IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF COLUMBIA

INZA, et al., *Plaintiffs,* v. APPLE INC., ALPHABET INC., GOOGLE LLC, AND SAMSUNG ELECTRONICS AMERICA INC., *Defendants.*	)	Civil Action No. 1:25-cv-01970 (RDM)

MEMORANDUM OF POINTS AND AUTHORITIES IN OPPOSITION TO DEFENDANTS' MOTIONS TO DISMISS

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INTRODUCTION

A. PLATFORM GATING AND THE ABSENCE OF STANDALONE WI-FI CALLING

This case concerns whether platform operators may condition access to native smartphone telephony functionality on carrier authorization — and thereby require device owners to purchase carrier subscription bundles to unlock functionality their devices are technically capable of providing independently. A modern smartphone can carry a voice call over ordinary Wi-Fi connections without any cellular tower. Plaintiffs allege that Defendants' platform architecture prevents that capability from operating as a standalone alternative, leaving carrier bundles as the only pathway to parity-grade native telephony functionality for approximately 373 million U.S. smartphone owners.

Plaintiffs' First Amended Complaint ("FAC") alleges that Defendants implemented an authorization-and-enforcement architecture conditioning parity-grade native telephony functionality on carrier-issued validation credentials, the "Lock-and-Key" architecture. FAC ¶ 100. The "Lock" consists of operating-system and firmware rules governing access to native telephony privileges at the device level. The "Key" consists of carrier-issued credentials that platform software must recognize before those privileges activate. FAC ¶¶ 68–69, 113. Absent that validation, a voice service cannot obtain full native telephony integration even when the device is technically capable of carrying the call over ordinary Wi-Fi connections.

Device owners must purchase carrier subscription bundles, typically priced at approximately $50–$100 per month, to obtain parity-grade native telephony functionality on devices they already own. FAC ¶¶ 26, 70. Over-the-top applications such as FaceTime, WhatsApp, Zoom, and Google Voice are not substitutes: they lack native telephony privileges including default dialer status, push-free wake-and-ring behavior, and integrated emergency routing. FAC

¶¶ 68–69. Because these privileges activate only through carrier-issued credentials, consumers who forgo a carrier bundle forgo parity-grade telephony functionality entirely. The Motion argues that no standalone parity-grade Wi-Fi calling provider exists in the United States. MTD at 1–3. The FAC alleges that this absence is the predictable result of the architectural conditioning described above. Notably, the Motion itself confirms that native Wi-Fi calling functionality operates through device-level software mechanisms integrating platform enforcement rules with carrier authorization inputs. MTD at n.8. Because the FAC plausibly alleges that platform-level architectural conditioning forecloses parity-grade standalone alternatives and channels consumers into carrier bundles as the only pathway to full native telephony functionality, the Motion to Dismiss should be denied.

B. THE COURT SHOULD EVALUATE THE CLAIMS AS PLEADED

Defendants' Motion seeks dismissal by recasting the claims under doctrinal frameworks different from those pleaded in the First Amended Complaint. Rule 12(b)(6) does not permit that approach. A motion to dismiss tests the sufficiency of the claims actually pleaded, not a different theory substituted by the moving party. *Banneker Ventures, LLC v. Graham*, 798 F.3d 1119, 1129 (D.C. Cir. 2015). The Court therefore evaluates the Complaint under the legal frameworks the pleading invokes, accepting factual allegations as true and drawing all reasonable inferences in Plaintiffs' favor.

Count I proceeds under the product-design maintenance framework recognized in *United States v. Microsoft Corp.,* 253 F.3d 34, 58–67 (D.C. Cir. 2001). The FAC alleges that Platform Defendants embedded operating-system and firmware rules conditioning parity-grade native telephony privileges on carrier-issued validation credentials at a must-pass device-level enforcement interface. FAC ¶¶ 12–17, 59–61, 100, 107–108. The Motion instead evaluates Count

I under the refusal-to-deal doctrine of *Trinko*, 540 U.S. 398 (2004), characterizing the conduct as "longstanding designs." MTD at 1, 16–18. The FAC alleges something different: affirmative conditioning embedded in product design. The alleged exclusion arises from architectural rules governing access to the native telephony privilege layer — not from a discretionary refusal to transact with a rival. Recasting embedded design restrictions as a refusal-to-deal collapses a distinction that *Microsoft* and *Trinko* carefully preserve.

Defendants' reliance on *Trinko* confirms the nature of the conduct alleged. The Motion repeatedly characterizes the restriction as arising from operating-system and firmware "design decisions." But exclusion embedded in platform product design is governed not by *Trinko's* refusal-to-deal doctrine, but by the product-design maintenance framework recognized in *United States v. Microsoft Corp.,* where the D.C. Circuit held that a monopolist violates § 2 when it uses platform architecture to foreclose rival technologies at a must-pass interface. A monopolist's product design may violate § 2 when it excludes rival technologies from a platform interface through which competition would otherwise emerge. *United States v. Microsoft Corp.,* 253 F.3d 34, 64–67 (D.C. Cir. 2001).

Count II is pleaded as a concerted-restraint claim based on structural interdependence within a bilateral authorization-and-enforcement system. The FAC alleges that platform operating-system rules supply the enforcement mechanism, while carrier-issued validation credentials supply the authorization input, and that the alleged foreclosure occurs only because both components operate together. FAC ¶¶ 171–181. *Twombly* provides the governing pleading standard: Plaintiffs must allege enough factual matter to make agreement plausible rather than merely conceivable. 550 U.S. at 556–57. But the substantive framework for evaluating the agreement inference alleged here comes from *Interstate Circuit*, which recognizes that concerted action may be plausibly

inferred where each participant's conduct is effective or economically rational only in light of the complementary participation of the others. 306 U.S. 208, 222–23 (1939). Read that way, the FAC does not plead mere parallel conduct. It pleads an interlocking cross-tier mechanism in which platform enforcement and carrier authorization jointly produce the alleged restraint. Defendants' own Motion confirms that the challenged conduct arises from device-level design decisions. The Motion identifies three implementation mechanisms: Apple through iOS entitlement gating, Google through Android carrier-privilege APIs, and Samsung through firmware access controls. MTD at n.8. Those mechanisms reside in proprietary platform code — the type of architectural conduct addressed in *Microsoft*, not the refusal-to-deal doctrine discussed in *Trinko*. At the pleading stage, allegations that such design conditioning forecloses competition at a must-pass interface plausibly state a claim for competitive harm. *Microsoft*, 253 F.3d at 58–67.

