

**ANALYSIS OF AGREEMENT CONTAINING CONSENT ORDER
TO AID PUBLIC COMMENT**

*In the Matter of ON Semiconductor Corporation
File No. 161-0061*

1. INTRODUCTION

The Federal Trade Commission (“Commission”) has accepted from ON Semiconductor Corporation (“ON”), subject to final approval, an Agreement Containing Consent Order (“Consent Agreement”) designed to remedy the anticompetitive effects that would likely result from ON’s proposed acquisition of Fairchild Semiconductor International, Inc. (“Fairchild”).

On November 18, 2015, ON announced that it had entered into a definitive agreement involving an all-cash tender offer to acquire all of the outstanding shares of common stock of Fairchild for approximately \$2.4 billion (“Acquisition”). The proposed Acquisition would combine the two largest suppliers of insulated-gate bipolar transistors (IGBTs) used in automotive ignition systems (“Ignition IGBTs”) worldwide. The Commission’s Complaint alleges that the proposed Acquisition, if consummated, would violate 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, by substantially lessening competition in the worldwide market for Ignition IGBTs.

Under the terms of the proposed Decision and Order (“Order”) contained in the Consent Agreement, ON is required to divest its Ignition IGBT business to Littelfuse, Inc. (“Littelfuse”) no later than 10 days from the close of the Acquisition. The divestiture package includes design files and intellectual property associated with the manufacture and sale of Ignition IGBTs, customer and distributor relationships with respect to Ignition IGBTs, and technology transfers and transitional services such as manufacturing support. In short, the Consent Agreement provides Littelfuse with everything it needs to compete effectively in the Ignition IGBT market.

The Commission has placed the Consent Agreement on the public record for 30 days to solicit 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 decide whether it should withdraw from the Consent Agreement, modify it, or make the Order final.

2. THE PARTIES

Headquartered in Phoenix, Arizona, ON is a semiconductor developer and manufacturer providing a highly diversified portfolio of semiconductor products, including power and signal management, image sensing, and other standard and custom devices, for a variety of end-use applications, including communications, computing, consumer, industrial, and automotive. ON designs, manufactures, and sells Ignition IGBTs, among other products, in its Automotive Product Division.

Fairchild, headquartered in Sunnyvale, California, develops and manufactures a wide variety of low to high voltage power semiconductor products and devices as well as certain non-power semiconductor devices, which are used in a variety of end-use applications, including automotive, consumer, computing, and industrial applications. Fairchild designs, manufactures, and sells Ignition IGBTs in its Automotive Business Unit.

3. THE RELEVANT PRODUCT AND MARKET STRUCTURE

The relevant product market in which to assess the competitive effects of the proposed Acquisition is no broader than Ignition IGBTs. IGBTs are a type of semiconductor that transmits, converts, and switches electrical power. Ignition IGBTs are a type of IGBT specifically designed and calibrated for automotive ignition systems in gasoline engine vehicles. They function as switches that control the electrical current that passes through the ignition coil. ON and Fairchild sell Ignition IGBTs to Tier 1 automotive suppliers, who then incorporate them into the ignition systems that they sell to automotive manufacturers. Currently, there is no functional substitute for Ignition IGBTs.

The relevant geographic market for Ignition IGBTs is worldwide. The two major Ignition IGBT suppliers—ON and Fairchild—manufacture the products in facilities around the world, and ship them to customer locations worldwide. There are no regulatory barriers, tariffs, or technical specifications to impede worldwide trade, and transportation costs are low.

The Ignition IGBT market is characterized by a limited number of suppliers. ON and Fairchild are by far the two largest suppliers of Ignition IGBTs. Fairchild is the market leader and ON is the second-largest supplier. Their combined share of the Ignition IGBT market would exceed 60%. The parties' next closest competitor has a significantly smaller share of the market. Other market participants are even smaller and do not constrain the parties. There are also several other suppliers located in Japan, but they primarily supply Japanese automotive manufacturers. Due to burdensome qualification requirements for customers outside of Japan, it would take several years before these suppliers could be qualified to supply the parties' customers with Ignition IGBTs.

The proposed ON/Fairchild combination would cause a highly concentrated market for Ignition IGBTs to become even more concentrated, increasing the Herfindahl-Hirschman Index ("HHI") by more than 1500. This increase in concentration far exceeds the thresholds set out in the *Horizontal Merger Guidelines* for raising a presumption that the Acquisition would create or enhance market power.

4. EFFECTS OF THE ACQUISITION

Absent a divestiture, the proposed Acquisition is likely to cause competitive harm in the Ignition IGBT market. ON and Fairchild compete directly against each other for Ignition IGBT sales, and customers benefit from that competition in terms of both pricing and product innovation. Customers describe ON and Fairchild as each other's closest competitor. Likewise, ON and Fairchild view each other the same way. By eliminating the competition between ON

and Fairchild, the proposed Acquisition likely would lead to unilateral effects in the form of higher prices and reduced innovation.

5. ENTRY

Entry into the Ignition IGBT market is not likely to deter or counteract any anti-competitive effects of the proposed Acquisition. Given the niche nature of the Ignition IGBT market, declining demand, and the lengthy time it would take to qualify new products with customers, entry is unlikely and would not be timely. Market participants confirmed that it would take at least three to four years before a new entrant could become a viable supplier. Existing IGBT manufacturers, moreover, are not rapid entrants. The process of designing an IGBT for ignition systems and qualifying it with customers would take years.

6. THE PROPOSED CONSENT AGREEMENT

The Consent Agreement restores the competition lost from the proposed Acquisition by requiring ON to divest its Ignition IGBT business to Littelfuse, a publicly traded company based in Chicago, Illinois. The proposed divestiture includes everything needed for Littelfuse to compete effectively in the worldwide market for Ignition IGBTs.

Under the Order, ON is required to divest its Ignition IGBT business to Littelfuse no later than 10 days from the close of the Acquisition. The divestiture package consists of the following assets: design files, patents and technologies for Ignition IGBTs; licenses to manufacturing process technology; a process to facilitate the transfer of customer and distributor relationships with respect to Ignition IGBTs; technology transfers and transitional services including manufacturing support; and, if Littelfuse requests, secondment of ON personnel to support the transfer from ON to Littelfuse of the technology and know-how for production of Ignition IGBTs. No physical assets are being divested because a third party will manufacture Ignition IGBTs for Littelfuse.

The Order requires that, at the request of Littelfuse and in a manner approved by the Commission, ON must provide transitional manufacturing for a period of up to three years with a possible option to extend the period by up to two years. Similarly, the Order also requires ON to provide support services such as logistical and administrative support for up to three years with a possible option to extend the period for up to two years. In addition, the Order includes other standard terms designed to ensure the viability of the divested business.

A Monitor will monitor ON's compliance with the obligations set forth in the Order. If ON does not fully comply with the divestiture and requirements of the Order, the Commission may appoint a Divestiture Trustee to divest the Ignition IGBT business and perform ON's other obligations consistent with the Order.

The divestiture of ON's Ignition IGBT business to Littelfuse will preserve competition that would otherwise have been lost as a result of the Acquisition. Potential customers have confirmed that the divested assets include everything necessary to compete effectively as a viable business. Similarly, potential customers have confirmed that Littelfuse would be a competitive option as a supplier.

7. OPPORTUNITY FOR PUBLIC COMMENT

The purpose of this analysis is to facilitate public comment on the Consent Agreement to aid the Commission in determining whether it should make the Consent Agreement final. This analysis is not an official interpretation of the proposed Consent Agreement and does not modify its terms in any way.