

**The Mobile Ecosystem Forum**  
**Competition Compliance and Intellectual Property Policy**

**A. Agreement between MEF and Members**

1. The Mobile Ecosystem Forum (MEF) is a roundtable forum dedicated to developing a fun, fair and functional environment for mobile devices. Membership in MEF is open to all interested parties.
2. This Competition Compliance and Intellectual Property Policy (the “Policy”) is a binding agreement between MEF and each of its Members (the “Member” or “Members”), and is incorporated by reference into the Rules and Procedures of MEF which apply to its Members. EACH MEMBER SHOULD READ THIS ENTIRE POLICY CAREFULLY, AS IT SETS FORTH CERTAIN RIGHTS AND OBLIGATIONS OF MEMBERSHIP IN MEF.
3. MEF reserves the right in its absolute discretion to amend this Policy from time to time through the MEF General Assembly, acting in accordance with MEF Rules of Procedures and upon providing Members written notice of any such amendment.

**B. Competition Compliance Policy**

1. MEF is the mobile ecosystem industry trade association, established by industry participants in February 2001 as an open roundtable forum to promote the common interests of the members of the mobile ecosystem industry. MEF is aimed at reducing the barriers to entry into the innovative mobile ecosystem market, thereby encouraging entry by new businesses and increasing competition and growth to the benefit of all industry players and consumers. Membership in MEF is open to all players in the industry on the basis of non-discriminatory, transparent and objective criteria.
2. It is the clear and unequivocal policy of MEF to comply in all respects with the relevant competition/antitrust rules.
  - 2.1 It is MEF’s policy that all of its activities are carried out in full compliance with applicable competition/antitrust legislation.
  - 2.2 MEF will not take part in any practice which would have the object or effect of restricting competition in the mobile ecosystem industry, nor will it provide a forum to promote anti-competitive conduct.
  - 2.3 MEF is not intended to become involved, and will not become involved, in the competitive business decisions of its Members.
3. MEF has taken this occasion, through this Competition Compliance Policy, to make clear its unequivocal support for the policy of competition served by the competition/antitrust laws, as well as its uncompromising intent to comply strictly in all respects with those laws.

- 3.1 This Competition Compliance Policy is available on the Internet web site of the MEF.
  - 3.2 Competition compliance is the responsibility of every Member. Members and MEF management and staff are under an obligation to conduct all their activities connected with MEF in compliance with applicable competition/antitrust legislation. To assist Members and MEF management and staff in adhering to this Compliance Policy, MEF undertakes to provide competition/antitrust training and compliance monitoring procedures.
  - 3.3 Any serious breach of MEF's Competition Compliance Policy may result in immediate suspension or dismissal from MEF membership or employment. Where appropriate, MEF will seek legal advice with regard to its activities.
4. The following rules are applicable to all MEF activities, including formal or informal meetings, committees and conferences, and must be observed by Members and MEF management and staff in all situations and under all circumstances related to MEF activities.
    - 4.1 MEF activities shall not involve discussions or agreements (including oral or informal agreements, decisions and recommendations, whether binding or not) relating to restrictive practices.
    - 4.2 Members shall not agree between themselves pricing and other terms and conditions of sale, including common prices and pricing policy, resale prices, price changes, discounts, rebates, price elements, profit margins, recommended or target prices, and credit terms. Nor shall they indirectly restrict price competition by rigged bidding.
    - 4.3 Members shall not agree between themselves to limit output/sales, in particular by the allocation of quotas or by compelling adherence to agreed technical standards.
    - 4.4 Members shall not agree to share markets between themselves, in particular by the division of territories or customers.
    - 4.5 Members shall not exchange individualized up-to-date commercial information, particularly with regard to prices, discounts, costs, investments, output or sales, capacities, customers, or market shares. Members may only exchange aggregate public historical data.
    - 4.6 Members shall not enter into any exclusive dealing agreement, or collective boycott, or agree other exclusionary practices.
    - 4.7 Members shall not unreasonably refuse to admit to membership, otherwise than on the basis of objective, transparent and non-discriminatory criteria, subject to a proper appeal procedure.
    - 4.8 Members shall leave meetings involving restrictive practices.

## C. Intellectual Property Policy

1. In all matters involving intellectual property rights and procedures, it is MEF's intention to benefit the mobile ecosystem industry, Members and MEF, while respecting the legitimate proprietary rights of Members.