Because the FAC alleges exclusion through product-design conditioning and structural cross-tier interdependence, the Court evaluates the claims under the doctrines governing those theories — not the substituted frameworks Defendants propose. When assessed under those doctrines, the FAC plausibly states claims for relief under Rule 12. See *Banneker Ventures*, 798 F.3d at 1129; *Swierkiewicz v. Sorema N.A.*, 534 U.S. 506, 512 (2002).

C. THE PLEADED COUNTS

Plaintiffs proceed on Counts I and II under the Sherman Act and on Counts V and VI under RICO, 18 U.S.C. §§ 1962(c) and (d). Counts III and IV (Clayton Act §§ 3 and 7) are withdrawn. Counts VII and VIII (RICO §§ 1962(a) and (b)) are not pursued. Accordingly, Plaintiffs intend to file a notice of voluntary dismissal of Counts III, IV, VII, and VIII.

LEGAL STANDARD

To survive a motion to dismiss under Federal Rule of Civil Procedure 12(b)(6), a complaint (or counterclaim) "must contain sufficient factual matter, accepted as true, to 'state a claim to relief that is plausible on its face,'" although the allegations need not be "detailed." *VoteVets Action Fund v. U.S. Dep't of Veterans Affs.,* 992 F.3d 1097, 1104 (D.C. Cir. 2021) (quoting *Ashcroft v. Iqbal,* 556 U.S. 662, 678 (2009)). The alleged facts must not be "'merely consistent with' a defendant's liability" but rather must "allow[] the court to draw the reasonable inference that the defendant is liable for the misconduct alleged." Iqbal, 556 U.S. at 678 (quoting *Bell Atl. Corp. v. Twombly,* 550 U.S. 544, 556-57 (2007)). "A complaint survives a motion to dismiss even '[i]f there are two alternative explanations, one advanced by [the] defendant and the other advanced by [the] plaintiff, both of which are plausible.'" *VoteVets Action Fund,* 992 F.3d at 1104 (alterations in original) (quoting *Banneker Ventures, LLC v. Graham,* 798 F.3d 1119, 1129 (D.C. Cir. 2015)).

In assessing the sufficiency of a complaint under Rule 12(b)(6), a court's consideration is limited "to materials properly before it," including, in this Circuit, "'the facts alleged in the complaint, [and] documents attached thereto or incorporated therein.'" *Page v. Comey,* 137 F.4th 806, 813 (D.C. Cir. 2025) (alterations in original) (quoting *Stewart v. Nat'l Educ. Ass'n,* 471 F.3d 169, 173 (D.C. Cir. 2006). All factual allegations in the complaint must be accepted as true, "even if doubtful in fact," *Twombly*, 550 U.S. at 555, though the court does "not assume the truth of legal conclusions, nor . . . 'accept inferences that are unsupported by the facts set out in the complaint,'" *Arpaio v. Obama,* 797 F.3d 11, 19 (D.C. Cir. 2015) (quoting *Islamic Am. Relief Agency v. Gonzales,* 477 F.3d 728, 732 (D.C. Cir. 2007)).

ARGUMENT

I. THE FAC PLAUSIBLY ALLEGES MONOPOLY MAINTENANCE THROUGH EXCLUSIONARY PRODUCT DESIGN, SHERMAN ACT § 2

Count I alleges that Platform Defendants maintain monopoly control over parity-grade native telephony functionality by conditioning access on carrier validation at the operating-system interface. That conditioning locks approximately 373 million U.S. device owners into carrier-bundled telephony as the only pathway to full native functionality on devices they already own. The Motion argues that Count I fails because no Defendant possesses monopoly power and no exclusionary conduct is alleged. MTD at 14. At the Rule 12 stage, the question is whether the FAC plausibly alleges maintenance of monopoly power through exclusionary conduct. It does. Under *Microsoft*'s burden-shifting framework, the plaintiff must first demonstrate exclusionary conduct with anticompetitive effect; the burden then shifts to the defendant to proffer a procompetitive justification; and the plaintiff may rebut by showing a less restrictive alternative. 253 F.3d at 58–59, 65–67. At Rule 12, the Court need only assess plausibility of the first step. The burden of procompetitive justification rests on Defendants and need not be disproved in the complaint.

A. Architectural Exclusion at the Native Telephony Interface

The FAC alleges conditioning embedded in operating-system and firmware code at the native telephony enforcement layer. A monopolist violates § 2 when it designs platform architecture to exclude rival technologies from a must-pass interface through which competition would otherwise emerge. *United States v. Microsoft Corp.,* 253 F.3d 34, 64–67 (D.C. Cir. 2001). Platform rules determine whether a voice service receives parity-grade native integration — including default dialer access, call-log integration, emergency routing hooks, and quality-of-

service prioritization. FAC ¶¶ 12–17, 60–61, 100, 107–108. Those privileges activate only upon carrier credential validation.

The Motion describes the challenged practices as "longstanding designs" and identifies three platform-specific implementations: Apple through iOS entitlement gating, Google through Android carrier-privilege APIs, and Samsung through firmware access controls. MTD at 1, 16–19 & n.8. Each mechanism resides in proprietary platform code governing access to native telephony privileges at the device level.

Under *Microsoft*, exclusionary product design at a platform interface may constitute unlawful maintenance of monopoly power where the design forecloses rivals through means other than competition on the merits. 253 F.3d at 58–67. The FAC alleges precisely such a restriction: parity-grade native telephony privileges activate only after carrier validation at a must-pass enforcement interface present on every device in the class.

