

Voluntary Agreement to Promote a New Test Method for Measuring the Energy Usage of Televisions

and

Letter of Intent to Establish Additional Energy Commitments to Improve the Energy Efficiency of Televisions

The Natural Resources Defense Council, Inc. and the American Council for an Energy-Efficient Economy (ACEEE) (each, an “Energy Advocate”) and the “Commercial Parties” listed below that are associated with the manufacture and/or distribution of televisions (together with the Energy Advocates, the “Parties”), hereby enter into this Voluntary Agreement to Promote New Test Method for Measuring the Energy Usage of Television Sets and Letter of Intent to Establish Additional Energy Commitments to Improve the Energy Efficiency of Television Sets (together, the “Agreement”) as of September 9, 2020 that sets forth their memorandum of understanding and mutual commitments described below. This Agreement has been facilitated by the Consumer Technology Association (“CTA”), which will perform supporting roles as set forth below.

Consumer electronics manufacturers, energy efficiency advocates and governments have collaborated in recent years in developing successful voluntary energy efficiency programs that leverage flexibilities and opportunities not available within the scope of traditional regulation while delivering the cost-effective energy savings, transparency, and equity that are the objects of regulation. The Parties are exploring the opportunity to develop a similar program for televisions. The core principles that the Parties intend to use as the foundation of a further agreement are summarized below.

Test Method. The Parties mutually agree that a prerequisite to the development of more meaningful energy efficiency commitments is the establishment of new and revised test methods to improve the pertinence of the data upon which commitments would be based and measured. The Parties have developed the outline of a new test method to be used for this Agreement (“Proposed Test Method”) with modernized and improved provisions for automatic brightness control (ABC), motion detection dimming, High Dynamic Range (HDR), the persistence of default efficiency related settings, screen-average luminance testing, and the soon-to-be-published International Electrotechnical Commission (IEC) test clip used for testing. The Parties agree that consumers and stakeholders are best served by consistent use of the same test method to measure the energy use of televisions, and each commit, once the Proposed Test Method is finalized, to use best efforts, including joint coordinated advocacy, to ensure the adoption of the Proposed Test Method by at least ENERGY STAR, IEC, and American National Standards Institute (ANSI)/Consumer Technology Association (CTA), and, if they mandate the use of any test method, by the Department of Energy (DOE), Natural Resources Canada (NRCAN) and state and provincial authorities. The Proposed Test Method is also intended for use in any Voluntary Agreement between the Parties to improve television energy efficiency.

Initial Testing. The Parties are conducting additional testing and engaging in additional discussions to finalize the Proposed Test Method. When the Parties mutually agree that once the Proposed Test Method is completed, each Commercial Party that manufactures televisions for retail sale agrees to use the Proposed Test Method to test a cross section of television models. The models selected for testing shall be representative of its current and expected future sales in North America, based on a list of models provided by each Commercial Party subject to review by the Energy Advocates to ensure a representative cross section of the market is covered including a full range of sizes and features. A model expected to be sold at low volume is one example of a model that may reasonably be excluded from initial testing. Test results will be submitted to CTA, which will create two datasets. The “model-specific dataset” shall include brand and model number-specific information for each tested TV. Testing data related to those

models that are not yet available on the market can have brand and model number information removed. The model-specific dataset will be shared only with the Energy Advocates. The second “anonymized dataset” will provide the full test results for each model but will be anonymized to hide model-specific information. The anonymized dataset will be shared with all Parties. The model-specific and anonymized datasets will only be used by CTA, the Energy Advocates and the Commercial Parties in accordance with the confidentiality terms of this Agreement to assess the Proposed Test Method and the effort to develop energy efficiency commitments as set forth below.

Targeted Efficiency Analyses. The Parties will selectively evaluate specific television features to explore potential energy efficiency improvements that may be commercially achievable. To protect competitively-sensitive and confidential information, the Energy Advocates may engage in an analysis with individual Commercial Parties under a confidentiality agreement.

