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UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF COLUMBIA

UNITED STATES OF AMERICA, U.S. Department of Justice Antitrust Division 1401 H Street, N.W., Suite 8000 Washington, D.C. 20530 *Plaintiff,* v. COMMSCOPE, INC. 1100 CommScope Place SE Hickory, North Carolina 28603 and ANDREW CORPORATION 3 Westbrook Corporate Center, Suite 900 Westchester, IL 60154 *Defendants.*	Case No. Case: 1:07-cv-02200 Assigned To : Lamberth, Royce C. Assign. Date : 12/6/2007 Description: Antitrust

COMPLAINT

The United States of America, acting under the direction of the Attorney General of the United States, brings this civil antitrust action to enjoin the proposed acquisition of Andrew Corporation ("Andrew") by CommScope, Inc. ("CommScope") and alleges as follows:

1. CommScope is a large manufacturer of wire and cable products used by, among others, telecommunications companies. CommScope is the leading manufacturer of drop cable in the United States, with a market share of approximately 60 to 70 percent. "Drop cable" is coaxial cable used by cable television providers to connect their transmission systems to their

customers' premises and equipment inside the customers' premises. Drop cable sales average approximately $500 million a year in the United States.

2. Andrew is a global designer, manufacturer and supplier of communications equipment and systems. Andrew was a manufacturer of drop cable until it sold this business in March 2007 to Andes Industries, Inc. ("Andes"). Andes' subsidiary, PCT International, Inc. ("PCT"), is a manufacturer of broadband hardware products used with drop cable installations. PCT and another Andes subsidiary, PCT Broadband Communications (Yantai) Co. Ltd. ("PCTY"), manufacture and sell drop cable. As a result of two transactions between Andrew and Andes, Andrew holds thirty (30) percent of Andes' equity and voting shares, a warrant that could allow it to increase its share holdings, and several Andes' notes of indebtedness. Andrew also has certain governance rights, including the right to appoint one of Andes' three board members.

3. On June 26, 2007, defendants CommScope and Andrew entered into an Agreement and Plan of Merger, pursuant to which CommScope will acquire Andrew in an all-stock transaction valued at approximately $2.6 billion.

4. As a result of the proposed acquisition, CommScope will obtain a 30 percent ownership interest in, and the right to appoint members to the board of directors of, one of its most significant competitors in the development, manufacture, and sale of drop cable. In addition, given its ownership of shares, warrants and debt instruments, and its governance rights, it will be able to exert substantial control over Andes. Therefore, CommScope's acquisition of Andrew would violate Section 7 and Section 8 of the Clayton Act because it would substantially lessen competition in the market for drop cable and would create interlocking directorates between competing companies.

I. JURISDICTION AND VENUE

5. This action is filed by the United States under Section 15 of the Clayton Act, as amended, 15 U.S.C. § 25, to prevent and restrain the violation by defendants of Section 7 and Section 8 of the Clayton Act, 15 U.S.C. §§ 18, 19.

6. Defendant CommScope and defendant Andrew both manufacture and sell telecommunications products throughout the United States. Defendants are engaged in interstate commerce and in activities substantially affecting interstate commerce. This Court has jurisdiction over this action and the defendants pursuant to Section 15 of the Clayton Act, 15 U.S.C. § 25, and 28 U.S.C. §§ 1331, 1337(a), and 1345.

7. Defendants transact business and are found within the District of Columbia. Venue is proper in the district under 15 U.S.C. § 22, and 28 U.S.C. § 1391(c). Defendants acknowledge personal jurisdiction in the District of Columbia and consent to venue.

II. DEFENDANTS

8. Defendant CommScope, with its headquarters in Hickory, North Carolina, is a corporation organized and existing under the laws of the state of Delaware. CommScope is a major manufacturer and provider of wire and cable products. For fiscal year 2006, it reported total revenues in excess of $1.6 billion, with $550 million coming from its broadband business segment, which supplies cable and hardware products to cable television and telecommunications companies.

