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FEDERAL TRADE COMMISSION

[File No. 161 0061]

ON Semiconductor Corporation; Analysis to Aid Public Comment

AGENCY: Federal Trade Commission.

ACTION: Proposed Consent Agreement.

SUMMARY: The consent agreement in this matter settles alleged violations of federal law prohibiting unfair methods of competition. The attached Analysis to Aid Public Comment describes both the allegations in the complaint and the terms of the consent order -- embodied in the consent agreement -- that would settle these allegations.

DATES: Comments must be received on or before September 26, 2016.

ADDRESSES: Interested parties may file a comment at https://ftcpublic.commentworks.com/ftc/fairchildconsent online or on paper, by following the instructions in the Request for Comment part of the **SUPPLEMENTARY INFORMATION** section below. Write “In the Matter of ON Semiconductor Corporation, File No. 161-0061- Consent Agreement” on your comment and file your comment online at https://ftcpublic.commentworks.com/ftc/fairchildconsent by following the instructions on the web-based form. If you prefer to file your comment on paper, write “In the Matter of ON Semiconductor Corporation, File No. 161-0061- Consent Agreement” on your comment and on the envelope, and mail your comment to the following address: Federal Trade Commission, Office of the Secretary, 600 Pennsylvania Avenue, NW, Suite CC-5610 (Annex D), Washington, DC 20580, or deliver your comment to the following address: Federal Trade Commission, Office of the Secretary, Constitution Center, 400 7th Street, SW, 5th Floor, Suite 5610 (Annex D), Washington, DC 20024.

FOR FURTHER INFORMATION CONTACT: Llewellyn Davis (202-326-3394), Bureau of Competition, 600 Pennsylvania Avenue, NW, Washington, DC 20580.

SUPPLEMENTARY INFORMATION: Pursuant to Section 6(f) of the Federal Trade Commission Act, 15 U.S.C. 46(f), and FTC Rule 2.34, 16 CFR § 2.34, notice is hereby given that the above-captioned consent agreement containing consent order to cease and desist, having been filed with and accepted, subject to final approval, by the Commission, has been placed on the public record for a period of thirty (30) days. The following Analysis to Aid Public Comment describes the terms of the consent agreement, and the allegations in the complaint. An electronic copy of the full text of the consent agreement package can be obtained from the FTC Home Page (for August 25, 2016), on the World Wide Web, at http://www.ftc.gov/os/actions.shtm.

You can file a comment online or on paper. For the Commission to consider your comment, we must receive it on or before September 26, 2016. Write "In the Matter of ON Semiconductor Corporation, File No. 161-0061- Consent Agreement" on your comment. Your comment - including your name and your state - will be placed on the public record of this proceeding, including, to the extent practicable, on the public Commission Website, at http://www.ftc.gov/os/publiccomments.shtm. As a matter of discretion, the Commission tries to remove individuals' home contact information from comments before placing them on the Commission Website.

Because your comment will be made public, you are solely responsible for making sure that your comment does not include any sensitive personal information, like anyone's Social

Security number, date of birth, driver's license number or other state identification number or foreign country equivalent, passport number, financial account number, or credit or debit card number. You are also solely responsible for making sure that your comment does not include any sensitive health information, like medical records or other individually identifiable health information. In addition, do not include any "[t]rade secret or any commercial or financial information which . . . is privileged or confidential," as discussed in Section 6(f) of the FTC Act, 15 U.S.C. § 46(f), and FTC Rule 4.10(a)(2), 16 CFR § 4.10(a)(2). In particular, do not include competitively sensitive information such as costs, sales statistics, inventories, formulas, patterns, devices, manufacturing processes, or customer names.

If you want the Commission to give your comment confidential treatment, you must file it in paper form, with a request for confidential treatment, and you have to follow the procedure explained in FTC Rule 4.9(c), 16 CFR § 4.9(c).[1] Your comment will be kept confidential only if the FTC General Counsel, in his or her sole discretion, grants your request in accordance with the law and the public interest.

Postal mail addressed to the Commission is subject to delay due to heightened security screening. As a result, we encourage you to submit your comments online. To make sure that the Commission considers your online comment, you must file it at https://ftcpublic.commentworks.com/ftc/fairchildconsent by following the instructions on the web-based form. If this Notice appears at http://www.regulations.gov/#!home, you also may file a comment through that website.

[1] In particular, the written request for confidential treatment that accompanies the comment must include the factual and legal basis for the request, and must identify the specific portions of the comment to be withheld from the public record. *See* FTC Rule 4.9(c), 16 CFR § 4.9(c).

If you file your comment on paper, write "In the Matter of ON Semiconductor Corporation, File No. 161-0061- Consent Agreement" on your comment and on the envelope, and mail your comment to the following address: Federal Trade Commission, Office of the Secretary, 600 Pennsylvania Avenue, NW, Suite CC-5610 (Annex D), Washington, DC 20580, or deliver your comment to the following address: Federal Trade Commission, Office of the Secretary, Constitution Center, 400 7th Street, SW, 5th Floor, Suite 5610 (Annex D), Washington, DC. If possible, submit your paper comment to the Commission by courier or overnight service.

Visit the Commission Website at http://www.ftc.gov to read this Notice and the news release describing it. The FTC Act and other laws that the Commission administers permit the collection of public comments to consider and use in this proceeding as appropriate. The Commission will consider all timely and responsive public comments that it receives on or before September 26, 2016. You can find more information, including routine uses permitted by the Privacy Act, in the Commission's privacy policy, at http://www.ftc.gov/ftc/privacy.htm.

Analysis of Agreement Containing Consent Order to Aid Public Comment

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.

By direction of the Commission.

Donald S. Clark
Secretary.

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