

**UNITED STATES DISTRICT COURT  
NORTHERN DISTRICT OF CALIFORNIA  
SAN FRANCISCO DIVISION**

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**FEDERAL TRADE COMMISSION,**  
  
Plaintiff,  
  
v.  
  
**MICROSOFT CORP.**  
  
and  
  
**ACTIVISION BLIZZARD, INC.,**  
  
Defendants.

Case No. 3:23-cv-2880-JSC  
  
**JOINT STATEMENT**  
  
Dept.: Courtroom 8  
Judge: Honorable Jacqueline Scott Corley

1 Pursuant to the Court’s Order Regarding Evidentiary Hearing on Preliminary Injunction  
2 Motion (Dkt. 76), Plaintiff Federal Trade Commission (“FTC”) and Defendants Microsoft  
3 Corporation (“Microsoft”) and Activision Blizzard, Inc. (“Activision”) jointly submit the  
4 following statement.

5 **A. Witnesses**

6 **1. Plaintiff’s Witnesses**

7 **Phil Eisler (Vice President and General Manager of GeForce NOW Cloud Gaming**  
8 **at Nvidia Corp.). Plaintiff** is calling Mr. Eisler by video deposition designation to testify about  
9 the video game industry, competition in the high performance and broader video game console  
10 markets, cloud gaming, video game subscription services, Nvidia’s GeForce NOW cloud gaming  
11 service, PC gaming, Nvidia’s agreements with Microsoft, and any topics as to which he  
12 previously testified. Direct examination 10 mins. Cross-examination 5 mins.

13 **Jeff Fisher (Senior Vice President of GeForce at Nvidia Corp.). Plaintiff** is calling  
14 Mr. Fisher by video deposition designation to testify about the video game industry, competition  
15 in the high performance and broader video game console markets, cloud gaming, video game  
16 subscription services, Nvidia’s GeForce Now cloud gaming service, PC gaming, Nvidia’s  
17 agreements with Microsoft, and any topics as to which he previously testified. Direct  
18 examination 10 mins. Cross-examination 5 mins.

19 **Pete Hines (Group Senior Vice President and Head of Publishing at Bethesda**  
20 **Softworks LLC (a Microsoft subsidiary)). Plaintiff** is calling Mr. Hines as an adverse witness  
21 to testify live about Microsoft’s acquisition of ZeniMax Media / Bethesda Softworks (“the  
22 ZeniMax acquisition”), Microsoft Gaming decisions about video game content, and any topics as  
23 to which he previously testified. Direct examination 20 mins. Cross-examination 15 mins.  
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1           **Robin Lee (Professor of Economics, Harvard University). Plaintiff** is calling Dr. Lee  
2 as an expert witness to testify about the relevant antitrust markets in this case, the combined  
3 firm’s ability and incentive to foreclose competition, the harms to competition and consumers  
4 from foreclosure, potential pro-competitive effects, the likely effects of the Proposed Acquisition  
5 in the relevant markets, and any of the material disclosed in his expert reports served in  
6 connection with this matter. Plaintiff intends to present Dr. Lee’s direct testimony by declaration.  
7 Cross-examination 90 minutes. Redirect examination 45 minutes.  
8

9           **Dov Zimring ((Former) Director of Product Management for Stadia at Google**  
10 **LLC). Plaintiff** is calling Mr. Zimring live to testify about the video game industry, cloud  
11 gaming, Google’s Stadia cloud gaming service, and any topics as to which he previously  
12 testified. Direct examination 20 mins. Cross-examination 10 mins.

13           **2. Defendants’ Witnesses**

14           **Liz Bailey (PhD, Vice President, Charles River Associates). Defendants** are calling  
15 Dr. Bailey as an expert witness to testify about the opinions and conclusions of Plaintiff’s experts  
16 Robin Lee particularly regarding the gaming industry, the relevant markets alleged, the  
17 competitive significance of Activision content, and the ways in which the transaction will  
18 increase output.. Direct examination 90 minutes. Cross examination 45 minutes.  
19

