

SIE Declaration to FTC on Microsoft – Activision Blizzard Transaction

Jim Ryan declares as follows:

1. I am the President and Chief Executive Officer of Sony Interactive Entertainment (“SIE”). I have worked at SIE for nearly 30 years since joining SIE Europe in 1994. Other roles I have held at SIE include Head of Global Sales and Marketing from 2016 to 2019 and Deputy President from 2018 to 2019. I have been in my current role leading SIE since April 2019. In this role, I manage SIE’s overall operations and strategy, with a focus on developing strong relationships with business partners, building user engagement, and growing the PlayStation business.

SIE Background

2. SIE is a multi-national video game company. SIE has approximately \$24 billion in annual revenue globally. Overall, approximately [REDACTED] of SIE’s revenue comes from sales across North and South America.
3. SIE’s business is centered around the PlayStation (“PS”). The first PlayStation console was released in 1994. New generations of PlayStation consoles have been released approximately every 6 years. Within a generation, SIE may also release new versions of a console with upgraded features, such as the PlayStation 4 Pro. PlayStation is currently in the middle of a generational transition from PlayStation 4 to PlayStation 5. PlayStation 5 was released in 2020.
4. SIE earns revenues from three basic sources: hardware sales, game sales, and subscription services. On hardware sales, about [REDACTED] of SIE revenue, or [REDACTED] billion annually, comes from sales of PlayStation consoles and accessories. As explained below, however, SIE’s ability to sell its hardware depends critically on the games that are compatible with PlayStation, because a

customer's choice of console is based largely on the availability of their preferred games and game content.

5. PlayStation games are either (1) "first-party" games, generally meaning that they are produced by SIE's gaming studios, (2) "second-party" games, generally meaning that they are developed for PlayStation by a third-party studio and published by SIE, or (3) "third-party" games, generally meaning that they are independently developed by a third-party studio and published by a third-party publisher. For first-party and second-party games, SIE typically retains the full sales price of the game. In the fiscal year ending March 31, 2022, first-party games accounted for [REDACTED] of total game units sold. On third-party games, the amount SIE typically receives would be the margin between the retail price SIE charges on the PlayStation Store and the wholesale price negotiated with the publisher. Typically, this margin is around [REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

6. [REDACTED]
- [REDACTED]
- [REDACTED]

7. As described below, there are a small subset of highly popular third-party games, like *Call of Duty*, that are crucial to driving user engagement on PlayStation. These third-party games have an outsized ability to draw gamers to PlayStation and to keep gamers coming back to their PlayStation to play again and again. The increased PlayStation user base and engagement driven by these third-party games in turn makes developing additional third-party games for PlayStation more valuable to developers who want access to those PlayStation gamers.

8. SIE also offers network services, including online gameplay, cloud gaming, and content subscription services, to its users. About [REDACTED] of SIE's revenue in FY21, or [REDACTED] [REDACTED], came from network services. Within network services, online gameplay services enable players to play multiplayer games online with other players, while content subscription services provide on-demand access to game libraries. Cloud gaming services allow subscribers to play certain games streamed remotely from a central server instead of running them locally on a console.
9. In March 2022, SIE announced that it was re-organizing its network services into three plans. The first plan, "PlayStation Plus Essential," is \$9.99 per month (or \$24.99 for a quarter and \$59.99 for a year) and offers players online multiplayer access along with two monthly downloadable games, discounts on other games, and cloud storage. "PlayStation Plus Essential" offers the same services at the same price as did PlayStation Plus before the re-organization. The second plan, "PlayStation Plus Extra," provides access to a catalog of up to 400 PlayStation games along with the features included with PlayStation Plus Essential, for \$14.99 per month (or \$39.99 for a quarter and \$99.99 for a year). The third plan, "PlayStation Plus Premium," provides access to a catalog of up to 740 games, including retro classics, along with cloud streaming for some games and the services included with the previous two plans, for \$17.99 per month (or \$49.99 for a quarter and \$119.99 for a year). PlayStation Plus Essential is similar to Microsoft's Xbox Live Gold, which offers online gameplay, while PlayStation Plus Extra and Premium are more like Microsoft's leading Game Pass subscription service, which offers a library of games to subscribers. Prior to the re-organization, PlayStation Now was a separate game streaming and download service that offered players access to a library of PlayStation games. As part of the re-organization, PlayStation Now subscribers were transitioned to the PlayStation Plus Premium tier, and PlayStation Plus Essentials subscribers were given the option