9. Defendant Andrew, with its headquarters in Westchester, Illinois, is a corporation organized and existing under the laws of the state of Delaware. Andrew is a major manufacturer and supplier of antenna and cable products and products for wireless communication systems.

For fiscal year 2006, it reported total sales in excess of $2.1 billion, with approximately $1.3 billion coming from its antenna and cable business segment.

10. Andrew holds extensive interests in, and the means to exercise effective control over, Andes and its subsidiaries, PCT and PCTY. Andrew owns shares of Andes equal to 30 percent of Andes' equity. It holds a warrant to purchase up to ten percent more of Andes' equity. It holds three notes of indebtedness issued by Andes and Andes' subsidiaries, in a total amount of almost $16 million. Andrew currently designates one member of Andes' three-member board of directors. After CommScope acquires Andrew, the combined firm will have the right to designate two members and, jointly with another Andes' shareholder, to select two more members of Andes' board, which will then consist of seven members. Andes and Andrew also have entered into an Amended and Restated Investor Rights Agreement (the "IRA") which effectively requires, and will continue to require, Andrew's approval for a wide range of Andes' corporate actions.

III. VIOLATION OF SECTION 7 OF THE CLAYTON ACT: ACQUISITION SUBSTANTIALLY LESSENING COMPETITION

A. Relevant Product Market

11. Drop cable is 75 ohm coaxial cable used by cable television companies to connect their transmission systems with their customers' premises and equipment inside the customers' premises. Drop cable consists of a plastic jacket, metal braid and foil shielding, a dielectric layer, and a center conductor. Drop cable is used by cable television companies in three different kinds of locations: (1) in the air between outside poles and the exteriors of the customers' premises; (2) underground between buried transmission systems and the exteriors of the customers'

premises; and (3) inside the customers' premises to connect the exterior cables with customer-premises devices. Drop cable strung between outside poles and the exteriors of the customers' premises typically contains an ultraviolet ("UV") protectant in the jacket and a steel wire, called a "messenger," inside the cable to reduce flexing; much of this aerial cable also incorporates anti-corrosion protection for the metal shielding. Drop cable used underground typically is "flooded" with a gel compound in order to prevent water ingress and corrosion.

12. No matter how it is used, all drop cable purchased by cable television companies is distinguished from other 75 ohm coaxial cable, which is usually called "commodity" cable. Drop cable must meet Society of Cable Television Engineers ("SCTE") and other cable television industry standards. Those standards address, inter alia, durability, uniformity, electrical conduction and signal shielding. Signal shielding standards address the ability of the cable to prevent signal leakage outside the cable, as well as leakage into the cable of extraneous outside signals. Compliance with SCTE and other industry standards assures cable television companies that the drop cable they buy will not require frequent replacement, will fit with the other components of their systems, can readily be handled by a cable system's installers and technicians, and, most importantly, will deliver a strong and interference-free signal. Because it must meet SCTE and other industry standards, drop cable is substantially more difficult to manufacture than commodity cable.

13. A small but significant increase in the price of drop cable would not cause cable television companies to substitute commodity cable so as to make such a price increase unprofitable. Cable television companies could not use commodity cable without: substantially increasing the cost and difficulty of installing and servicing the cable in their systems, and

seriously jeopardizing their relationships with their own customers because of poor signal quality. In addition, commodity cable typically lacks the UV and anti-corrosion protection, and interior messengers, usually required for aerial drop cable, and the flooded gel compounds typically required for underground drop cable.

14. Accordingly, the development, manufacture, and sale of drop cable is a line of commerce and a relevant product market within the meaning of Section 7 of the Clayton Act.

B. Geographic Market

15. The United States is a distinct geographic market for the sale of drop cable. SCTE and cable televison industry standards are designed to meet the needs of cable television companies operating in the United States. Although PCTY and CommScope manufacture drop cable in China for sale in the United States, no foreign companies make drop cable that conforms to SCTE and United States cable television industry standards, and no foreign companies sell drop cable to cable television companies in the United States. In addition, cable television companies in the United States require their suppliers to have a substantial presence within the United States, including distribution facilities and service infrastructures. No foreign company maintains such a presence for drop cable in the United States. Therefore, a small but significant increase in the price of drop cable would not cause cable television companies in the United States to substitute purchases from companies who operate outside the United States in sufficient quantities so as to make such a price increase unprofitable. Accordingly, the United States is a relevant geographic market within the meaning of Section 7 of the Clayton Act, 15 U.S.C. § 18.