20           **Sarah Bond (Corporate Vice President of Gaming Ecosystem, Microsoft).**  
21 **Defendants** are calling Ms. Bond live to testify about Xbox’s content strategy, partnerships with  
22 publishers, subscription offering for consumers, expanding distribution of Xbox games, benefits  
23 associated with the Activision acquisition, negotiations and agreements with third parties to  
24 bring Activision content onto competitor services, the remedy Xbox agreed to with the European  
25 Commission, and any topics as to which she previously testified. Direct examination 60  
26 minutes. Cross examination 40 minutes.  
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1           **Dennis Carlton (David McDaniel Keller Professor of Economics Emeritus at the**  
2 **Booth School of Business at the University of Chicago; Senior Managing Director,**  
3 **Compass Lexecon).** Defendants are calling Dr. Carlton as an expert witness to testify about the  
4 opinions and conclusions of Plaintiff's expert, Dr. Robin Lee, particularly regarding the potential  
5 anticompetitive effects of the acquisition, and the procompetitive efficiencies arising from the  
6 acquisition. Defendants intend to present Dr. Carlton's direct testimony by declaration. Cross  
7 examination 45 minutes. Redirect examination 60 minutes.  
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9           **Amy Hood (Chief Financial Officer, Microsoft).** Defendants are calling Ms. Hood to  
10 testify about Xbox's current gaming business, Xbox's financial analyses and projections, Xbox's  
11 responsibility for its financial performance; the proposed acquisition of Activision, including but  
12 not limited to, the rationale and strategy for the acquisition and approval; and any topics as to  
13 which she previously testified. Defendants intend to present Ms. Hood's direct testimony by  
14 declaration. Cross-examination 15 minutes. Redirect examination 30 minutes.  
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16           **Bobby Kotick (Chief Executive Officer, Activision Blizzard, Inc.).** Defendants are  
17 calling Mr. Kotick live to testify about Activision's gaming business, future plans, and strategies,  
18 including but not limited to, Activision's development and publishing of first-party gaming  
19 content, distribution strategy, evaluation of potential partnership opportunities, and any topics as  
20 to which he previously testified. Direct examination 45 minutes. Cross-examination 30 minutes.  
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22           **Steve Singer (Senior Vice President, Publisher and Developer Relations, Nintendo).**  
23 **Defendants** are calling Mr. Singer by video deposition designation to testify about Nintendo's  
24 position in the gaming industry, Nintendo's agreement with Microsoft, and any topics as to  
25 which he previously testified. Direct examination 10 minutes. Cross examination 10 minutes.  
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1           **Armin Zerza (Chief Financial Officer, Activision Blizzard, Inc.).** Defendants are  
2 calling Mr. Zerza to testify about Activision’s gaming business, future plans, and strategies,  
3 including but not limited to, Activision’s development and publishing of first-party gaming  
4 content, distribution strategy, evaluation of potential partnership opportunities, and any topics as  
5 to which he previously testified. Defendants intend to present Mr. Zerza’s direct testimony by  
6 declaration. Cross examination 20 minutes. Redirect examination 15 minutes.

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8           **3. Witnesses Both Sides Are Calling<sup>1</sup>**

9           **Matt Booty (Head of Xbox Game Studios at Microsoft).** Plaintiff is calling Mr.  
10 Booty as an adverse witness to testify live about the video game industry, Microsoft Gaming’s  
11 strategy and business, other Microsoft Gaming acquisitions, Microsoft Gaming decisions about  
12 video game content, Microsoft’s first-party game development business and strategy, the  
13 Proposed Acquisition, Microsoft’s acquisition of ZeniMax Media / Bethesda Softworks (“the  
14 ZeniMax acquisition”), competition in the high performance and broader video game console  
15 markets, cloud gaming, video game subscription services, and any topics as to which he  
16 previously testified. **Defendants** are calling Mr. Booty to testify live about the game  
17 development process; Xbox Game Studios’s development, publishing, and licensing of first-  
18 party content; the competitive landscape of the gaming industry, and any topics as to which he  
19 previously testified. Plaintiff’s examination (including direct and cross) 45 mins. Defendants’  
20 examination (including direct and cross) 20 mins.

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22           **Jamie Lawver (Senior Finance Director at Microsoft).** Plaintiff is calling Ms. Lawver  
23 as an adverse witness to testify live about video game industry, Microsoft Gaming’s strategy and  
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27 <sup>1</sup> As Plaintiff has identified several party witnesses that will be called in their case-in-chief,  
28 Defendants jointly list them as well to provide an accurate scope of testimony.

1 business, the ZeniMax acquisition, other Microsoft Gaming acquisitions, Microsoft Gaming  
2 decisions about video game content, competition in the high performance and broader video  
3 game console markets, cloud gaming, video game subscription services, the Proposed  
4 Acquisition, other topics regarding Microsoft's incentive and ability to foreclose competition in  
5 the relevant markets, and any topics as to which she previously testified. **Defendants** are calling  
6 Ms. Lawver to testify about the Xbox deal models and analyses, and any topics as to which she  
7 previously testified. Plaintiff's examination (including direct and cross) 30 mins. Defendants'  
8 examination (including direct and cross) 15 mins.