The Motion attempts to recast the FAC as a refusal-to-deal claim governed by *Trinko* and *linkLine*. MTD at 16–18; *Pac. Bell Tel. Co. v. linkLine Commc'ns, Inc.*, 555 U.S. 438 (2009). Neither governs here. *Trinko* addresses compelled sharing of infrastructure with rivals, and *linkLine* concerns price-squeeze claims. The FAC instead challenges affirmative product-design conditioning embedded in device software — conduct falling within *Microsoft*, not *Trinko* or *linkLine*. The Motion's reliance on *Meta Platforms* likewise fails because the FAC alleges affirmative engineering acts implemented through successive platform releases, not passive continuation of a historical design. FAC ¶¶ 83–86; *FTC v. Meta Platforms, Inc.*, 2025 WL 3458822 (D.D.C. 2025) Even under *Trinko*, the FAC plausibly alleges termination of previously available pathways under *Aspen Skiing Co. v. Aspen Highlands Skiing Corp.*, 472 U.S. 585 (1985). The Motion's argument that no narrow exception to the general right to refuse to deal applies uses the

wrong framework — the FAC does not allege passive refusal to deal but affirmative design acts that condition access on carrier participation. Affirmative changes like removing native capabilities or withholding APIs are overt design acts, not mere inaction.

B. Monopoly Power at the Enforcement Interface

The FAC plausibly alleges monopoly power at the native telephony enforcement interface within each platform ecosystem. Apple controls allocation of native telephony privileges within iOS, Google controls the same privileges within Android, and Samsung independently controls firmware-level enforcement on Samsung devices. FAC ¶¶ 12–16, 100–106; MTD at n.8. This structure parallels the framework recognized in *Microsoft*, where monopoly power was measured at the operating-system layer controlling downstream competition. Courts likewise recognize that monopoly power may exist at a technological chokepoint determining whether downstream competitors can function at all. Courts in this District also recognize monopoly power at a must-pass network layer. See, e.g., *FTC v. Surescripts, LLC,* No. 1:19-cv-01080-JDB (D.D.C.).

The Motion argues that the FAC improperly aggregates market shares and that shared-monopoly claims are impermissible. MTD at 14–16 (citing *Oxbow* and *Sky Angel*). The FAC does not aggregate shares. It alleges three separate upstream markets — iOS, Android, and Samsung firmware — each controlled by a single platform operator within its ecosystem. The downstream "3%" and "0%" figures cited by the Motion reflect the market allegedly prevented from emerging, not the absence of monopoly power. *Berkey Photo, Inc. v. Eastman Kodak Co.,* 603 F.2d 263, 293 (2d Cir. 1979). Under *Microsoft's* product-design framework, the relevant inquiry is whether a defendant controls such a bottleneck and uses that control to foreclose rivals—not whether it competes in the downstream service market.

C. Exclusionary Conduct

The FAC alleges exclusionary conduct implemented through software and firmware rules granting parity-grade native telephony privileges only upon carrier entitlement validation. FAC ¶¶ 12–17, 107–108. Previously available VoIP pathways were restricted while carrier-exclusive native integration was reinforced. FAC ¶¶ 67–78. Specific measures include Google's removal of native SIP/RTP stack support at API level 31, FAC ¶ 86; Apple's CallKit timing constraints and jurisdiction-specific telephony APIs, FAC ¶ 86; and Samsung's tightened firmware-level access controls, FAC ¶ 86. The selective character of these restrictions is confirmed by the platforms' treatment of their own services: Apple grants FaceTime native-grade telephony privileges—including push-free wake-and-ring and system call-log integration—while denying equivalent access to independent VoIP providers; Google grants its RCS implementation native-grade integration architecturally withheld from competitors. The restrictions are thus selective, not inherent.

The Motion argues that no standalone provider previously obtained native access and that the absence of any prior course of dealing defeats the exclusionary conduct element. MTD at 17–18. Under *Microsoft*, however, the relevant inquiry is whether product design forecloses rivals at a must-pass interface — not whether a rival previously enjoyed access. 253 F.3d at 58–67. That no provider ever obtained parity-grade integration confirms the completeness of the foreclosure. In a gatekeeping case, complete historical exclusion does not undermine plausibility; it is often the strongest evidence that the gate was effectively closed.

D. Competitive Harm to the Class

The FAC alleges elimination of an entire category of competition and resulting consumer harm. OTT voice applications have not displaced carrier bundles because they lack parity-grade

native integration. FAC ¶¶ 68–73. Continued enrollment in bundles priced at $50–$100 per month despite free OTT alternatives plausibly supports the allegation that those applications are not substitutes for native telephony functionality. The alleged overcharge persists because the architectural restriction forecloses the only category of competitor capable of operating at parity-grade native integration. *Brunswick Corp. v. Pueblo Bowl-O-Mat, Inc.,* 429 U.S. 477, 489 (1977). This is foreclosure of the competitive process itself—the quintessential § 2 harm. *Id*.

E. Less-Restrictive Alternatives

The FAC alleges the existence of less-restrictive alternatives. Native telephony APIs deployed in the European Union were allegedly withheld in the United States. FAC ¶ 86. A neutral certification pathway applying the same safety, E911, and quality-of-service standards carriers already satisfy could permit parity-grade native telephony without requiring carrier bundle validation. The predictable justifications—security, privacy, E911 compliance, QoS, and carrier certification—are standards that could be applied neutrally rather than through carrier-exclusive gating. Carrier certification in particular is itself part of the challenged architecture (the "Key") and cannot simultaneously serve as the justification for the "Lock". Whether Defendants' asserted justifications outweigh those exclusionary effects is a merits question not resolved at the pleading stage. *Microsoft*, 253 F.3d at 65–67.

F. Bilateral Interdependence

The FAC further alleges that platform enforcement (the "Lock") and carrier credential validation (the "Key") operate interdependently. Neither mechanism alone produces the foreclosure; together they create a closed authorization loop excluding independent providers from parity-grade native integration. FAC ¶ 100. The implications of this structure are addressed under the § 1 analysis in Section IV.

II. SHERMAN ACT § 1: CONCERTED RESTRAINT THROUGH STRUCTURAL AUTHORIZATION-AND-ENFORCEMENT CONDITIONING

Count II alleges that platform operating systems and wireless carriers jointly maintain a bilateral authorization-and-enforcement architecture conditioning parity-grade native telephony functionality on carrier-issued credentials. That architecture allegedly imposes bundle overcharges and forecloses lower-cost standalone alternatives for approximately 373 million U.S. device owners. Concerted action among distinct economic actors is a prerequisite to § 1 liability. *American Needle, Inc. v. National Football League,* 560 U.S. 183, 190 (2010). The FAC alleges coordinated conditioning at a must-pass device-layer interface where neither platform enforcement nor carrier authorization independently produces the class-wide foreclosure. FAC ¶¶ 100, 147–148, 175–185. The Platform Defendants and Carrier Co-Conspirators are independent centers of decision-making: platforms compete against each other for device sales; carriers compete against each other for subscribers. No platform-carrier pair shares the unity of interest that would support single-entity treatment. *Copperweld Corp. v. Independence Tube Corp.,* 467 U.S. 752, 769 (1984).

