

Enforcement Actions in Industry/Sector: Information and Technology (FY 1996 - FY 2012)

Matter: Enforcement Date: Matter and Action Type:

Information and Technology – Cable TV

1. **0010105 - AOL, Inc. / Time Warner Inc.** 12/14/2000 Merger - Consent Order Accepted for Comment
<http://www.ftc.gov/os/caselist/c3989.shtm>

AOL and Time Warner Inc. settled Commission concerns relating to their proposed merger. The order requires AOL Time Warner to open its cable system to competitor internet service providers. In addition, the company is prohibited from interfering with content passed along the bandwidth contracted for by non-affiliated internet service providers; and prohibited from interfering with the ability of non-affiliated providers of interactive television services to interact with interactive signals that AOL Time Warner agreed to carry.

2. **9710095 - TCI / Cablevision** 1 /16/1998 Merger - Consent Order Accepted for Comment
<http://www.ftc.gov/os/caselist/c3804.shtm>

Consent order settles charges that Cablevision's acquisition of certain cable operations in northern New Jersey and in New York from Tele-Communications Inc. would result in higher prices and lower quality of cable television services for residents of Paramus and Hillsdale, New Jersey. The settlement requires divestiture of TCI's cable systems in the two cities.

3. **9610004 - Time Warner / Turner Broadcasting** 9 /12/1996 Merger - Consent Order Accepted for Comment
<http://www.ftc.gov/os/caselist/c3709.shtm>

Final consent order requiring the restructuring of the acquisition of Turner Broadcasting System, Inc. settles antitrust concerns that the acquisition would restrict competition in cable television programming and distribution. The order requires Tele-Communications, Inc., the nation's number one cable operator, to divest its interests in Turner; reduces contractual agreements between TCI, Turner and Time Warner to carry certain programming; reduces opportunities for bundling programming; prohibits price discrimination against competing cable systems; and requires Time Warner's cable systems to carry a rival news channel to compete with CNN.

Information and Technology – Hardware

1. **1110122 - Western Digital / Hitachi** 3 /5 /2012 Merger - Consent Order Accepted for Comment
<http://www.ftc.gov/os/caselist/1110122/index.shtm>

The FTC will require Western Digital Corporation to sell assets used to manufacture and sell desktop hard disk drives to Toshiba Corporation as part of a proposed settlement that resolves charges that Western Digital's proposed acquisition of rival Hitachi Global Storage Technologies Ltd. would likely have harmed competition in the market for desktop hard disk drives used in personal computers. The proposed FTC order settles charges that the deal as originally proposed would have left only two companies, Western Digital and Seagate Technology LLC, in control of the entire worldwide market for desktop hard disk drives.

2. **0610247 - Intel Corporation** 12/16/2009 Nonmerger - Part III Administrative Complaint
<http://www.ftc.gov/os/adjpro/d9341/index.shtm>

In December of 2009, the Commission sued Intel Corp., the world's leading computer chip maker, charging that the company had illegally used its dominant market position for a decade to stifle competition and strengthen its monopoly. In its complaint, the FTC alleges that Intel has waged a systematic campaign to shut out rivals' competing microchips by cutting off their access to the marketplace. In the process, Intel deprived consumers of choice and innovation in the microchips that comprise the computers' central processing unit, or CPU. These chips are critical components that often are referred to as the "brains" of a computer. According to the FTC complaint, Intel's anticompetitive tactics were designed to put the brakes on superior competitive products that threatened its monopoly in the CPU microchip market. In August of 2010, Intel agreed to a settlement agreeing to provisions that will open the door to renewed competition and prevent Intel from suppressing competition in the future.

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3. 0110017 - Rambus, Inc.