to upgrade to the PlayStation Plus Extra and Premium tiers. As of July 2022, PlayStation Plus Extra had [REDACTED] subscribers and PlayStation Plus Premium had [REDACTED] subscribers.

Competition with Xbox and Game Pass

10. Gamers play video games on a wide range of devices, including dedicated gaming consoles, general computers, computers optimized for gaming, tablets, and mobile phones. Gaming consoles are hardware devices mainly dedicated to video games, enabling customers to play deeply immersive games with detailed and realistic graphics that require high processing power to run. Today's popular consoles include SIE's PlayStation, Microsoft's Xbox, and the Nintendo Switch.
11. Gamers choose between gaming platforms based on game libraries, hardware features, and price, among other factors. For consoles, gamers are most likely to switch between console brands when they purchase a console of a new generation, because at this point they have not yet bought into a particular console's ecosystem. Releases of a new console generation have historically been followed by large redistribution of the user base. The success of a console brand can vary by generation as gamers switch to whichever console they prefer. In the United States, for example, the Xbox 360 outsold its generational rival, the PlayStation 3, while the PlayStation 4 outsold the Xbox One.
12. While PlayStation competes with non-console devices and the Nintendo Switch, at present, PlayStation's closest competitor in gaming is Microsoft's Xbox. Competition between the Xbox and PlayStation began when Microsoft launched the Xbox in 2001. PlayStation and Xbox consoles offer similar graphics and user experiences at comparable price points, and [REDACTED] [REDACTED] generations of

the PlayStation and Xbox are usually released close in time. For example, the consoles in the current generation are the PlayStation 5 and the Xbox Series X (and Series S). The PlayStation 5 was launched in November 2020 and retails for \$499.99 for the edition including a disc drive, or for \$399.99 for the Digital Edition, which has no disc drive but is otherwise identical to the version with a disc drive. The Xbox Series X/S was launched in November 2020 and retails for \$299.99 for the Series S, and \$499.99 for the Series X; compared to the Series X, the Series S has no disc drive, less storage space, and supports lower display resolutions. Due to high global inflation rates and foreign exchange fluctuations, SIE recently announced a price increase for the PS5 in select regions outside the United States.

13. PlayStation and Xbox have competed closely against one another on hardware innovation. For example, the PlayStation 5 featured a graphics processor that is over five times faster than that of the previous generation and a controller with haptic feedback, i.e., stylized vibrations that correspond with actions or events within games. Where older rumble feedback technology would vibrate a controller at a static frequency, haptic feedback involves scripted vibrations and other sensations of varying intensity that can simulate the feeling of driving with a flat tire or the impact of getting punched on the left side of your head. The Xbox Series X likewise incorporated meaningful improvements over the previous generation of Microsoft's consoles, including doubling the computing power of the Xbox One X and adding a solid state drive.
14. Today, other consoles are not as close competitors. The Nintendo Switch has lower performance than both the PlayStation 5 and Xbox Series X. A simplified way of measuring console power and system capability is "FLOPS," which counts the number of certain operations that a graphics processing unit ("GPU") can process per second. While the Xbox Series X can process 12 teraFLOPS and the PlayStation 5 can process 10.3 teraFLOPS, the Nintendo Switch can handle

less than 1 teraFLOPS. Further, the Switch runs on a battery similar to what is found in a cell phone or other small device that requires charging, unlike PlayStation and Xbox consoles that are designed to be plugged into a wall for a constant source of power. Due to these differences, games designed to run on the Xbox and PlayStation typically cannot run on a Switch. Instead, the games that are most popular on Switch are generally published by Nintendo and comprised mostly of their family-friendly brands such as *Mario*, *Legend of Zelda*, *Animal Crossing*, and *Pokémon*. These games lend themselves well to a portable or docked play experience optimized to run on the Switch's lower-power hardware. Illustrating the difference between