A. The Alleged Restraint

The FAC alleges that carrier-issued credentials are required for parity-grade native telephony, that platform operating systems validate only those credentials, and that device owners cannot access full native functionality except through a carrier-validated bundle. FAC ¶¶ 39–45, 85–86, 100, 145. Carrier authorization alone does not confer native status, and platform software alone does not activate parity-grade privileges without carrier validation. The restraint therefore operates through synchronized cross-tier conditioning: carrier credentials supply the authorization and platform software supplies the enforcement. Together they determine whether any voice service may obtain parity-grade native integration on a smartphone.

The Motion argues that no agreement is plausible under *Bell Atlantic Corp. v. Twombly,* 550 U.S. 544, 556–57 (2007), because each Defendant independently benefits from maintaining carrier relationships. MTD at 12–13. The FAC alleges structural interdependence rather than conscious parallelism — a distinction addressed below. Because this authorization-and-enforcement structure operates at a must-pass interface present on every class member's device, the resulting economic cost falls uniformly across the class.

B. Concerted Action

A § 1 claim requires concerted action among distinct economic actors. *Monsanto Co. v. Spray-Rite Service Corp.,* 465 U.S. 752, 761 (1984). The Motion argues that no conspiracy is plausibly alleged, relying on *Gamm v. Sanderson Farms, Inc.,* 944 F.3d 455 (2d Cir. 2019), and *Oxbow Carbon & Minerals LLC v. Union Pacific Railroad Co.,* 926 F. Supp. 2d 36 (D.D.C. 2013), for the proposition that parallel conduct without adequate plus factors cannot support a concerted-action inference. MTD at 11–14. The FAC plausibly alleges concerted action under two complementary theories that *Gamm* and *Oxbow* do not govern.

C. Structural Interdependence

The Lock-and-Key architecture alleged in the FAC is an interlocking system in which each tier supplies a necessary component of the foreclosure. FAC ¶ 100. Under *Interstate Circuit, Inc. v. United States,* 306 U.S. 208, 222–23 (1939), agreement may be inferred where conduct is rational only when combined with complementary participation. Defendants' own Motion confirms the coordinated structure. It acknowledges that native Wi-Fi calling is implemented through carrier-integrated operating-system functionality controlled jointly by platform software and carrier authorization inputs. MTD at n.8. When each participant's conduct becomes effective

only through the complementary participation of the other, agreement may be inferred even absent direct evidence of communication. *Interstate Circuit,* 306 U.S. at 222–23.

On the FAC's allegations, platform enforcement and carrier authorization function as mutually dependent components of the restraint: platforms could technically permit native access without requiring carrier credentials, and carriers could technically authorize independent providers, but according to the FAC neither does. The Motion argues that each platform independently benefits from maintaining carrier relationships. MTD at 13–14. Those benefits are real, but they do not explain the specific architectural choice alleged: hard-coding credential validation while providing no neutral certification alternative whatsoever. The carrier relationship explains why platforms cooperate with carriers, but it does not explain why all three platforms simultaneously refuse to permit any alternative on any terms . That total absence, across competing platforms, for over a decade, is the plus factor *Twombly* requires.

The § 1 claim has two reinforcing dimensions. First, a cross-tier agreement between platforms and carriers: platforms enforce credential-gated architecture; carriers supply credentials in formats those platforms are coded to accept; neither side's conduct produces foreclosure without the other. Second, reinforcing horizontal uniformity among the Platform Defendants: despite competitive incentives to differentiate, no platform has offered any neutral certification pathway for independent providers. A platform that unilaterally opened its native telephony interface to a lower-cost standalone Wi-Fi calling alternative would gain a significant competitive advantage in device sales. The uniform refusal to do so is economically puzzling as independent conduct. On the FAC's allegations, the conduct is economically rational only when both tiers participate — precisely the *Interstate Circuit* standard.

D. Parallel Adoption and Reinforcing Circumstances

Even under *Twombly*, the FAC alleges reinforcing circumstances beyond parallel conduct. *Twombly* addresses conscious parallelism among independent actors; the FAC alleges interdependent conduct across vertically distinct tiers of the same platform architecture.

First, the FAC alleges temporal alignment between carrier credential provisioning and platform entitlement gating across successive software releases. FAC ¶¶ 83–86, 100–108. Second, it alleges uniform exclusion across competing platform ecosystems despite incentives to differentiate. FAC ¶¶ 85–94, 100. Third, it alleges shared industry channels — including GSMA standards processes, OMA-DM provisioning specifications, and carrier certification frameworks — through which credential validation specifications were developed. FAC ¶¶ 59–66. Fourth, it alleges progressive hardening of the same architectural restrictions across successive platform releases. FAC ¶ 83–86, 100–108.

Specifically, the restrained market actually existed. Appendix C to the FAC documents that standalone and Wi-Fi-first calling services—including Republic Wireless, FreedomPop, Scratch Wireless, Freewheel, and RingPlus—operated in the U.S. at $0–5 per month before carrier-exclusive native integration eliminated each one. The foreclosed market is not hypothetical. Furthermore, the progressive hardening involved not a static 2014 design but affirmative engineering acts within the limitations period that destroyed existing infrastructure and created new exclusionary frameworks.

Courts in this District recognize that such reinforcing circumstances support a concerted-action inference at the pleading stage. *In re Domestic Airline Travel Antitrust Litigation,* 221 F. Supp. 3d 46, 58–60 (D.D.C. 2016). The Motion's reliance on *Freedom Watch* is misplaced because that case involved conclusory allegations lacking any identified structural mechanism. Here, the

FAC identifies a specific authorization-and-enforcement architecture confirmed by Defendants' own description of the three platform implementations. MTD at n.8.

E. Tying (Alternative Theory)

The FAC pleads tying in the alternative. Under *Jefferson Parish Hosp. Dist. No. 2 v. Hyde,* 466 U.S. 2, 12–18 (1984), each element is plausibly alleged.