6 /18/2002

Nonmerger - Part III Administrative Complaint

<http://www.ftc.gov/os/caselist/d9302.shtm>

The Commission filed a complaint with an administrative law judge charging that between 1991 and 1996 Rambus, Inc. joined and participated in the JEDEC Solid State Technology Association (JEDEC), the leading standard-setting industry for computer memory. According to the complaint, JEDEC rules require members to disclose the existence of all patents and patent applications that relate to JEDEC's standard-setting work. While a member of JEDEC, Rambus observed standard-setting work involving technologies which Rambus believed were or could be covered by its patent applications, but failed to disclose this to JEDEC. In 1999 and 2000, after JEDEC had adopted industry-wide standards incorporating the technologies at issue and the industry had become locked in to the use of those technologies, Rambus sought to enforce its patents against companies producing JEDEC-compliant memory, and in fact has collected substantial royalties from several producers of DRAM (dynamic random access memory). (February 17, 2004) The administrative law judge dismissed all charges against Rambus, ruling that Commission staff had failed to sustain their burden of proof with respect to all three violations alleged in the complaint. The Initial Decision found that Rambus' conduct before the JEDEC standard-setting organization did not amount to deception and did not violate any extrinsic duties, such as a duty of good faith to disclose patents or patent applications. The Initial Decision also found that there was insufficient evidence that there were viable alternatives to Rambus' technology before the standard setting organization. (August 2, 2006) The FTC issued an opinion by Commissioner Pamela Jones Harbour concluding that Rambus unlawfully monopolized markets for four computer memory technologies that have been incorporated into industry standards DRAM chips. Drams are widely used in personal computers, servers, printers, and cameras. The Commission found that, through a course of deceptive conduct, Rambus was able to distort a critical standard-setting process and engage in an anticompetitive "hold up" of the computer memory industry. The Commission held that Rambus's acts of deception constituted exclusionary conduct under 21 Section 2 of the Sherman Act and contributed significantly to Rambus's acquisition of monopoly power in the four relevant markets. (February 5, 2007) Chairman Majoras issued the opinion of the Commission on remedy in the Rambus matter. In this opinion, the Commission prescribed a set of remedies barring Rambus from making misrepresentations or omissions to standard-setting organizations, requiring Rambus to license its SDRAM and DDR SDRAM technology and setting limits to the royalty rates it can collect under the licensing agreements including with those firms that may have already incorporated its DRAM technology, and requiring Rambus to employ a Commission-approved compliance officer to ensure it discloses relevant patent information to any standard-setting organizations in which it participates. (April 4, 2007) Rambus appealed the Commission's order to the U.S. Court of Appeals for the District of Columbia Circuit, which heard oral arguments in February 2008. In April of 2008, the Court issued an opinion that set aside the Commissions final orders and remanded for further proceedings consistent with the Court's opinion. On February 23, 2009, the Supreme Court denied the Commission's Petition for Writ of Certiorari. On May 14, 2009 the Commission formally dismissed the complaint in the Rambus matter.

4. 9510028 - Intel Corp

6 /8 /1998

Nonmerger - Part III Administrative Complaint

<http://www.ftc.gov/os/caselist/d9288.shtm>

An administrative complaint charged that Intel Corporation used its monopoly power to deny three companies continuing access to technical information necessary to develop computer systems based on Intel microprocessors. A consent order (August 3, 1999) prohibits Intel, among other things, from withholding certain advance technical information from a customer as a means of intellectual property licenses. The order protects Intel's rights to withhold its information or microprocessors for legitimate business reasons.

5. 9810040 - Intel / DEC

4 /23/1998

Merger - Consent Order Accepted for Comment

<http://www.ftc.gov/os/caselist/c3818.shtm>

Final order settles allegations that Intel's acquisition of Digital Equipment Corporation's assets could endanger the continuing and future development of the Alpha microprocessor, a direct competitor of Intel's Pentium line of computer system components. The order requires Digital to license the Alpha technology to Advanced Micro Devices and to Samsung Electronics Co., Ltd. or to other Commission-approved companies to manufacture Digital's microprocessor devices.

6. 9310097 - Dell Computer Inc

10/26/1995

Nonmerger - Consent Order Accepted for Comment

<http://www.ftc.gov/opa/1996/06/dell2.shtm>

Final consent order resolves charges of unlawful practices in standard-setting. The order prohibits Dell from enforcing its patent rights against computer manufacturers that adopt VL-bus technology design standard in the central processing unit of computers that use 486 chips. The consent order is the first time a federal antitrust agency has taken an enforcement action against an entity that attempted to restrain competition through abuse of a voluntary standard-setting process.

Information and Technology – Other

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1. 0910135 - Varian, Inc. / Agilent, Inc.