PlayStation/Xbox and Nintendo Switch, [REDACTED]

[REDACTED]

[REDACTED]

15. Gamers can also play video games on personal computers ("PCs"). While PCs are general purpose, there are also specialized gaming PCs with parts selected for high performance while running video games. Gaming PCs also are not as close competitors as PlayStation and Xbox at present. Many of the same games can be played on gaming PCs as on PlayStation/Xbox. But gaming PCs are more expensive than PlayStation/Xbox, with gaming PCs typically costing \$800-2,500+ as opposed to \$400-500 for consoles at first release. High-end gaming PCs can more easily handle games with greater graphical intensity and often run games faster than game consoles. There is also a difference in the technical competency required for gaming PC use in comparison to console use. While consoles are designed to be used out of the box, require minimal technical knowledge, and are not customized by users other than to add storage, many gaming PC users build or customize their device with components from a variety of manufacturers. While consoles are updated by the manufacturer uniformly and generationally,

users of gaming PCs are generally expected to determine for themselves when and how upgrades are required.

16. Just as Xbox and PlayStation are the closest competitors in consoles, Microsoft's content subscription service Game Pass is the closest competitor to SIE's content subscription service, PlayStation Plus Extra/Premium. In early 2022, SIE integrated its legacy content subscription service, PS Now, into its new tiered PS Plus Extra and PS Plus Premium services with more and better games, enabling it to compete more effectively with Game Pass. Both Game Pass and the Extra and Premium tiers of the new PS Plus offer consumers access to libraries of hundreds of games. While building game libraries to attract consumers to Game Pass and PS Plus Extra/Premium, Microsoft and SIE often make competing offers to third-party developers to place their content on these subscription services. For instance, [REDACTED] [REDACTED] Microsoft won both bids. [REDACTED] [REDACTED] Microsoft often requires that titles included on Game Pass—particularly titles offered on Game Pass the same day they are released—not be made available on other subscription services.

17. The monthly subscription fees for Game Pass and PS Plus are competitive. Both Game Pass Ultimate and PS Plus Extra cost \$14.99 per month, while PS Plus Premium costs \$17.99 per month. However, many PS Plus subscribers take advantage of annual subscription options at discounted rates, \$99.99 per year for PS Plus Extra and \$119.99 per year for PS Plus Premium, while Game Pass does not offer discounted annual subscriptions. Game Pass Ultimate is available on both Xbox and PC. PS Plus Extra and Premium are both available on PlayStation and Premium is available on PC through cloud streaming.

Importance of High-Quality Games to PlayStation

18. The competitiveness of PlayStation with Xbox is contingent on the availability of high-quality games that utilize the innovative and computing-resource-intensive features of the console. If PlayStation does not have access to the best games, and those games are available only on Xbox, most consumers will choose Xbox instead. And the consumers who would have chosen a PlayStation are harmed because they lose the ability to play on their first-choice console.
19. [REDACTED]
20. The largest console games on PlayStation or Xbox are predominately AAA games. AAA games often feature cinematic storytelling, immersive environments, and detailed graphics. Some AAA titles are parts of franchises, which encompass releases of multiple, related titles that often have the same feel or feature related storylines.
21. Developing and producing AAA games often costs over \$100 million, requires hundreds or thousands of developers, and takes years. For instance, development on *Horizon Forbidden West*, a 2022 SIE first-party release, lasted a total of [REDACTED] years, starting in [REDACTED] and ending in 2022. The game cost [REDACTED] million to develop, and peak headcount was over [REDACTED] full time employees. Development on *The Last of Us Part II*, a 2020 SIE first-party release, took longer at [REDACTED] months, starting in [REDACTED] and ending in 2020. Developments costs were around [REDACTED] million, and headcount peaked around [REDACTED] full time employees. In addition to development costs, global marketing costs for AAA games are large, even for established franchises.
22. Highly successful AAA games also create deep and ongoing engagement with players. Many players will invest hundreds of hours per year in playing their favorite AAA games. This

ongoing engagement stems from the fact that, for many gamers, it is a social activity. Many AAA games can also be played or experienced collaboratively, often in real time. Friends will play the same franchise, and gamers will form social groups and create new friendships with other players of the same franchise. The communities that develop around AAA games lead to deep roots. Players develop loyalty to the franchise and purchase new installments as they are released.