Separate Products. Native telephony functionality and carrier subscription bundles are distinct products purchased from different entities. FAC ¶¶ 88–94. The tying product is the native telephony privilege package each platform controls: default dialer, push-free wake-and-ring, call-log integration, E911 hooks, and QoS prioritization. The tied product is a carrier voice/text subscription. The OS's own architecture confirms separability: Wi-Fi calling code resides in the OS but activates only after an external carrier credential passes validation. The Motion argues that no separate products exist because carriers bundle Wi-Fi calling with service plans. MTD at 22–23 (citing *Jefferson Parish*). Consumer behavior contradicts that claim: near-universal enrollment in $50–$100 carrier bundles despite free OTT alternatives supports the allegation that those applications are not substitutes for parity-grade native telephony. FAC ¶¶ 68–73. *Kaufman v. Time Warner,* 836 F.3d 137 (2d Cir. 2016), is distinguishable: cable boxes were never independently sold; here, native telephony was independently sold until the Lock-and-Key architecture foreclosed standalone entry.

Market Power. Each platform defendant exercises exclusive control over native telephony privilege allocation within its ecosystem. FAC ¶¶ 12–17, 20–25, 100–108. Market power is therefore assessed at the enforcement interface determining whether voice services may obtain parity-grade native integration. The 97% figure describes the result of the conditioning, not its source. The Motion's reliance on *Illinois Tool Works*, 547 U.S. 28 (2006) evaluates market power

in the downstream Wi-Fi calling market rather than at the must-pass interface where platform control is exercised. *Berkey Photo, Inc. v. Eastman Kodak Co.,* 603 F.2d 263, 293 (2d Cir. 1979). MTD at 10–11, 23–24.

Coercion. The Motion also argues that Defendants cannot coerce purchase of carrier bundles because they do not sell them. MTD at 23–24 (citing *White v. Rockingham Radiologists, Ltd.*, 820 F.2d 98 (4th Cir. 1987)). Tying does not require the seller of the tying product to also sell the tied product; it requires that the seller condition access to the tying product on the buyer's acquisition of the tied product. The FAC alleges architectural coercion: the operating system's default state is degraded functionality embedded in the device, and parity-grade privileges activate only after carrier validation. *White* is distinguishable: the defendant physician group did not design the marketplace channeling patients toward the tied provider; here, the platform designs and maintains the conditioning architecture.

Foreclosure. The Motion further argues that no foreclosure in the tied product market is alleged. MTD at 24–25. The FAC alleges that independent providers are foreclosed from the deployment pathways through which they would compete because they cannot obtain carrier credentials or bypass platform enforcement rules. FAC ¶¶ 68–73, 85–94. *In re Cox Enterprises,* 871 F.3d 1093, 1108 (10th Cir. 2017), which involved zero foreclosure, is inapposite—the FAC alleges categorical exclusion of non-carrier providers. FAC ¶¶ 85–94.

III. RELEVANT MARKET

The FAC alleges two vertically related markets pleaded in the alternative as Rule 8(d)(3) permits. The upstream market concerns control over the operating-system and firmware privilege interface determining whether a voice service may obtain parity-grade native telephony

functionality. The downstream market concerns the retail carrier bundles through which device owners obtain that functionality. FAC ¶¶ 12–17, 30, 48–50, 82–87, 100.

Defendants argue that Wi-Fi calling is merely a lower-cost substitute for cellular calling and therefore part of the same product market. That argument mischaracterizes the market alleged in the FAC. The relevant market here is not voice communication in general. It is access to the native telephony interface of modern smartphone operating systems—the must-pass platform layer that determines whether any voice service can function as a native telephone line. As the D.C. Circuit recognized in *United States v. Microsoft Corp.,* exclusion at a platform interface can constitute antitrust harm even where downstream applications could theoretically provide similar functionality. The FAC therefore alleges foreclosure at the platform distribution layer, not merely competition among downstream voice services.

That platform interface functions as a must-pass chokepoint of the type recognized in *United States v. Microsoft Corp.,* 253 F.3d 34, 51–54 (D.C. Cir. 2001). Exclusion at that interface affects competition at both levels simultaneously: it restricts who may deploy a parity-grade native voice service upstream and constrains the alternatives available to consumers downstream. *Id*. at 58–67; *FTC v. Surescripts, LLC,* No. 1:19-cv-01080-JDB (D.D.C. Jan. 17, 2020) (mem. op. denying MTD).

The Motion argues that the FAC fails to plead a relevant antitrust market with adequate product and geographic boundaries. MTD §II.A at 9–11. At the pleading stage, however, plaintiffs need only allege a plausible market supported by factual content. The FAC satisfies that standard through platform-specific gating allegations, historical commercial evidence, geographic allegations, and the practical indicia identified in *Brown Shoe Co. v. United States,* 370 U.S. 294, 325 (1962).

Courts have repeatedly recognized that antitrust markets may exist at a platform interface where control of that interface determines whether downstream competitors can reach users at all. See *United States v. Microsoft Corp.,* 253 F.3d 34, 51–54 (D.C. Cir. 2001).

A. Upstream Market: Platform Native Telephony Enablement

The FAC plausibly alleges an upstream market centered on platform-controlled native telephony enablement. Each Platform Defendant exercises exclusive control over whether a voice service may obtain parity-grade native telephony privileges within its ecosystem. Apple controls such allocation within iOS through entitlement validation and IMS credential gating. FAC ¶¶ 12–13, 100–103. Google controls it within Android through hasCarrierPrivileges(), IMS Single Registration, and CarrierConfigManager APIs. FAC ¶¶ 14–15, 100, 104–105. Samsung independently controls firmware-layer enforcement through CSC profiles, Knox, and bootloader restrictions, even on devices that otherwise run Android. FAC ¶¶ 16, 100, 105–106; MTD at n.8.

These allegations define two primary upstream platform markets: iOS native telephony enablement and Android native telephony enablement. Within the Android ecosystem, the FAC further alleges that certain device manufacturers—including Samsung—exercise additional firmware-level enforcement over the same telephony privilege interface through device-level configuration profiles, bootloader restrictions, and proprietary security frameworks. FAC ¶¶ 12–16, 100–106. These firmware controls do not create a separate platform market; rather, they reinforce the same Android interface gate by independently enforcing access restrictions at the device layer. This structure parallels *Microsoft*, where monopoly power was measured at the operating-system layer controlling downstream access while additional technical layers reinforced the same exclusionary interface. 253 F.3d at 51–54.