5 /14/2010

Merger - Consent Order Accepted for Comment

<http://www.ftc.gov/os/caselist/0910135/index.shtm>

Agilent Technologies, Inc. and Varian, Inc., two leading global suppliers of high-performance scientific measurement instruments, have agreed to sell three of their product lines in order to proceed with their proposed \$1.5 billion merger. According to the FTC's complaint, Agilent's acquisition of Varian would have violated U.S. antitrust laws by reducing competition for three types of scientific measurement instruments because the companies currently compete with one another in those markets. To resolve these competitive concerns, the parties have agreed to an FTC order requiring them to sell assets related to the manufacture and sale of: 1) Micro Gas Chromatography (Micro GC) instruments; 2) Triple Quadrupole Gas Chromatography-Mass Spectrometry (3Q GC-MS) instruments; and 3) Inductively Coupled Plasma-Mass Spectrometry (ICP-MS) instruments.

2. 0310201 - Itron / Schlumberger

6 /3 /2004

Merger - Consent Order Accepted for Comment

<http://www.ftc.gov/os/caselist/0310201/0310201.shtm>

The consent order, designed to preserve competition in the market for the manufacture and sale of mobile radio frequency automatic meter reading technologies for electric utilities in the United States, permitted Itron's \$255 million acquisition of Schlumberger Electricity, Inc. The consent order requires Itron to grant a royalty-free, perpetual, and irrevocable license to Hunt Technologies, Inc., creating an effective competitor in this market that allows utility companies and others to gather electric consumption data automatically and remotely from electricity meters.

Information and Technology – Software/Databases

1. 0910032 - Fidelity / LandAmerica

7 /16/2010

Merger - Consent Order Accepted for Comment

<http://www.ftc.gov/os/caselist/0910032/index.shtm>

To settle Federal Trade Commission charges that its 2008 acquisition of three LandAmerica Financial, Inc. subsidiaries was anticompetitive, Fidelity National Financial, Inc. will sell several title plants and related assets in the Portland, Oregon, and Detroit, Michigan, metropolitan areas, and in four other Oregon counties. Title plants are databases used by abstractors, title insurers, title insurance agents, and others to determine the ownership of, and interests in, real property in connection with underwriting and issuance of title insurance policies and for other purposes. According to the FTC, Fidelity's acquisition of the LandAmerica assets was anticompetitive in several local markets for the provision of title insurance information services by title plants. The FTC's complaint charges the acquisition reduced competition in six geographic areas: 1) the Portland, Oregon, metropolitan area, consisting of Clackamas, Multnomah, and Washington counties; 2) Benton County, Oregon; 3) Jackson County, Oregon; 4) Marion County, Oregon; 5) Linn County, Oregon; and 6) the Detroit, Michigan, metropolitan area consisting of Oakland, Macomb, and Wayne counties.

2. 0910081 - MDR (The Dunn & Bradstreet Corp) / QED

5 /7 /2010

Merger - Part III Administrative Complaint

<http://www.ftc.gov/os/adjpro/d9342/index.shtm>

The FTC issued an administrative complaint on 5/7/2010 challenging The Dun & Bradstreet Corporation February 2009 acquisition of Quality Education Data (QED) and alleging that the deal hurt consumers by eliminating nearly all competition in the market for kindergarten through twelfth-grade educational marketing databases. The data sold by these companies is used to sell books, education materials, and other products to teachers and other educators nationwide. The combination of the two companies gave Dun & Bradstreet, through its subsidiary Market Data Retrieval (MDR), more than 90 percent of the market for K-12 educational marketing data. Dun & Bradstreet acquired QED from Scholastic, Inc. for about \$29 million, which was below the threshold amount that would have required the companies to notify U.S. antitrust authorities before finalizing the deal.