23. A comparison of the engagement with a AAA game to the engagement with a big budget Hollywood movie is instructive to understand player loyalty to game franchises. While most viewers of a movie will watch it once, players of a successful multiplayer AAA game will play it constantly; while a movie might run 2 hours, players of a successful multiplayer AAA game may play it for hundreds of hours a year.

Importance of Activision Games—Especially Call of Duty—to PlayStation

24. Activision Blizzard's portfolio of games in general, and its *Call of Duty* franchise in particular, have been critical to PlayStation's competitiveness. Activision Blizzard's portfolio of games is impressive in reach and engagement. Its franchises on PlayStation include *Call of Duty*, *Diablo*, and *Overwatch*. It also has leading franchises that are available only on PC or mobile, such as *Candy Crush* on mobile or *World of Warcraft* and *Starcraft* on PC. While SIE is particularly concerned about losing access to *Call of Duty*, losing access to Activision Blizzard's portfolio of hit games and franchises—from *Diablo* and *Overwatch* to *Tony Hawk's Pro Skater* and *Crash Bandicoot*—would impose still more harm on SIE and, ultimately, on gamers.
25. *Call of Duty* is unique among the top few gaming franchises on PlayStation. The original *Call of Duty* game was first released in 2003 and was met with critical and fan acclaim. Since then, a

new version has typically been released annually. This annual release cycle is unique among AAA games (other than sports games), which typically are released with much longer gaps because of the time and resources required to develop the games. Activision has solved that problem by having four separate studios, each with at least hundreds of developers, act as the lead studios for *Call of Duty* games. These lead developers are supported by several other Activision studios as well as non-owned, work-for-hire co-development studios. No other game franchise is developed through a similar rotation of multiple game studios. *Call of Duty* primarily releases games in three series. These include the original series (set in World War II), *Modern Warfare* (set in present day), and *Black Ops* (narrative beginning during the Cold War). Recent installments reportedly had production budgets in excess of \$300 million based on a report by IDG Consulting.

26. Market tracking data shows that since 2014, the best-selling paid console game in the United States has been a *Call of Duty* installment in all but one year, 2018. In that year, *Call of Duty: Black Ops 4* ranked #2 behind *Red Dead Redemption II*; only a cultural phenomenon created by major publisher Rockstar Games could narrowly unseat *Call of Duty* for one year. In 2020, the #1 and #2 best-selling paid console games in the United States were both *Call of Duty* installments. As of 2020, Activision reported that the *Call of Duty* franchise had lifetime earnings of [REDACTED]. In 2021, *Call of Duty* once again was dominant, taking the #1 and #3 paid console game slots in the United States. *Call of Duty*'s success looks to continue. In 2022, *Call of Duty: Modern Warfare II* sold over [REDACTED] units on PlayStation its first week, easily vaulting the previous record of [REDACTED] units held by [REDACTED].
27. SIE's data shows that *Call of Duty* is [REDACTED], directly generating [REDACTED] in United States spending (including in-game sales of add-on content like player

costumes and revival kits) in 2021. Worldwide, *Call of Duty* generated [REDACTED] in spending on the franchise's games and add-ons in the same year. *Call of Duty* players, meaning those who engage with *Call of Duty* at some point in a year, drive a significant portion of SIE's revenue, with the total spend on PlayStation by these players across all items—including hardware, accessories, subscriptions, games and add-ons—accounting for over [REDACTED] of overall PlayStation spending.