The Motion argues that platform control alone cannot establish monopoly power, relying on *FTC v. Meta Platforms*. MTD at 14–16. Meta Platforms addressed a social-networking platform lacking the must-pass enforcement interface alleged here. The FAC alleges exclusive per-ecosystem control over native telephony privilege allocation — not merely a large market share in a competitive market.

The Motion also invokes *Ohio v. American Express Co.,* 585 U.S. 529 (2018), arguing that the platform must be analyzed as a two-sided transaction market. MTD at 9-11. The interface alleged here does not facilitate transactions between two user groups; it unilaterally allocates or withholds device-level telephony privileges. *American Express* therefore does not govern the market-definition analysis. The *Microsoft* court did not apply two-sided analysis to the Windows operating system despite Windows serving both end users and software developers. The same reasoning applies here. Furthermore, *FTC v. Surescripts, LLC* confirms in this District that antitrust analysis may focus on an intermediary bottleneck layer without *American Express* automatically defeating the claim. 424 F. Supp. 3d 92, 106–07 (D.D.C. 2020).

B. Downstream Market: Retail Carrier Bundles for Parity-Grade Native Telephony

The FAC plausibly alleges a downstream market consisting of retail carrier bundles through which approximately 373 million U.S. smartphone owners obtain parity-grade native telephony functionality. FAC ¶¶ 30, 48–50. Device owners pay $50–$100 per month for those bundles to obtain full native voice integration on devices they already own. FAC ¶¶ 26, 48–50, 68–73, 100.

OTT voice applications are not reasonable substitutes. Free OTT applications such as Skype, WhatsApp, or FaceTime Audio do not supply natively integrated Wi-Fi calling. They operate in degraded app mode, lacking default dialer status, delayed push notifications, push-free wake-and-ring behavior, E911 integration, call-log integration, and quality-of-service

prioritization. FAC ¶¶ 68–73, 82–87, 100, 107–108. The Motion argues interchangeability under *Brown Shoe* because both OTT applications and carrier bundles provide voice communication. MTD at 10–11. *Brown Shoe* interchangeability turns on consumer substitution behavior, not nominal function. Continued enrollment in $50–$100 carrier bundles despite free OTT alternatives plausibly defeats substitution at the pleading stage. FAC ¶¶ 26, 48–50, 68–73, 100.

Under *Eastman Kodak Co. v. Image Technical Services, Inc.,* 504 U.S. 451, 473–76 (1992), this downstream market is plausibly distinct. Device switching costs, platform lock-in, and post-sale control over native telephony functionality support treating the carrier bundle as a distinct aftermarket transaction.

C. Historical Evidence: Corroboration of a Foreclosed Market

The FAC does not plead a hypothetical market. Appendix C (Dkt. 9-3) documents a commercially active Wi-Fi-first telephony market in the United States between 2013 and 2016. FreedomPop, Republic Wireless, Scratch Wireless, RingPlus, and Freewheel offered Wi-Fi-first services priced at approximately $0–$5 per month. FAC App. C (Dkt. 9-3), § 1, ¶¶ 3.d–e. Public sources described Wi-Fi-first calling as disruptive to incumbent carriers. Id. §§ 1, 5.b. FAC App. C (Dkt. 9-3) at 4–6.

Defendants cannot convert the completeness of the alleged foreclosure into evidence that no market exists to foreclose. *Berkey Photo, Inc. v. Eastman Kodak Co.,* 603 F.2d 263, 293 (2d Cir. 1979).

D. Brown Shoe Indicators

The FAC satisfies the practical indicia identified in *Brown Shoe*. Industry reporting recognized Wi-Fi-first telephony as a distinct category; historical offerings were priced at approximately $0–$5 per month compared to $50–$100 carrier bundles; multiple specialized

vendors offered such services; and consumers purchased them as lower-cost alternatives to traditional carrier voice plans. FAC ¶ 85 & n.4; FAC App. C (Dkt. 9-3), § 1, ¶¶ 3.d–e; *Id*. §§ 1, 5.b. Cross-elasticity of demand is demonstrated by a bidirectional pattern: positive demand toward natively integrated Wi-Fi calling alternatives at 0–5/month when available, and continued demand for carrier bundles at $50–100/month despite free OTT availability, confirming a distinct market boundary. *Brown Shoe,* 370 U.S. at 325.

The Motion relies on *Sky Angel* to argue that the FAC merely labels a market without explaining why OTT applications are not substitutes. MTD at 11. Unlike the complaint dismissed in *Sky Angel*, the FAC pleads non-substitutability through platform architecture, pricing evidence, market behavior, and historical commercial evidence.

E. One Gate, Two Markets

The same gatekeeping restraint operates at the platform interface and produces exclusion at both levels simultaneously. Upstream, it determines which voice services may obtain parity-grade native integration. Downstream, it determines whether consumers have any lower-cost parity-grade alternative to carrier bundles. FAC ¶¶ 68–82, 100–108. This theory is consistent with *Microsoft*, where a single architectural restraint defined the locus of monopoly power upstream while generating downstream anticompetitive effects. 253 F.3d at 58–67.

F. Geographic Market

The FAC plausibly alleges a United States geographic market through jurisdiction-specific allegations: platform entitlement systems differ by jurisdiction on otherwise identical hardware; Samsung deploys U.S.-specific CSC profiles; Apple allegedly deployed certain telephony APIs in the EU while withholding them in the United States; and the class consists of approximately 373 million U.S. device owners. FAC ¶ 1, 59–61, 85–86, 100.

The Motion argues that the FAC contains no geographic market definition, relying on *PhantomALERT v. Apple Inc.* MTD at 9–10. However, *PhantomALERT* is distinguishable in every material respect. First, the plaintiff there alleged a speculative app-level submarket with no pricing or consumer demand, whereas Appendix C documents a historically active market. Second, the FAC here defines the market around an architectural exclusion from a critical platform interface, not an attempt to carve out one app category. Third, the FAC here pleads concrete geographic content tied to platform deployment decisions and U.S.-specific consumer effects — precisely what *PhantomALERT* found lacking. *E.I. du Pont de Nemours & Co. v. Kolon Industries, Inc.,* 637 F.3d 435, 441 (4th Cir. 2011).

G. Defendants' Market-Definition Objections

The FAC plausibly alleges two vertically related markets.

