

Updated 04/10/14 to reflect non-material changes in the text of section 2(c)ii.

**MICROSOFT COMMITMENTS TO MOFCOM RELATED TO THE ACQUISITION OF  
NOKIA'S DEVICES AND SERVICES BUSINESS**

1. With respect to Microsoft patents that are essential to an industry standard implemented in smartphones, and for which Microsoft has made a commitment to a standards-setting organization (SSOs) to make available licenses on fair, reasonable and non-discriminatory terms ("FRAND") ("SEPs"), from the date of the closing of this concentration ("Closing Date"), Microsoft will abide by the following previously stated principles:

- a. Microsoft will always adhere to the promises it has made to standards organizations to make its SEPs available on FRAND terms for license.
- b. Microsoft will not seek an injunction or exclusion order on the basis of those SEPs against smartphones made by smartphone manufacturers within the territory of China.
- c. Microsoft will make those SEPs available for license without requiring that those licensees license their patents back to Microsoft, except for any patents they have that are essential to the same industry standard.
- d. Microsoft will not transfer those SEPs to any other entity unless that entity agrees to adhere to the principles outlined above.

The commitments set forth in paragraphs 1.a through 1.d above shall be subject to reciprocity. This means that they apply only to entities that have agreed to be bound by all of the same principles in relation to standard essential patents they own that are subject to a FRAND commitment, as such patents relate to Microsoft products (for example, Windows smartphones).

2. With respect to Program Patents not committed to any industry standard ("non- SEPs"), from the Closing Date:

- a. Microsoft will continue to make available non-exclusive licenses under its existing patent licensing program for Android smartphones, as well as its EAS, RDP and exFAT patent licensing programs, or any versions of these programs that Microsoft may offer in the future to smartphone manufacturers within the territory of China that include coverage under such non-SEPs for the manufacturing, use and sale of smartphones in China ("Licenses").
- b. Microsoft will continue to offer such Licenses, (i) at royalty rates no greater than Microsoft's programmatic royalty rates in effect before this concentration or, in the case of a present Microsoft licensee, those rates specified in such licensee's present agreement; and (ii) on other non-pricing terms and conditions substantially similar to those offered by Microsoft prior to the closing of this concentration. Subject to the limitations described in this paragraph 2.b, with respect to new Licenses or renewals of Licenses, Microsoft may consider giving favorable treatment to a licensee depending on the unique circumstances of such licensee and of market conditions.

- c. Microsoft will not transfer any non-SEPs listed in Annex “A” or Annex “B” to any other entity for a period of five years from the date of MOFCOM’s decision. In addition, after such five year period, Microsoft will not transfer any such patents to any other entity unless that entity agrees to adhere to any applicable licensing promises made by Microsoft prior to the commitments described in this document.

As used herein, the following terms shall have the following meaning:

- i. The term “Program Patents” means those patents made available for license by Microsoft under the Android, EAS, RDP and exFAT patent licensing programs, including but not limited to those patents listed in Annex “A”, as well as their respective Chinese counterparts.

- ii. The term “Android” means the software files that form the Android operating system that is made available through the Android Open Source Project as of the Closing Date. Annex “B” is a non-exhaustive list produced by Microsoft of patents that, to the best of Microsoft’s knowledge, cover technologies that are implemented in Android smartphones (Android Program Patents), including Microsoft patents implemented in Android and Microsoft’s SEPs and non-SEPs that are generally implemented in smartphones.

- d. After the Closing Date Microsoft will only seek injunctions on non-SEPs after having concluded that a potential licensee is not negotiating in good faith for a License; provided that after the Closing Date Microsoft shall continue to make such determinations in a manner that is consistent with its current business practice.

3. Except as otherwise specifically provided in these commitments, nothing in these commitments shall be construed as requiring Microsoft to conduct its patent licensing activities in a manner that is inconsistent with Microsoft’s business practices in effect prior to the acquisition of the Nokia Devices and Services Business. For the avoidance of doubt, nothing in this paragraph 3 shall in any way weaken or modify the commitments set forth in this document.

4. The above commitments will be effective for a term of eight years from the date of MOFCOM’s decision until April 8, 2022, subject to the following exceptions:

- a. The commitments in paragraph 1 will be effective until such time as MOFCOM agrees to amend or terminate them.
- b. The commitment contained in paragraph 2.c prohibiting Microsoft from transferring certain patents will only be effective for the period provided in that paragraph.
- c. The commitment in paragraph 5 will be effective for a period of five years following MOFCOM’s decision until April 8, 2019.
- d. If at any time market conditions or the competitive dynamics change, Microsoft may apply to MOFCOM for amending or relieving any or all of these commitments.
- e. If at any time Microsoft does not control the Nokia Devices and Services Business, these commitments will cease to be effective.

5. MOFCOM has the right to monitor Microsoft’s compliance with the commitments described in this

document in accordance with the Anti-Monopoly Law and relevant regulations. Within 45 days after the end of each calendar year following MOFCOM's decision, Microsoft will provide a report to MOFCOM regarding its compliance with the commitments described in this document.