9  
10 **Satya Nadella (CEO of Microsoft). Plaintiff** is calling Mr. Nadella as an adverse  
11 witness to testify live about the video game industry, Microsoft Gaming's strategy and business,  
12 the Proposed Acquisition, and any topics as to which he previously testified. **Defendants** are  
13 calling Mr. Nadella live to testify about Microsoft's gaming business, Microsoft's approach to  
14 software distribution, the acquisition of Activision, and any topics as to which he previously  
15 testified. Plaintiff's examination (including direct and cross) 30 mins. Defendants' examination  
16 (including direct and cross) 15 mins.

17  
18 **Phil Spencer (CEO of Microsoft Gaming). Plaintiff** is calling Mr. Spencer as an  
19 adverse witness to testify live about the video game industry, Microsoft Gaming's strategy and  
20 business, the ZeniMax acquisition, Microsoft Gaming decisions about video game content, the  
21 Proposed Acquisition, competition in the high performance and broader video game console  
22 markets, cloud gaming, video game subscription services, and any topics as to which he  
23 previously testified. **Defendants** are calling Mr. Spencer to testify about Xbox's gaming  
24 strategy, offerings, and services, Xbox's proposed acquisition, including but not limited to the  
25 rationale and strategy for the acquisition, and Xbox's negotiations and agreements with third  
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1 parties to bring Activision content onto competitor services. Plaintiff's examination (including  
2 direct and cross) 60 mins. Defendants' examination (including direct and cross) 45 mins.

3 **James "Jim" Ryan (CEO of Sony Interactive Entertainment).** Plaintiff is calling Mr.  
4 Ryan by video deposition designation to testify about competition in the relevant antitrust  
5 markets, the video game industry, competition in the high performance and broader video game  
6 console markets, cloud gaming, video game subscription services, the effects of the Proposed  
7 Acquisition, and any topics as to which he previously testified. **Defendants** are calling Mr. Ryan  
8 by video deposition designation to testify about the gaming industry, including console gaming,  
9 subscription gaming, cloud game streaming, mobile gaming; Sony and Xbox's negotiations  
10 regarding the distribution of Activision content, and any topics as to which he previously  
11 testified. Plaintiff's examination (including direct and cross) 45 mins. Defendants' examination  
12 (including direct and cross) 60 mins.

14 **Tim Stuart (CFO of Microsoft Gaming).** Plaintiff is calling Mr. Stuart as an adverse  
15 witness to testify live about the video game industry, Microsoft Gaming's strategy and business,  
16 the ZeniMax acquisition, other Microsoft Gaming acquisitions, Microsoft Gaming decisions  
17 about video game content, the Proposed Acquisition, competition in the high performance and  
18 broader video game console markets, cloud gaming, video game subscription services, and any  
19 topics as to which he previously testified. **Defendants** are calling Mr. Stuart live to testify about  
20 Xbox's first-party content strategy, including platform expansion and distribution, Xbox's  
21 financial strategy for console sales and subscription services, including Game Pass' streaming  
22 feature, Xbox's proposed acquisition, including but not limited to the deal valuation and strategy  
23 for the acquisition, and any topics as to which he previously testified. Plaintiff's examination  
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(including direct and cross) 45 mins. Defendants’ examination (including direct and cross) 30 mins.

**Lori Wright (Corporate Vice President at Microsoft). Plaintiff** is calling Ms. Wright as an adverse witness to testify live about competition in the high performance and broader video game console markets, cloud gaming, video game subscription services, Microsoft Gaming’s strategy and business, and any topics as to which she previously testified. **Defendants** are calling Ms. Wright to testify live about Xbox’s negotiations and agreements with third parties to bring Activision content onto competitor services, and any topics as to which she previously testified. Plaintiff’s examination (including direct and cross) 15 mins. Defendants’ examination (including direct and cross) 15 mins.

**B. Exhibits**

Plaintiffs and Defendants are each concurrently filing their exhibit lists.

Dated: June 20, 2023

Respectfully submitted,

*/s/ James H. Weingarten*

James H. Weingarten  
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Michael T. Blevins  
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Kassandra DiPietro  
Jennifer Fleury  
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James Gossmann  
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Meredith R. Levert  
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**FILER'S ATTESTATION**

I, Jennifer Fleury, am the ECF User whose ID and password are being used to file the foregoing. In compliance with Civil Local Rule 5-1(h)(3), I hereby attest that concurrence in the filing of this document has been obtained from each of the other signatories.

By: /s/ Jennifer Fleury

Jennifer Fleury