The 97% Carrier-Share Figure. Defendants argue that carriers hold approximately 97% of the Wi-Fi calling market, mathematically limiting platform defendants to 3% share. This argument confuses two different markets at two different levels. The 97% figure describes carriers' share of the downstream retail market. Platform defendants hold monopoly power at the upstream enablement layer, controlling 100% of native Wi-Fi calling enablement within their respective ecosystems. FAC ¶¶ 85–86, 94–116. If the platforms' gating conduct has successfully ensured that 97% of the downstream market is allocated to carrier-authorized services, that confirms rather than refutes the exclusionary effect. Procedurally, this argument also fails because judicial notice of a prior pleading establishes only its existence, not its truth, *Elemary v. Philipp Holzmann A.G.*, 533 F. Supp. 2d 116, 124 n.6 (D.D.C. 2008), and judicial estoppel requires prior judicial success, *Moses v. Howard Univ. Hosp.*, 606 F.3d 789, 793 (D.C. Cir. 2010).

Samsung's 0% Share. Samsung's asserted downstream market share of zero percent misses the point. MTD at 15–17. The FAC alleges that Samsung controls firmware-level enforcement on Samsung devices and independently blocks native access at that layer, regardless of its retail bundle share. FAC ¶¶ 16, 105–106. The 0% observation is the measurable consequence of the foreclosure the FAC alleges — not evidence that no market exists.

Share Aggregation. The Motion's reliance on *Sky Angel* and *Oxbow* for the proposition that the FAC improperly aggregates defendants' conduct likewise does not govern. The FAC does not aggregate shares; it alleges separate upstream markets independently controlled by different defendants. Neither case involved a complaint alleging a specific authorization-and-enforcement mechanism confirmed by defendants' own description of three platform implementations. MTD at 14–16 & n.8.

IV. DEFENDANTS' MOTION ATTACKS A THEORY THE FAC DOES NOT PLEAD

Several of Defendants' principal arguments depend on reframing the allegations of the First Amended Complaint into a theory that the FAC does not assert. The Motion repeatedly characterizes the challenged conduct as a "refusal to cooperate" with rival firms or as a request that Defendants redesign their products to accommodate a competitor. MTD at 1, 16–19. The FAC alleges something materially different.

The FAC alleges that Platform Defendants embedded operating-system and firmware rules that condition parity-grade native telephony functionality on carrier-issued validation credentials at a must-pass device interface. FAC ¶¶ 12–17, 60–61, 100. Those rules determine whether voice services can access native telephony capabilities such as default-dialer control, push-free wake-and-ring functionality, system call-log integration, emergency routing hooks, and quality-of-

service prioritization. These are architectural design decisions implemented directly in the platform software that governs device behavior.

That type of conduct is governed by *United States v. Microsoft Corp.,* 253 F.3d 34, 58–67 (D.C. Cir. 2001), which recognizes that a monopolist's product design choices can constitute exclusionary conduct when they foreclose competition at a platform interface that rivals must use to compete. The FAC's allegations therefore fall squarely within the *Microsoft* product-design framework.

Defendants' Motion attempts to recast those allegations as a refusal-to-deal claim governed by *Verizon Communications Inc. v. Law Offices of Curtis V. Trinko, LLP,* 540 U.S. 398 (2004). That reframing is incorrect. *Trinko* addresses circumstances in which a monopolist declines to share existing infrastructure with rivals. The FAC instead alleges that the platforms themselves embedded exclusionary conditions directly into their product architecture that determine which services may access the native telephony layer.

V. RICO: THE AUTHORIZATION-AND-CERTIFICATION ENTERPRISE

Counts V and VI proceed under 18 U.S.C. §§ 1962(c) and (d). These claims do not merely restate the Sherman Act theories. Civil RICO carries a high bar, and courts apply it with appropriate caution. The treble-damage remedy is reserved for structured, recurring, multi-party schemes that go beyond ordinary commercial conduct. The FAC meets that bar because the conduct alleged is a cross-tier authorization-and-certification enterprise operated by six defendants across two industry tiers, sustained through successive operating-system releases since 2014. They challenge the coordinated operational framework through which the alleged restraint is implemented, renewed through successive platform releases, and communicated through recurring interstate wire

communications that omit the structural conditions governing access to parity-grade native telephony outside a carrier-validated bundle.

The Motion characterizes the RICO counts as repackaged antitrust allegations, relying on *Midwest Grinding Co. v. Spitz*, 976 F.2d 1016, 1025 (7th Cir. 1992), for the proposition that RICO claims tracking antitrust conduct must be dismissed as duplicative. MTD at 26-27. That characterization misreads the pleaded theory. The FAC does not allege RICO as a restatement of antitrust injury. It alleges a distinct enterprise and operational machinery through which the restraint is implemented, renewed, and communicated to consumers who transact in reliance on materially incomplete representations. See *Hourani v. Mirtchev*, 796 F.3d 1 (D.C. Cir. 2015); *Yelverton v. Federal Insurance Co.*, 831 F.3d 585 (D.C. Cir. 2016).

A. Enterprise

An association-in-fact enterprise requires a common purpose, relationships among those associated with it, and sufficient longevity to pursue that purpose. *Boyle v. United States*, 556 U.S. 938, 946 (2009). The D.C. Circuit applies the same structural test, requiring only a shared purpose, defined relationships, and ongoing coordinated activity among participants. *Hourani*, 796 F.3d at 6–7. The RICO "person" must also be distinct from the enterprise itself. *Cedric Kushner Promotions, Ltd. v. King*, 533 U.S. 158, 163 (2001).

The FAC plausibly alleges such an enterprise. The Lock-and-Key architecture is not merely evidence of the enterprise; it plausibly describes the enterprise's operational mechanism: platform defendants control the Lock, while carriers control the Key. It describes an ongoing authorization-and-certification framework in which platform defendants design and maintain enforcement rules, carriers supply or control validation credentials, and certification processes recur with successive platform releases. FAC ¶¶ 59–66, 100–108, 131–135. This operational specificity establishes the

structural distinction required as the Sherman claims challenge the agreement to maintain the exclusionary architecture; the RICO claims challenge the operational structure—the certification cycles, the credential issuance protocols, the entitlement-gating mechanisms, and the accompanying communications—through which that agreement is implemented and continuously renewed. The Motion argues that the enterprise allegations fail the *Boyle* requirements of common purpose, participant relationships, and longevity, and that the FAC's acknowledgment of separate economic actors forecloses an enterprise under *United States v. Turkette*, 452 U.S. 576, 583 (1981). MTD at 27–28. But *Boyle* and *Turkette* require only that participants share a common purpose in operating the enterprise—not identical economic interests or a unified corporate structure. 556 U.S. at 946; 452 U.S. at 583. The FAC plausibly alleges those elements through platform defendants' design and maintenance of enforcement rules, carriers' control of validation credentials, and continuous operation of the framework since approximately 2014. FAC ¶¶ 59–66, 83–86, 100–108, 131–135.