C. Anticompetitive Effects

16. The proposed transaction, including CommScope's acquisition of Andrew's

interests in Andes, would substantially lessen competition in the market for drop cable in the United States. The market for drop cable is already highly concentrated. There are only four companies that provide drop cable to cable television companies in the United States. CommScope is the leading manufacturer, with a market share of between 60 and 70 percent. PCT is the third largest manufacturer with about a four percent market share. PCT is having a significant impact in the market because of its low pricing and ability to offer drop cable with dry anti-corrosion protection.

17. The full product lines offered by CommScope and PCT make them each other's closest competitors for many customers. Of the four manufacturers, only CommScope and PCT offer aerial drop cable in which a dry chemical coating is applied to the cable's braided metal shield to prevent corrosion of the metal. The processes by which both firms make products in this category -- called Brightwire by CommScope and Z-Wire by PCT -- are protected by patent. Many cable television firms need or prefer the dry anti-corrosion protection offered by Brightwire or Z-Wire. This is especially true for firms whose cable television systems are located in areas prone to metal oxidation, such as areas near sea coasts.

18. Competition between PCT and CommScope in the sale of drop cable has benefitted consumers. The competition by PCT and its predecessor Andrew in the drop cable market has constrained CommScope's pricing. The prices charged by Andrew and PCT generally have been five to ten percent lower than those charged by CommScope and other competitors. Andrew's and later, PCT's, market share has been increasing as a greater number of cable television firms have approved their products for purchase.

19. PCT and CommScope also compete with each other in product innovation.

CommScope developed the first dry anti-corrosion protected drop cable product, Brightwire. Andrew developed Z-Wire specifically to compete for sales that would otherwise have gone to Brightwire. PCT and CommScope have continued to develop new technology in drop cable.

20. Through the proposed acquisition of Andrew by CommScope, CommScope will acquire a substantial interest in, as well as substantial control over, one of its most significant drop cable competitors. In addition to holding a 30 percent interest in Andes, Andrew holds significant rights under the IRA to control core business decisions and to obtain critical confidential competitive information from Andes and PCT. Through the acquisition, CommScope would gain, among other rights, the rights to appoint Andes' board members and to veto important business decisions by Andes, such as issuing capital stock, changing executive compensation, and making certain acquisitions of other corporations. Post-merger, CommScope would likely have the ability and incentive to coordinate the activities of CommScope and PCT, and/or undermine PCT's ability to compete against CommScope on price and innovation. Such activity would likely result in a significant lessening of competition. This loss of competition would likely result in higher prices, reduced innovation, and fewer choices for customers.

D. Entry

21. Successful entry into the drop cable market would not be timely, likely or sufficient to deter the anticompetitive effects resulting from this transaction. The drop cable industry has been characterized by firms exiting and failed entry attempts. Andrew itself began the process of entering the market in 1997, and only now, ten years later, has its successor, PCT, achieved a four percent market share.

22. Timely entry sufficient to replace the market impact of PCT would be difficult for

several reasons. Any new manufacturer would have to develop a product line and set up a manufacturing facility, submit sample products for the extensive laboratory and field tests required by all substantial cable television firms, and then undergo the lengthy process of attempting to sell the products to those companies. PCT's success is due in part to its ability to offer a full line of drop cable products. A new entrant could not duplicate that success unless it could offer drop cable with dry anti-corrosion protection. The Brightwire and Z-Wire products are both protected by patent. Development of a new process which does not infringe on those patents would likely be time-consuming and difficult.