### 2. Confidential Information

- 2.1 Except as provided in paragraph C.2.2 below, the communications and exchanges of information or materials among Members in MEF Tracks, Professional Committees, Initiatives or other working groups (collectively "Working Groups") shall not be considered as confidential. Therefore, disclosure of any and all information by a Member in the course of such communications and/or exchanges shall not be subject to any obligation of confidentiality or non-disclosure on the part of MEF or its Members. MEMBERS ARE CAUTIONED NOT TO DISCLOSE ANY INFORMATION OR MATERIALS THAT THEY WISH TO MAINTAIN IN CONFIDENCE, UNLESS THEY FOLLOW THE PROCEDURE IN PARAGRAPH C.2.2 BELOW.

### **Confidentiality Declaration**

- 2.2 In the event that a Member would like particular information, materials and/or communications to be maintained in confidence, the Member must declare this intention in a "Confidentiality Declaration", in which case the following terms shall apply.

- 2.2.1 Any Member may declare its intention (i) **prior** to the disclosure of certain information or materials or (ii) **prior** to the commencement of certain discussions (e.g., a Working Group meeting), that all information, materials and/or communications should be maintained in confidence (hereinafter "Confidential Information") by all Members receiving or having access to such Confidential Information.

- 2.2.2 The chairman of the relevant Working Group shall (i) minute that a Confidentiality Declaration has been made, (ii) include a written description of the subject matter to be maintained in confidence (e.g., this can include designating or labelling particular documents or indicating that discussions of a particular Working Group will be confidential), and (iii) remind Members of their obligation to maintain the Confidential Information in confidence. Should any Member, at the time of the Confidentiality Declaration, not agree to comply with the Confidentiality Declaration, that Member must immediately state its position and remove itself from access to the Confidential Information (i.e., leave the meeting or end participation in the relevant Working Group) – failure to do so will be deemed as an agreement, in accordance with this Policy, to maintain in confidence any and all Confidential Information which the Member receives or to which it has had access.

- 2.2.3 Each Member receiving Confidential Information agrees to treat that information as confidential and secret and take all relevant precautions to a standard at least as high as it treats confidential and secret information in its own organization.

- 2.2.4 Any Member receiving Confidential Information agrees that it will keep confidential and secret and not disclose to any third party the Confidential Information, except as expressly provided in paragraph C.2.2.6 below.
- 2.2.5 Any Confidential Information received from a Member shall at all times remain the property of the disclosing Member and no grant of any of the disclosing Member's intellectual property rights will be given or intended by such disclosure (including any implied license).
- 2.2.6 Any Member receiving Confidential Information may disclose it to another Member or to an associate (i.e., an employee, officer, director, agent, professional advisor, representative or independent contractor) who is directly involved in MEF and needs to know such information for the purpose of promoting, furthering or assisting with the objects of MEF, provided that, prior to such disclosure, the Member procures that the Member or associate to whom disclosure is to be made shall act in accordance with the terms of this Policy as if each of them were a party to it.
- 2.2.7 The obligations of confidentiality described in this part shall cease to apply to each item of Confidential Information five years after such item has been given, disclosed or supplied, and in any event shall not apply to Confidential Information
- 2.2.7.1 which ceases to be confidential as a result of disclosure by someone other than a Member;
  - 2.2.7.2 to the extent its disclosure is required by law or the rules or regulations of any stock exchange or other regulatory body;
  - 2.2.7.3 if it otherwise becomes available to the public without breach of the obligations contained in this part;
  - 2.2.7.4 if it is released in writing by the disclosing Member without any restriction;
  - 2.2.7.5 if it is lawfully obtained from a third party who is not a Member and in the absence of any obligation of confidentiality; or
  - 2.2.7.6 if the Confidential Information is known by a Member prior to such disclosure or is at any time developed by that Member independently of any such disclosure or disclosures from any other Member.

### **3. Copyright**

#### ***Material submitted by Members***

- 3.1 The copyright in all documents, literature and material owned by a Member which is submitted or disclosed to MEF or to a Working Group shall remain vested in that Member.
- 3.2 MEF and each Member shall have a non-exclusive, world-wide, royalty-free licence to copy and use the copyright material referred to in paragraph C.3.1 above for the purpose of promoting, furthering or assisting with the objects and aims of MEF, provided that such use is for the benefit of MEF and for no other purpose.

#### ***Material prepared by MEF***

- 3.3 MEF shall own the copyright in all documents, literature and material which have been written, created, designed or developed by or on behalf of MEF.
- 3.4 Each Member shall have a non-exclusive, world-wide, royalty-free licence to copy and use the copyright material referred to in paragraph C.3.3 for the purpose of promoting, furthering or assisting with the objects and aims of MEF, provided that such use is for the benefit of MEF and for no other purpose.