28. *Call of Duty* is played by [REDACTED] of users on PlayStation alone. [REDACTED]

[REDACTED]

[REDACTED]

[REDACTED] In the United States over the same period, more than [REDACTED] unique PlayStation users have played *Call of Duty*, representing over 67% of PlayStation's United States user base. In 2021, [REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

29. While Microsoft has made large gaming acquisitions before, acquired games at these studios drove only a fraction of PlayStation engagement compared to Activision Blizzard's portfolio, or *Call of Duty* alone. In 2021, Microsoft acquired ZeniMax Media, parent company of developer Bethesda, for \$7.5 billion. Bethesda develops the popular *Fallout* and *Elder Scrolls* franchises. Even so, Bethesda cannot match *Call of Duty*'s unique ability to inspire high levels of engagement with its titles— [REDACTED]

[REDACTED] As mentioned above, in 2021, [REDACTED]

[REDACTED]

[REDACTED] By comparison, [REDACTED]

[REDACTED]

[REDACTED]

30. *Call of Duty*'s multiplayer offerings, including free-to-play *Call of Duty: Warzone*, are one reason the franchise inspires such enthusiasm. Multiplayer gaming allows friends to simultaneously play *Call of Duty* with each other from different locations. The social dimension of the game is important to users' experiences, re-enforces their loyalty to the franchise, and drives continued engagement. Players are typically unwilling to switch to a competing franchise unless their friends also switch, and if their friends switch they join them. This multiplayer gaming also means that even players that play *Call of Duty* for only some of their gaming time remain devoted to the franchise if they want to play with their friends.

31. SIE has collaborated with Activision to drive PlayStation sales. For example, SIE has sold the PlayStation with *Call of Duty* as a bundled game. One such package included a Blu-ray disc of *Call of Duty: Modern Warfare* (2019) along with a jet black PlayStation 4 console and matching controller, telling customers, "Prepare to go dark, Modern Warfare is back!"

32. SIE has also collaborated with Activision in relation to *Call of Duty* to both ensure that new titles of the franchise make use of the technical features of the PlayStation and to ensure that PlayStation's new features are developed to provide a better player experience. For example, SIE and Activision's collaboration resulted in [REDACTED]

[REDACTED]

[REDACTED]

[REDACTED] SIE has found collaboration with Activision particularly fruitful given Activision's depth of expertise as a leading developer. This close collaboration requires a relationship built on trust given the sensitive nature of information shared.

Impact on SIE if Activision Games—Especially *Call of Duty*—Were Made Fully or Partially Exclusive to the Xbox

33. SIE is concerned that Microsoft will stop releasing Activision content on PlayStation post-transaction, preventing PlayStation users from playing some of their favorite games on their console of choice. If Activision games in general, and *Call of Duty* in particular, were made fully or partially exclusive to the Xbox console, [REDACTED] and it would eliminate consumers' choice of console on which to experience Activision games.
34. Exclusivity that would harm both SIE and gamers could take multiple forms. The most extreme scenario would be that Microsoft stops releasing *Call of Duty* on PlayStation completely. But Microsoft could also disadvantage PlayStation by providing it with worse access to *Call of Duty* than it provides to Xbox. For example, Microsoft could release new *Call of Duty* titles earlier on Xbox than on PlayStation. Microsoft could continue to offer the more basic, free-to-play versions of *Call of Duty*, including *Warzone* and *Warzone 2.0*, on PlayStation while not offering the higher-quality premium versions. Microsoft could release *Call of Duty* on Xbox's subscription service Game Pass and refuse to release it on PlayStation's subscription service, PS Plus, at all or on comparable terms. Microsoft could also offer special content, such as weapons that provide an in-game advantage, only on Xbox. PlayStation gamers would be forced to

choose: either switch to Xbox or play a worse version of *Call of Duty*—or potentially play no *Call of Duty* at all.

