond "formalistic distinctions" and focus on "market realities."<sup>9</sup>

<sup>3</sup> 15 U.S.C. § 45; *see, e.g., FTC v. Cement Inst.*, 333 U.S. 683, 693-94 (1948).

<sup>4</sup> 15 U.S.C. § 1; *see, e.g., Arizona v. Maricopa County Med. Soc.*, 457 U.S. 332, 342-343, (1982).

<sup>5</sup> *In re McWane, Inc.*, No. 9351, 2014 WL 556261, at \*11 (F.T.C. Jan. 30, 2014), *aff'd*, 783 F.3d 814 (11<sup>th</sup> Cir. 2015) (quoting *United States v. Grinnell Corp.*, 384 U.S. 563, 570-71 (1966)); 15 U.S.C. § 2.

<sup>6</sup> *ZF Meritor v. Eaton Corp.*, 696 F.3d 254, 270 (3d Cir. 2012).

<sup>7</sup> *Id.* (cleaned up) (noting also that "de facto exclusive dealing claims are cognizable under the antitrust laws."); *see also Tampa Elec. Co. v. Nashville Coal Co.*, 365 U.S. 320, 326 (1961) (exclusive dealing principles apply not only to contracts that expressly require exclusivity, but also to those that have the "practical effect" of inducing a customer to purchase exclusively from a dominant seller).

<sup>8</sup> *ZF Meritor*, 696 F.3d at 270; *see also Eastman Kodak Co. v. Image Tech. Servs., Inc.*, 504 U.S. 451, 466-67 (1992) ("Legal presumptions that rest on formalistic distinctions rather than actual market realities are generally disfavored in antitrust law.").

<sup>9</sup> *Eastman Kodak I*, 504 U.S. at 466.

## Analysis to Aid Public Comment

Exclusive dealing may be unlawful where it enables a firm to maintain or enhance monopoly or market power by impairing the ability of rivals to grow into effective competitors or by depriving customers of the ability to make a meaningful choice.<sup>10</sup> Of particular relevance is whether exclusive dealing has “foreclose[d] competition in such a substantial share of the relevant market so as to adversely affect competition.”<sup>11</sup> Exclusive dealing may violate Section 1 or Section 2 of the Sherman Act, but is “of special concern when imposed by a monopolist.”<sup>12</sup> Thus, a Section 2 exclusive dealing claim typically requires a greater degree of market power, but a lesser degree of market foreclosure, than an exclusive dealing claim under Section 1.<sup>13</sup>

The factual allegations in the complaint support a finding of exclusive dealings as to the Monopolized Products in violation of Sections 1 and 2 of the Sherman Act. Broadcom has monopoly power in the sale of these products, as demonstrated by both direct and indirect evidence, including high shares of markets with significant entry barriers. And Broadcom has engaged in exclusive dealings with OEMs and service providers through both formal agreements that bar purchases of Monopolized Products from a Broadcom rival and ad hoc threats of retaliation if a customer purchases from a Broadcom rival. Broadcom’s exclusive deals foreclosed substantial and competitively important portions of the markets for Monopolized Products, weakening rivals, harming competition, maintaining Broadcom’s monopoly position, and resulting in reduced customer choice, high prices, and less innovation in markets for Monopolized Products.

**B. Restraint of Trade as to Related Products**

In addition to harming competition in the markets for Monopolized Products, Broadcom leveraged its monopoly power in the markets for Monopolized Products to foreclose rivals and harm competition in the markets for Related Products. As it involves the interaction of two or more markets, the conduct is appropriately analyzed with reference to tying precedent. To demonstrate tying in violation of Section 1, a plaintiff must show (1) separate markets for the tying and tied products; (2) defendant’s market power in the tying market; (3) the existence of a tie, and (4) that the arrangement forecloses a substantial volume of interstate commerce in the market for the tied product.<sup>14</sup> Coercion, or “the seller’s exploitation of its control over the tying product to force the buyer into the purchase of a tied product that the buyer either did not want at all, or might have preferred to purchase elsewhere on different terms,”<sup>15</sup> is a key element in showing the existence of a tie, and can be shown using direct or circumstantial evidence.<sup>16</sup> Such coercion need not take the form of a threat to completely withhold the tying product; a tie may also exist where the seller

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<sup>10</sup> See, e.g., *In re McWane*, 2014 WL 556261 at \*19, 28.

<sup>11</sup> *ZF Meritor*, 696 F.3d at 270; see also *McWane*, 783 F.3d at 835.

<sup>12</sup> *ZF Meritor*, 696 F.3d at 271.