Development of Energy Efficiency Commitments. Within approximately ninety days of the completion of CTA’s initial testing report and the targeted efficiency analyses, the Parties will attempt to establish energy efficiency levels for incorporation into a potential Voluntary Agreement. Manufacturer signatories of the Voluntary Agreement would be committed to meet these levels for the vast majority of televisions they sell in the United States and Canada.

Scope. This Agreement will initially apply only to televisions sold in the United States and Canada, but is intended to be a model that can be used to promote a more effective and consistent approach to testing and managing the energy usage of televisions in North America and throughout the global market.

Regulatory Engagement. Because at this time this Agreement does not include specific energy commitments (due to the preceding need to finalize and conduct preliminary testing using a new test method), the Energy Advocates do not make any commitment to support a potential Voluntary Agreement for TVs as a substitute for regulation. At the request of CTA or an Energy Advocate, the Parties will develop mutually agreeable joint statements and presentations intended to inform regulators and policymakers of the objectives of the Proposed Test Method.

Antitrust. The coordination of the Parties is a legitimate activity to promote energy efficiency and innovation, but each Party is responsible for ensuring that its activities undertaken in connection with this Agreement are conducted in compliance with the antitrust laws of the United States, the Canadian Competition Act, and all other applicable law. All meetings and communications of the Parties to implement this Agreement shall be conducted consistent with the General Guides Applicable to All CTA Activities. The Commercial Parties shall not discuss or exchange any confidential or competitively sensitive information related to pricing, production quotas, costs of production, standard terms or conditions of sale, the allocation of customers or markets, future plans not specifically related to the objectives of this Agreement, or any restraints of trade or competition.

Confidentiality. This Agreement will be public information as of the date of a joint public announcement by the Parties. However, the Commercial Parties and CTA shall not make any representations regarding the Energy Advocates’ engagement with or support for a Voluntary Agreement as a substitute for regulation other than as explicitly set forth in this Agreement. The Energy Advocates shall not: (1) disclose to any third party (other than a third party that is assisting the Energy Advocates on this project and that has a confidentiality agreement with CTA) the results of initial testing or the subject matter and all non-public communications related to the targeted efficiency analyses undertaken hereunder, and (2) will not disclose to any third party any confidential information received in connection with this Agreement to represent the achievability or reasonableness of any existing or contemplated government energy efficiency requirements or programs. The foregoing limitations shall not apply to disclosures of information that: (1) is in the public domain other than through a breach of this Agreement;

(2) was known to the disclosing party prior to the date of this Agreement without restrictions of confidentiality; (3) is developed independently by a Party without the use of other Parties' confidential information; or (4) that has been explicitly approved for release by each of CTA and the Energy Advocates (which is expected to include an anonymized summary of the results of initial testing). The Parties acknowledge that damages may not be an adequate remedy in the event of breach of this provision, and accordingly each of the Parties shall be entitled to seek the remedies of injunction and other equitable relief for any threatened or actual breach of this provision by any Party.

Term. The terms of this Agreement shall remain in effect through December 31, 2021 unless superseded by a new agreement between the Parties. The expiration date may be extended by mutual written agreement. The confidentiality obligations shall survive termination.

IN WITNESS WHEREOF, the persons signing this Agreement on behalf of the Parties represent and warrant that they are duly authorized and appointed agents of the Parties, fully empowered to bind the Parties to all provisions contained in the Agreement and that no further action is required to enter into this Agreement.

Energy Advocates:

American Council for an Energy-Efficient Economy (ACEEE)

/s/ Naomi Baum
Chief Operating Officer

Natural Resources Defense Council (NRDC)

/s/ Noah Horowitz
Senior Scientist and Director - NRDC Center for Energy Efficiency Standards

Television Manufacturers:

Funai Corporation Inc.

/s/ Motoyoshi Adachi
Director and Officer

HISENSE USA Corp.

/s/ David Gold
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LG Electronics USA, Inc.

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TCL North America

/s/ Jonathan King
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VIZIO, Inc.

/s/ Kenneth R. Lowe
Co-Founder and Vice President