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FTC Settles Charges of Anticompetitive Conduct Against Intel

Provisions are Designed to Foster Competition in the Computer Chip Business

FOR RELEASE

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The Federal Trade Commission approved a settlement with Intel Corp. that resolves charges the company illegally stifled competition in the market for computer chips. Intel has agreed to provisions that will open the door to renewed competition and prevent Intel from suppressing competition in the future.

The settlement goes beyond the terms applied to Intel in previous actions against the company and will help restore competition that was lost as a result of Intel's alleged past anticompetitive tactics. At the same time, the settlement will leave the company room to innovate and offer competitive pricing.

"This case demonstrates that the FTC is willing to challenge anticompetitive conduct by even the most powerful companies in the fastest-moving industries," said Chairman Jon Leibowitz. "By accepting this settlement, we open the door to competition today and address Intel's anticompetitive conduct in a way that may not have been available in a final judgment years from now. Everyone, including Intel, gets a greater degree of certainty about the rules of the road going forward, which allows all the companies in this dynamic industry to move ahead and build better, more innovative products."

The FTC settlement applies to Central Processing Units, Graphics Processing Units and chipsets and prohibits Intel from using threats, bundled prices, or other offers to exclude or hamper competition or otherwise unreasonably inhibit the sale of competitive CPUs or GPUs. The settlement also prohibits Intel from deceiving computer manufacturers about the performance of non-Intel CPUs or GPUs.

The FTC settlement goes beyond those reached in previous antitrust cases against Intel in a number of ways. For example, the FTC settlement order protects competition and not any single competitor in the CPU, graphics, and chipset markets. It also addresses Intel's disclosures related to its compiler – a product that plays an important role in CPU performance. The settlement order also ensures that manufacturers of complementary products such as discrete GPUs will be assured access to Intel's CPU for the next six years.

The FTC sued Intel in December 2009 alleging that the company used anticompetitive tactics to cut off rivals' access to the marketplace and deprive consumers of choice and innovation in the microchips that comprise

computers' central processing unit, or CPU. These chips are critical components that often are referred to as the "brains" of a computer. The action also challenged Intel's conduct in markets for graphics processing units and other chips.

The FTC alleged that Intel's anticompetitive practices violated Section 5 of the FTC Act, which is broader than the antitrust laws and prohibits unfair methods of competition and deceptive acts and practices in commerce. Unlike an antitrust violation, a violation of Section 5 cannot be used to establish liability for plaintiffs to seek triple damages in private litigation against the same defendant.

Under the settlement, Intel will be prohibited from:

- conditioning benefits to computer makers in exchange for their promise to buy chips from Intel exclusively or to refuse to buy chips from others; and

- retaliating against computer makers if they do business with non-Intel suppliers by withholding benefits from them.

In addition, the FTC settlement order will require Intel to:

- modify its intellectual property agreements with AMD, Nvidia, and Via so that those companies have more freedom to consider mergers or joint ventures with other companies, without the threat of being sued by Intel for patent infringement;

- offer to extend Via's x86 licensing agreement for five years beyond the current agreement, which expires in 2013;

- maintain a key interface, known as the PCI Express Bus, for at least six years in a way that will not limit the performance of graphics processing chips. These assurances will provide incentives to manufacturers of complementary, and potentially competitive, products to Intel's CPUs to continue to innovate; and

- disclose to software developers that Intel computer compilers discriminate between Intel chips and non-Intel chips, and that they may not register all the features of non-Intel chips. Intel also will have to reimburse all software vendors who want to recompile their software using a non-Intel compiler.

The FTC vote approving the proposed settlement order was 4-0, with Commissioner William E. Kovacic recused. The order will be subject to public comment for 30 days, until September 7, 2010, after which the Commission will decide whether to make it final. Comments should be sent to: FTC, Office of the Secretary, 600 Pennsylvania Avenue, N.W., Washington, DC 20580. To submit a comment electronically, please click on: <https://ftcpublic.commentworks.com/ftc/intel/>.

NOTE: A consent agreement is for settlement purposes only and does not constitute an admission of a law violation. When the Commission issues a consent order on a final basis, it carries the force of law with respect to future actions. Each violation of such an order may result in a civil penalty of up to \$16,000.

The FTC's Bureau of Competition works with the Bureau of Economics to investigate alleged anticompetitive business practices and, when appropriate, recommends that the Commission take law enforcement action. To inform the Bureau about particular business practices, call 202-326-3300, send an e-mail to antitrust@ftc.gov, or write to the Office of Policy and Coordination, Room 383, Bureau of Competition, Federal Trade Commission, 600 Pennsylvania Ave, N.W., Washington, DC 20580. To learn more about the Bureau of Competition, read "Competition Counts" at <http://www.ftc.gov/competitioncounts>.

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