3. 0810155 - Mitchell International / CCC Information Services

11/25/2008

Merger - Part III Administrative Complaint with Federal Injunction

<http://www.ftc.gov/os/adjpro/d9334/index.shtm>

In November 2008, the Commission issued an administrative complaint charging that the acquisition of CCC Information Services by Mitchell International, a transaction valued at \$1.4 billion, would be anticompetitive in the market for "estimatics", a database system used by auto insurers and repair shops to generate repair estimates for consumers. According to the complaint, the transaction would also harm competition in the market for total loss valuation (TLV) systems, used to inform consumers when their vehicle has been totaled. The transaction would create a new entity with well over half of the market share for these systems, allowing for unilateral price increases, and facilitating coordination among the remaining smaller competitors in the market. The Commission concurrently authorized staff to file a complaint in Federal District Court. On March 9, 2009, the US District Court for the District of Columbia ordered a preliminary injunction and temporary restraining order preventing the parties from consummating the transaction pending a full administrative trial on the merits. On March 13, 2009, since the respondents announced that they decided not to proceed with the proposed merger the Commission dismissed the Administrative Complaint.

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4. 0810133 - Reed Elsevier PLC / ChoicePoint Inc.	9 /16/2008	Merger - Consent Order Accepted for Comment http://www.ftc.gov/os/caselist/0810133/index.shtm
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In September, 2008, the Commission challenged Reed Elsevier's \$4.1 billion proposed acquisition of ChoicePoint, which would have combined the two leading providers of electronic public record services provided to U.S. law enforcement customers. Public records services compile public and non-public records about individuals and businesses, including credit data, criminal, motor vehicle, property, and employment records, all used by law enforcement as an investigative tool in solving a wide variety of crimes. The transaction, as proposed, would have removed the intense rivalry that had led to lower prices, product innovations, and improved services and support for law enforcement customers by eliminating the competition between Reed Elsevier's LexisNexis product and ChoicePoint's AutoTrackXP and CLEAR products. The Commission required divestiture of ChoicePoint's product lines to Thomson Reuters Legal Inc. The Commission worked with the Attorneys General of eighteen states on this investigation.

5. 0510094 - Negotiated Data Solutions, LLC	1 /23/2008	Nonmerger - Consent Order Accepted for Comment http://www.ftc.gov/os/caselist/0510094/index.shtm
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The Commission charged that Negotiated Data Solutions LLC (N-Data) violated Section 5 of the FTC Act by engaging in unfair methods of competition. N-Data acquired patent rights originally held by National Semiconductor Corp. which were included in an IEEE industry standard for autonegotiation technology, which allows Ethernet devices made by different manufacturers to work together. Ethernet is a computer networking standard that is used in nearly every computer sold in the U.S. N-Data reneged on National Semiconductor's commitment to charge a one-time royalty of \$1000 to manufacturers or sellers of products using the IEEE standard, and demanded higher royalties from users. In a proposed consent agreement resolving the charges, the Commission proposes to order N-Data to stop enforcing the patents at issue unless N-Data has first offered a license under the original terms.

6. 0210153 - Aspen Technology, Inc.	8 /7 /2003	Merger - Part III Administrative Complaint http://www.ftc.gov/os/adjpro/d9310/index.shtm
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Under terms of the order, Aspen agreed to divest Hypotech's continuous process and batch process assets and Aspen's operator training software and service business to a Commission-approved buyer to settle charges in the complaint and resolve the administrative proceedings. The Commission issued an administrative complaint on August 6, 2003 that challenged Aspen's 2002 acquisition of Hypotech, Ltd. alleging that the acquisition eliminated a significant competitor in the provision of process engineering simulation software for industry. According to the complaint, the acquisition has led to reduced innovation competition in six specific process engineering simulation software markets.

7. 0010077 - MSC. Software Corporation	10/10/2001	Merger - Part III Administrative Complaint http://www.ftc.gov/os/caselist/d9299.shtm
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MSC settled charges that its 1999 acquisitions of Universal Analytics, Inc. and Computerized Structural Analysis & Research Corp. eliminated competition between the three firms in the development and application of engineering software. The administrative complaint issued October 2001, alleged that the two acquisitions would eliminate competition for advanced versions of Nastran, an engineering simulation software program used throughout the aerospace and automotive industries. The consent order required MSC to divest at least one clone copy of its current advance Nastran through royalty-free perpetual, non-exclusive licenses to one or two acquirers approved by the Commission.