IV. VIOLATION OF SECTION 8 OF THE CLAYTON ACT: INTERLOCKING DIRECTORATES

23. CommScope is a corporation engaged in commerce. It manufactures, among other things, drop cable and, through a wholly-owned subsidiary, hardware products associated with drop cable installations. Andes, through its wholly-owned subsidiaries, PCT and PCTY, is engaged in commerce. PCT and PCTY manufacture drop cable and hardware products associated with drop cable installations. Both CommScope and PCT sell drop cable and associated hardware products throughout the United States. With respect to those products, CommScope and PCT are, by virtue of their businesses and locations of operations, competitors, and the elimination of competition by agreement between them would constitute a violation of the antitrust laws.

24. Both CommScope and Andes have capital, surplus and undivided profits in excess of $24,001,000. Both CommScope and Andes had sales in their last fiscal years of products in competition with products of the other exceeding $2,400,100. Each firm's annual competitive

sales of these products exceeded two percent of its total sales. The annual competitive sales of these products by each firm also exceeded four percent of its total sales.

25. Section 6 of the IRA now conveys to Andrew a right to appoint one member of Andes' three-member board of directors. When CommScope completes its acquisition of Andrew, Section 6 requires Andes' board of directors to be reconstituted as a new board of seven members. At that time Section 6 will convey to Andrew, and by extension to CommScope, the right to designate two of the seven members of Andes' board of directors. In addition, Andrew, and by extension CommScope, will have the right to select, jointly with another Andes shareholder, two more members of Andes' board of directors.

26. CommScope is a person within the meaning of Section 8 of the Clayton Act, 15 U.S.C. § 19. CommScope nominates the members of its own board of directors. Its nominees, designees and selectees for the Andes' board stand or will stand in its stead for the purposes of Section 8. CommScope will thus, when it completes its acquisition of Andrew, participate through its representatives both on its own board of directors and on the Andes' board of directors.

V. VIOLATIONS ALLEGED

COUNT ONE

(Violation of Section 7 of the Clayton Act)

27. Each and every allegation in paragraphs 1 through 26 of this Complaint is here realleged with the same force and effect as though said paragraphs were here set forth in full.

28. CommScope and Andrew are hereby named as defendants on Count One of this Complaint.

29. The effect of the proposed acquisition by CommScope of Andrew may be to lessen competition substantially in the development, manufacture, and sale of drop cable in the United States, in violation of Section 7 of the Clayton Act, 15 U.S.C. § 18.

30. Unless restrained, the proposed acquisition by CommScope of Andrew likely will have the substantial anticompetitive effects set forth in ¶¶ 16- 20 above, in violation of Section 7 of the Clayton Act, 15 U.S.C. § 18.

COUNT TWO

(Violation of Section 8 of the Clayton Act)

31. Each and every allegation in paragraphs 1 through 26 of this Complaint is here realleged with the same force and effect as though said paragraphs were here set forth in full.

32. CommScope and Andrew are hereby named as defendants on Count Two of this Complaint.

33. The proposed acquisition by CommScope of Andrew, by conveying to CommScope rights to designate members of the board of directors of Andes will create interlocking directorates between competing corporations, in violation of Section 8 of the Clayton Act, 15 U.S.C. § 19.

VI. REQUESTED RELIEF

34. Plaintiff requests:

a. that the proposed acquisition be adjudged to violate Section 7 and Section 8 of the Clayton Act, 15 U.S.C. §§ 18, 19;

b. that the defendants and all persons acting on their behalf be permanently enjoined and restrained from carrying out the Agreement and Plan of Merger dated June 26,

2007, or from entering into or carrying out any agreement, understanding, or plan by which CommScope would merge with or acquire Andrew, and that includes any ownership interests or governance rights in Andes;

c. that defendants and all persons acting on their behalf be enjoined and restrained from violating Section 8 of the Clayton Act, 15 U.S.C. § 19.

d. that the United States be awarded the costs of this action;

e. that the United States be granted such other and further relief as the Court may deem just and proper.

Dated:

Respectfully Submitted,

FOR PLAINTIFF UNITED STATES OF AMERICA:

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