***Material prepared jointly by Members***

- 3.5 The copyright in all documents, literature and material written, created, designed or developed for the purpose of promoting, furthering or assisting with the objects and aims of MEF by any Member either individually or jointly within MEF or a Working Group, or as a result of any work carried out on behalf of MEF or a Working Group (including copyright in “Specifications” as defined in paragraph C.5.1 below), shall belong to and automatically vest in MEF.
- 3.6 Each Member shall have a non-exclusive, world-wide, royalty-free licence to copy and use the copyright material referred to in paragraph C.3.5 above for the purpose of promoting, furthering or assisting with the objects and aims of MEF, provided that such use is for the benefit of MEF and for no other purpose.

***Integrity of Copyright Materials***

- 3.7 Each Member agrees, with the exception of copyrighted material that a Member may own as described in paragraph C.3.1 above, that it shall not denigrate the integrity of the copyright in any of the materials referred to in paragraphs C.3.1 – C3.6 above by (but without limitation) (i) removing the copyright notice contained thereon, (ii) varying or removing the title, or (iii) using all or any part of it as part of a document, specification, standard or other literature or material not emanating from MEF. In any event, neither MEF nor any Member, absent agreement of the MEF Board, shall publish or disclose any of said copyright materials to any third party until such material has been published by MEF by posting it on the MEF web site.

**4. Trademarks and Domain Names**

- 4.1 Members shall have a non-exclusive, world-wide, royalty-free licence to use any registered or unregistered MEF trade or service marks, certification marks or other indications of origin for the purpose of promoting, furthering or assisting with the objects and aims of MEF, provided that such use is for the benefit of MEF and for no other purpose.
- 4.2 MEF acting through its Board of Directors reserves the right to review such use by a Member and demand that it be terminated, should MEF decide that the use dilutes, tarnishes or otherwise impairs in any manner MEF’s trade or service marks, certification marks or other indications of origin.
- 4.3 Each Member acknowledges that its participation in MEF does not grant it any license or other rights with respect to domain names used by MEF.

**5. Proprietary Technology**

- 5.1 The development of interoperable commercial and technical standards is an important driver for the growth of the mobile ecosystem industry. MEF through its

Working Groups may from time to time work to develop such commercial and/or technical standards (hereinafter “Specifications”) relevant to the industry. In the course of this work, MEF may receive contributions in various forms and from different Members. To best facilitate the handling of these contributions, it is necessary to understand any intellectual property rights relating to them.

- 5.2 Members shall each retain all of their patents, copyrights, trade secrets and other proprietary rights in and to any inventions, works, data or technologies owned by the Member that may be necessary to implement a Specification developed within a Working Group.

### ***Essential IPRs***

- 5.3 Members have an ongoing good faith duty to disclose in a timely manner any patents, patent applications, copyrights or other proprietary rights in and to any inventions, works, data or technologies owned by a Member that may be necessary to implement a Specification, taking account of normal technical practice and the state of the art generally available (hereinafter “Essential IPRs”).

- 5.4 The procedure for disclosure of Essential IPRs is as follows:

5.4.1 The chairman of each Working Group shall ask participating Members if any Member might own or have knowledge of Essential IPRs (i) periodically at meetings of the Working Group, (ii) at the time when a draft Specification is sufficiently advanced that the Working Group is deciding whether to submit it to the MEF General Assembly for adoption by MEF, and (iii) immediately prior to a vote by the MEF General Assembly on whether to adopt a Specification.

5.4.2 The chairman of each Working Group shall minute that enquiries in relation to Essential IPRs were made in each of the above instances and shall record the answers received. If there are no replies, this fact shall also be recorded.

5.4.3 Notwithstanding the procedure above, if a Member has knowledge that any of its patents, patent applications, copyrights or other proprietary technology may be considered Essential IPRs in relation to a Specification under consideration within a Working Group that Member shall promptly disclose the existence of such intellectual property to other Members in the Working Group.

5.4.4 If any Member indicates that it has (or might have) Essential IPRs, the chairman shall ask the Member to complete and return to MEF an Essential IPRs disclosure, which comprises a written submission identifying the existence, nature and ownership of the Essential IPRs. (See Attachment A).

### ***Policy for Licensing Essential IPRs***

- 5.5 Once the chairman of a Working Group (in consultation with its Members) has determined that a proposed Specification has become so nearly finalized that it is appropriate for a Member who has made an Essential IPRs disclosure to determine its policy with respect to licensing of its Essential IPRs, the chairman acting in conjunction with MEF staff shall notify the Member in writing that it will need to determine its policy with respect to the licensing of any Essential IPRs. Such notice will be accompanied by a copy of the proposed Specification.