8. 0010212 - Siemens AG / Vodafone Group Plc	4 /6 /2001	Merger - Consent Order Accepted for Comment http://www.ftc.gov/os/caselist/c4011.shtm
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Siemens settled charges relating to its proposed \$9 billion acquisition of Atecs Mannesmann AG, a subsidiary of Vodafone. The consent order requires, among other things, the divestiture of Vodafone's Mannesmann Dematic Postal Automation business to Northrop Grumman Corporation. Siemens and Vodafone, through its Dematic subsidiary, are the two leading suppliers of postal automation systems in the world.

9. 0010181 - Computer Sciences Corporation / Mynd Corporation	12/20/2000	Merger - Consent Order Accepted for Comment http://www.ftc.gov/os/caselist/c3991.shtm
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Final consent order permitted the acquisition of Mynd Corporation and required the divestiture of Mynd's Claims Outcome Advisor System to Insurance Services Office, Inc. Claims assessment systems are used by insurance companies to evaluate appropriate payments for claims of bodily injury and to evaluate return-to-work plans in workers compensation matters.

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10. 9510083 - Sensormatic	1 /16/1998	Nonmerger - Consent Order Accepted for Comment http://www.ftc.gov/os/caselist/c3795.shtm
Checkpoint Systems, Inc. and Sensormatic Electronics Corporation, the two largest marketers of electronic article surveillance systems used in retail stores to prevent shoplifting, agreed to nullify and void the section of their June 1993 agreement that restricts negative advertising and promotional claims about each other's products or services. The consent order also prohibits each firm from entering into any agreement that restricts truthful, non-deceptive advertising, comparative advertising or promotional and sales activities.		
11. 9710033 - Cadence Design / Cooper & Chyan	5 /6 /1997	Merger - Consent Order Accepted for Comment http://www.ftc.gov/os/caselist/c3761.shtm
Cadence agreed to settle charges that its acquisition of Cooper & Chyan Technology, Inc. would reduce competition for "routing" software used to automate the design of integrated circuits or microchips. According to the complaint, the merger would reduce Cadence's incentives to permit competing suppliers of routing tools to obtain access to its layout environments resulting in less innovation, higher prices, and reduced services. To ensure that independent software developers of commercial routing tools continue to compete with Cooper & Chyan's technology, the consent order requires Cadence to allow the developers to participate in Cadence's software interface programs.		
12. 9710049 - Autodesk / Softdesk	3 /28/1997	Merger - Consent Order Accepted for Comment http://www.ftc.gov/os/caselist/c3756.shtm
Consent order settles charges that the acquisition of Sojidesk, Inc. would reduce competition in the development and sale of computer-aided design software engines (CAD) and prohibits Autodesk from reacquiring "IntelliCADD," a CAD engine recently sold by Softdesk to Boomerang Technology, Inc., or any entity that controls the IntelliCadd technology.		
13. 9710013 - Hicks Muse / Cooperative Computing / Triad	2 /25/1997	Merger - Consent Order Accepted for Comment http://www.ftc.gov/os/caselist/c3757.shtm
Consent order will preserve competition in electronic parts catalogs for the auto parts aftermarket. The final order permits the acquisition of Triad Systems Corporation but requires the divestiture within 60 days of the PartFinderB electronic catalog database, and the J-CON application program interface, and support software and documentation, through an exclusive, royalty-free and perpetual license with the right to sublicense, to MacDonald Computer Systems or another Commission- approved buyer.		
14. 9510130 - Dwight's Energydata / Petroleum Infor	12/3 /1996	Merger - Consent Order Accepted for Comment http://www.ftc.gov/os/caselist/c3759.shtm
Consent order settles charges that the acquisition of Petroleum Information Corporation could create a monopoly for production and well history data used by geologists and petroleum engineers to find additional oil and gas reserves. The settlement requires Dwight to license a complete set of well history to HPDI, an independent competitor, or another Commission-approved licensee.		
15. 9510113b ADP / AutoInfo	11/16/1996	Merger - Part III Administrative Complaint http://www.ftc.gov/os/caselist/d9282.shtm
An administrative complaint charged that the 1995 acquisition of AutoInfo, Inc. created a monopoly and raised prices in the automobile salvage yard information management industry. A final order requires the divestiture of specific integrated computer systems for auto parts inventory exchange.		