35. [REDACTED]

36. In addition to the harm to consumers who would no longer have the option of playing Activision games on their console of choice, the potential implications for SIE and its competitiveness are [REDACTED] As noted, since 2019, *Call of Duty* has been played by over [REDACTED] [REDACTED] in the United States alone, and over [REDACTED] worldwide. In 2021, *Call of Duty* directly generated over [REDACTED] in United States spending for SIE, and [REDACTED] in worldwide spending. Further, the PlayStation users that play *Call of Duty* generated average annual platform spending of around [REDACTED] worldwide from 2019 to 2021, accounting for their spending on hardware, accessories, subscriptions, games, and other PlayStation services. As *Call of Duty* players leave PlayStation for Xbox, much of this spending on hardware, subscription services, and other games would be lost.

37. [REDACTED]

[REDACTED]

38. [REDACTED]

39. [REDACTED]

40. Further, the acquisition would deter game and console innovation by eliminating or reducing the collaboration between SIE and Activision. Over the past two decades, Activision has been an important development partner of SIE. For example, in the latest console development cycle, Activision collaborated with SIE on the development of new PlayStation features such as [REDACTED]. [REDACTED] This partnership would be lost

once Microsoft acquired Activision and SIE could no longer share confidential details about its next console in development: Even if some Activision games remained on PlayStation, SIE could not share in-development console features with a Microsoft-controlled Activision, and Activision would have less of an incentive to develop its games to take advantage of unique PlayStation features or help SIE develop better consoles. For instance, [REDACTED]

[REDACTED]

41. In addition to the impacts on console competition and game development, *Call of Duty*

exclusivity could also [REDACTED]

[REDACTED] In particular, if Microsoft made *Call of Duty*, along with other popular Activision games like *Overwatch* and *Diablo*, available on Xbox's Game Pass but chose not to make them available on PlayStation's PS Plus, [REDACTED]

[REDACTED]

42. [REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

43. Microsoft has publicly told regulators that it has made commitments to SIE to keep *Call of Duty* available on PlayStation. As of the date of this declaration, no agreement has been reached with Microsoft that addresses SIE's concerns. Absent a signed agreement, Microsoft's PR statements fail to provide SIE with comfort that future versions of Activision titles will be available on PlayStation, PS Plus, or SIE's cloud gaming service at all, much less on terms competitive with Xbox and Game Pass.
44. SIE is also aware that Microsoft has publicly said that it will not make *Call of Duty* an Xbox exclusive. These statements are not credible. When Microsoft acquired ZeniMax Media, parent company of Bethesda, it told investors that they "highly encouraged cross-platform play" because "it's good for the gaming ecosystem, it's good for us." It promised that it did not have intentions "of just pulling all of Bethesda content out of Sony." And Microsoft directly informed regulators in Europe that it would not have an incentive to stop offering Bethesda content on PlayStation. But, post-acquisition, Microsoft indicated that upcoming Bethesda releases *Starfield* and *Elder Scrolls VI* (its two most anticipated releases) would be exclusive to Xbox and PC and thus would NOT be available to PlayStation users. Following this, Bethesda's SVP of Global Marketing and Communications responded to upset consumers as follows: "I totally understand if you are unhappy or pissed or whatever... Sorry. All I can really say is I apologize, because I'm certain that that's frustrating to folks, but there's not a whole lot I can do about it."

* * *

In summary, Microsoft's acquisition of Activision risks significantly and permanently undermining the close competition between PlayStation and Xbox. Activision's games, and *Call of Duty* in particular, are critical to PlayStation's competitiveness. Were Microsoft to make *Call of Duty* and other Activision titles unavailable, in full or in part, on PlayStation and PS Plus, SIE's ability and incentive to invest in its console and games would decrease, Game Pass could gain ██████████ in the nascent subscription services business, collaboration between Activision and SIE on PlayStation features would stall, and consumers and developers would lose meaningful choice in consoles and subscription services.

* * *

This declaration is being provided to the Federal Trade Commission voluntarily in lieu of a deposition, and I hereby request that my identity, my company's identity, and the contents of this declaration be kept confidential and exempt from public disclosure as provided by law.

Pursuant to 28 U.S.C. 1746, I declare, under penalty of perjury under the laws of the United States of America, that the foregoing is true and correct. Executed on December 5, 2022, in London, United Kingdom.

By  _____

Jim Ryan