- 5.6 Each Member agrees that during a 45-day notice period following receipt of such notice (“Notice Period”), it will determine its policy with respect to the licensing of Essential IPRs necessary for the implementation of the proposed Specification. Before the end of the Notice Period, the Member concerned shall provide a written statement to MEF indicating that, with respect to any implementation described in such proposed Specification, it:
- 5.6.1 agrees to license any of its Essential IPRs for use in such implementation on such terms as the Member discloses with its statement, if the Specification is adopted by MEF;
  - 5.6.2 agrees to license any of its Essential IPRs for use in such implementation, without charge or upon reasonable terms and conditions that are demonstrably free of any unfair discrimination to Members desiring to use such Essential IPRs, if the Specification is adopted by MEF;
  - 5.6.3 is in good faith unable to determine whether it will license any Essential IPRs implicated by the proposed Specification, due to a reasonable inability based on the descriptions of the implementations in the proposed Specification to determine the scope of the implementations that may be covered by the proposed Specification; or
  - 5.6.4 does not agree to license its Essential IPRs in connection with any or all of the implementations described in the proposed Specification.
- 5.7 If a Member does not provide such a statement before the end of the Notice Period, it will be deemed to have provided a statement as described in paragraph C.5.6.2 above. Any such statement shall apply only to the proposed Specification as provided to the Member. In the event of subsequent changes to the proposed Specification, each Member agrees to provide the same information within a Notice Period of the same duration starting upon receipt by the Member of written notice regarding such changed proposed Specification.
- 5.8 In providing a statement pursuant to paragraph C.5.6 above, each Member shall specify the extent, if any, to which it reserves the right not to grant a license to a particular potential licensee with respect to any of its Essential IPRs, when the potential licensee has commenced or threatened to commence litigation asserting any claims with respect to the Member’s intellectual property rights, and such litigation is continuing or such threats of litigation concern a subject that remains actively in dispute.

## 6. Termination

When a Member ceases its membership in MEF:

- 6.1 The licenses granted to the terminating Member (i) by MEF under paragraphs C.3 and C.4 above and (ii) by other Members through their membership agreement and this Policy, shall terminate with immediate effect.
- 6.2 The licenses granted by the terminating Member to MEF and to the Members under paragraph C.3 above shall continue without limit of time.
- 6.3 Its obligations under paragraph C.5 shall survive termination of membership in relation to notices provided to the Member under paragraph C.5.5 and the Member’s licensing of any Essential IPRs in accordance with statements

provided or deemed to have been provided by the Member in response to such notices.

6.4 It shall on demand by MEF:

6.4.1 promptly return to MEF all originals, whether in paper or electronic form, of all materials in which MEF copyright subsists which were supplied to the Member or which are otherwise in the possession or under the request of the Member;

6.4.2 promptly destroy or have destroyed all copies made by the Member of all materials in which MEF copyright subsists and all notes, memoranda and other documents or computer files or records prepared by the Member to the extent that licensed MEF copyright material is contained in them;

6.4.3 promptly return to each Member all originals, whether in paper or in electronic form, of all materials (if any) in which such Member owns copyright which were supplied by such Member or which are otherwise in the possession or under the request of the departing Member; and

6.4.4 promptly destroy or have destroyed all copies made by the Member of all materials in which other Members own copyright and all notes, memoranda and other documents or computer files or records prepared by you to the extent that such copyright material is contained in them.

6.5 Irrespective of the obligations in this paragraph, a founding member of MEF will be able to refer to itself as an “MEF Founder” even after its membership might terminate.

## **7. Infringement**

7.1 You will notify MEF promptly of any threatened or actual infringement of any intellectual property right in any of the materials or items referred to in this Policy and in which MEF or any of its Members have an interest which comes to your notice and shall, at MEF’s request and expense, do all things reasonably necessary to defend and enforce MEF’s or Members’ rights.

**ATTACHMENT A**

**Essential IPR Disclosure Form**

This statement is made on \_\_\_\_\_ (date)  
by \_\_\_\_\_ (name), a representative of  
\_\_\_\_\_ (Member name), a Member of the Mobile Ecosystem Forum  
("MEF"). In accordance with the MEF Competition-IP Policy, I hereby inform the MEF that it  
is the belief of the undersigned that the following IPR(s) are, or likely to become, Essential  
IPRs in relation to the draft Specification identified as

\_\_\_\_\_.

**Identification**

Company: \_\_\_\_\_

Title: \_\_\_\_\_

Nature of IPR: \_\_\_\_\_

Owner of IPR: \_\_\_\_\_

Patent (or application)

# (if applicable): \_\_\_\_\_

MEF Specification:  
\_\_\_\_\_

Signed by: \_\_\_\_\_

Following completion, this form should be forwarded to the MEF.