<sup>13</sup> See, e.g., *United States v. Microsoft Corp.*, 253 F.3d 34, 69-70 (D.C. Cir. 2001).

<sup>14</sup> See, e.g., *Eastman Kodak Co. v. Image Technical Servs., Inc.*, 504 U.S. 451, 461-62 (1992) (quoting *N. Pac. R. Co. v. United States*, 356 U.S. 1, 5-6 (1958) and *Fortner Enters., Inc. v. United States Steel Corp.*, 394 U.S. 495, 503 (1969)); *United States v. Microsoft*, 253 F.3d 34, 85, 87 (D.C. Cir. 2001) (“[t]he core concern is that tying prevents goods from competing directly for consumer choice on their merits”); *Tic-X-Press v. Omni Promotions Co.*, 815 F.2d 1407, 1414 (11<sup>th</sup> Cir. 1987); see also *Viamedia, Inc. v. Comcast Corp.*, 951 F.3d 429, 468 (7<sup>th</sup> Cir. 2020); *In re Sandoz Pharms. Corp.*, 115 F.T.C. 625, 629-30 (1992).

<sup>15</sup> *Jefferson Par. Hosp. Dist. No. 2 v. Hyde*, 466 U.S. 2, 12 (1984).

<sup>16</sup> See, e.g., *Tic-X-Press*, 815 F.2d at 1418.

## Analysis to Aid Public Comment

offers the tying product on such terms that, under the circumstances, accepting the tying and tied products together is the only viable economic option for the buyer.<sup>17</sup> Finally, harm is particularly likely when the tied markets are concentrated and the tie results in substantial foreclosure in these markets.<sup>18</sup>

The factual allegations in the complaint support a finding of a violation of Section 1 of the Sherman Act as to the Related Products. Broadcom placed conditions on the supply and service terms associated with the Monopolized Products so as to coerce customers to source Related Products exclusively or nearly-exclusively from Broadcom. The cross-conditionality was employed in the negotiation and enforcement of relevant formal agreements and was also present in Broadcom's ad hoc threats of retaliation. As with the Monopolized Products, Broadcom's conduct has foreclosed substantial and competitively important portions of the concentrated markets for Related Products, weakening rivals, harming competition, and resulting in reduced customer choice, higher prices, and less innovation in markets for Related Products.

#### IV. The Proposed Order

The proposed order seeks to remedy Broadcom's anticompetitive conduct through three primary prohibitions. A core concept of the order is what is termed a "majority share requirement," referring to a requirement that a customer purchase more than 50% of the customer's requirements of a given product come from Broadcom. First, the order prohibits Broadcom from entering into majority share requirements for any Monopolized Product. Second, the order prohibits Broadcom from conditioning access to Monopolized Products on a customer's agreeing to a majority share requirement for specified Related Products. Third, the order prohibits Broadcom from retaliating against a customer that refuses a prohibited majority share requirement or that purchases products from a competitor of Broadcom.

Paragraph I of the proposed order defined the key terms used in the order.

Paragraph II.A. of the proposed order prohibits Broadcom from imposing a majority share requirement on a customer's purchase of any Monopolized Product. This provision is designed to end Broadcom's exclusive dealing practices in the markets for Monopolized Products and to enable the emergence of effective competition in those markets. The prohibition applies to sales of Monopolized Products to OEMs and to U.S. service providers. The proposed order specifically includes prohibitions of Broadcom (1) conditioning the sale of a Monopolized Product on a majority share requirement for that product, (2) conditioning price terms, or non-price terms such as delivery or support terms, for a Monopolized Product on a majority share requirement for that product, (3) conditioning other payments on a majority share requirement for a Monopolized Product, or (4) providing certain types of retroactive rebates for a Monopolized Product in exchange for a majority share requirement.

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<sup>17</sup> See, e.g., *United Shoe Mach. Corp. v. United States*, 258 U.S. 451, 464 (1922); *Viamedia*, 951 F.3d at 470-72.

<sup>18</sup> See, e.g., Areeda & Hovenkamp, *Antitrust Law* ¶ 1729; see also Einer Elhauge, *Tying, Bundled Discounts, and the Death of the Single Monopoly Profit Theory*, 123 Harv. L. Rev. 397, 413 (2009).

## Analysis to Aid Public Comment

The prohibitions in Paragraph II.A. are qualified by a number of provisos designed to assure that the order does not bar Broadcom from competing on the merits. The first proviso clarifies that the order does not prohibit Broadcom from fulfilling orders from a customer that, over time, chooses to purchase more than 50% of its requirements from Broadcom, provided that such purchases are not pursuant to a majority share requirement prohibited by the order. The second proviso clarifies that a customer's mere designation of Broadcom as an "authorized" or "preferred" provider does not alone establish a violation of the order. The third proviso clarifies that the order does not prohibit non-retroactive volume discounts. The fourth proviso allows Broadcom, in narrow circumstances, to enter into a majority share requirement in connection with a particular request for proposal (RFP). The proviso provides that Broadcom may agree to a single-source term in connection with an RFP covering a single device model (or a single device model and certain limited derivatives thereof) if the customer structures the RFP in this way. (In contrast, if a customer chooses to structure an RFP to split component supply for a particular device among multiple suppliers, Broadcom may not thwart this by insisting on exclusivity.) The fifth proviso enables Broadcom, in specified conditions, to agree to exclusivity terms with a customer to incent Broadcom to continue producing a product beyond its ordinary-course end of life.

Paragraph II.B of the proposed order prohibits Broadcom from using its monopoly power in a Monopolized Product to impose majority share requirements for the Monopolized Products or Related Products.

Paragraph II.C of the order prohibits Broadcom from retaliating against a customer for working with a Broadcom rival or for refusing to commit to or maintain a prohibited majority share requirement. Prohibited retaliation includes actual or threatened interference with the sale or delivery of Monopolized Products; withdrawal or modification of, or refusal to extend, relatively favorable price or non-price terms; or refusal to deal with the customer on terms generally available to other similarly situated customers.

The proposed order contains standard provisions designed to ensure compliance. Paragraph III requires Broadcom to maintain an antitrust compliance program and to provide notice to customers of the prohibitions contained in the order. Paragraph IV through VI contain provisions regarding compliance reports, notice of changes in respondent, and access to documents and personnel.

The proposed Order's prohibitions apply to agreements with the Service Providers that serve end users in the United States and to agreements with OEMs worldwide, with the exception of agreements for the sale of products intended for use in devices for end used in China. These products are excluded from the prohibitions on majority share requirements in light of distinct competitive conditions applicable to them. The term of the proposed order is ten years.

## Complaint

## IN THE MATTER OF

**SEVEN & I HOLDINGS CO., LTD.,  
7-ELEVEN INC.,  
AND  
MARATHON PETROLEUM CORPORATION**

CONSENT ORDER, ETC. IN REGARD TO ALLEGED VIOLATIONS OF SECTION 5 OF THE FEDERAL TRADE COMMISSION ACT AND SECTION 7 OF THE CLAYTON ACT.

*Docket No. C-4748; File No. 201 0108  
Complaint, June 25, 2021 – Decision, November 8, 2021*

This consent order addresses the \$21 billion acquisition by 7-Eleven of a significant number of Marathon Petroleum Corporation's Speedway, LLC. fuel outlets and thereby obtaining market power in the relevant market. The complaint alleges that 7-Eleven acquired entities owned by Marathon Petroleum Corporation with full knowledge that the acquisition was in violation of Section 7 of the Clayton Act. Under the order Respondent must divest fuel outlets that caused harm to competition in the relevant market. The order also prohibits Respondent from enforcing any non-compete provisions on franchisees or employees working or doing business with these assets.

*Participants*

For the *Commission*: *Angelike Mina, Victoria Lippincott, and Nicholas Bush*

For the *Respondent*: *Corey Roush [Akin Gump Strauss Hauer & Feld]; Terrell McSweeney [Covington & Burling LLP]; Nelson Fitts [Wachtell, Lipton, Rosen & Katz]*

**COMPLAINT**

Pursuant to the Clayton Act and the Federal Trade Commission Act ("FTC Act"), and its authority thereunder, the Federal Trade Commission ("Commission"), having reason to believe that Respondent Seven & i Holdings Co., Ltd., through its wholly owned subsidiary, Respondent 7-Eleven, Inc., has acquired thirteen entities wholly owned by Respondent Marathon Petroleum Corporation with full knowledge that such acquisition was in violation of Section 7 of the Clayton Act, as amended, 15 U.S.C. § 18, and Section 5 of the FTC Act, as amended, 15 U.S.C. § 45, and that a proceeding in respect thereof would be in the public interest, hereby issues this complaint, stating its charges as follows.

**I. RESPONDENTS**

1. Respondent Seven & i Holdings Co., Inc. ("Seven & i") is a publicly-traded company with its office and principal place of business located in Tokyo, Japan.

2. Respondent 7-Eleven, Inc. ("7-Eleven") is a corporation organized, existing, and doing business under, and by virtue of, the laws of the State of Texas with its office and principal place of business located in Irving, Texas. 7-Eleven is a wholly owned subsidiary of Seven & i.