The Motion further argues that the enterprise lacks common purpose because participants pursue independent economic interests, citing *Almanza v. United Airlines, Inc.*, 851 F.3d 1060 (11th Cir. 2017). MTD at 28. *Almanza* involved parties whose conduct was independently motivated and structurally unconnected. The FAC alleges the opposite: coordinated authorization and enforcement roles in which each tier's conduct is effective only through the complementary participation of the other. FAC ¶¶ 100–108, 131–135. That structural interdependence satisfies *Boyle*'s common-purpose requirement regardless of whether each participant's underlying economic interests differ. The Motion also argues that no defendant was aware of VoIP-Pal when relevant standards were established. MTD §III.A at 27. But an enterprise need not be formed to

target any specific excluded competitor. What matters is the shared purpose of operating the framework itself.

B. Predicate Acts and Pattern

The FAC alleges recurring interstate wire communications accompanying successive platform release and certification cycles, including developer documentation, SDK materials, carrier certification specifications, and consumer-facing representations regarding Wi-Fi calling functionality. FAC ¶ 135. Three specific categories of communications satisfy Rule 9(b)'s who/what/when/how requirements: (1) Apple: CallKit developer documentation transmitted via Apple Developer Portal describing VoIP application integration capabilities while omitting that CallKit does not confer default-dialer registration, inbound wake-and-ring, or QoS entitlements; (2) Google: Android developer documentation stating that IMS APIs are "not being made available to downloadable applications" while omitting that this restriction is the mechanism maintaining carrier-exclusive native integration; and (3) Carriers: Marketing communications representing that Wi-Fi Calling is "included at no additional charge" while omitting that bundle purchase is required and independent providers are categorically excluded. The Motion argues that these allegations fail Rule 9(b)'s particularity requirement, citing *Ambellu v. Re'ese Adbarat Debre Selam Kidist Mariam*, 387 F. Supp. 3d 71, 82 (D.D.C. 2019), and *Heath v. AT&T, Inc.*, 791 F.3d 112, 123 (D.C. Cir. 2015). MTD at 28–29. The FAC satisfies that standard. It identifies the categories of communications—developer documentation, SDK releases, carrier certification specifications, and consumer-facing Wi-Fi calling representations—the structural omissions they contain, the release cycles in which they recur, and the platform defendants responsible for each tier of the enforcement architecture. FAC ¶ 135; see also FAC ¶¶ 100–108, 125, 129.

Rule 9(b) does not require identification of every individual communication where the alleged fraud arises from a recurring institutional practice implemented through standardized communications. *Heath*, 791 F.3d at 125. The FAC alleges material omission of three structural facts: that parity-grade native telephony functionality requires continued purchase of a carrier bundle; that Wi-Fi calls are offloaded over subscriber-funded internet connections; and that independent providers are structurally barred from offering parity-grade native alternatives. FAC ¶¶ 95(3), 100, 125, 129, 135. Under *Neder v. United States*, 527 U.S. 1, 25 (1999), materiality turns on whether the omitted facts would matter to a reasonable decisionmaker. On the FAC's allegations, those structural conditions would matter to a reasonable subscriber deciding whether to purchase or maintain a carrier bundle priced at approximately $50–$100 per month.

The Motion argues that the challenged statements are literally true—Wi-Fi calling is included at no additional charge—and therefore cannot support a wire-fraud omission theory, relying on *American Board of Internal Medicine v. Salas Rushford*, 114 F.4th 42, 65 (1st Cir. 2024). MTD at 29. The FAC does not allege that the statements are facially false. It alleges that they are materially misleading because they omit structural conditions governing how the functionality is actually provided. Unlike the individualized certification representations in *Salas Rushford*, the FAC alleges uniform architectural omissions accompanying every carrier bundle transaction in the class—making materiality a common question rather than an individualized one. The duty to disclose arises from the half-truth doctrine: by affirmatively publishing developer documentation and marketing materials describing native telephony integration pathways, each Defendant assumed a duty to disclose the material architectural conditions limiting those pathways. Alternatively, the conditioning requirement was affirmatively concealed in proprietary operating-

system code and internal certification processes not disclosed in developer documentation or discoverable through ordinary diligence, satisfying the independent concealment prong.

Scienter and pattern are also plausibly alleged. The FAC alleges that platform defendants designed and maintained the architecture and therefore knew that parity-grade native integration was conditioned on carrier authorization and unavailable to independent providers absent that validation. FAC ¶¶ 100–108, 131–135. The Motion argues that the FAC fails to allege a pattern of racketeering activity under *Western Associates Ltd. Partnership v. Market Square Associates*, 235 F.3d 629 (D.C. Cir. 2001), because the communications reflect a single scheme affecting a single victim class. MTD at 29. The FAC alleges recurring communications across successive release cycles spanning more than a decade, plausibly establishing both closed-ended and open-ended continuity under *H.J. Inc. v. Northwestern Bell Telephone Co.*, 492 U.S. 229, 239 (1989).

C. Direction of the Enterprise

The Motion argues that no defendant directed the enterprise within the meaning of *Reves v. Ernst & Young*, 507 U.S. 170, 179 (1993), because the FAC does not allege that any defendant managed or controlled the enterprise as a whole. MTD at 30. The FAC plausibly alleges otherwise. Each Platform Defendant architects and maintains the enforcement layer that makes the enterprise operational: Apple through iOS entitlement validation, Google through Android carrier-privilege APIs, and Samsung through firmware controls. FAC ¶¶ 12–17, 100–108, 131–135. Samsung independently satisfies Reves through its design and maintenance of CSC firmware profiles, Knox enforcement, and boot-level allow-lists that gate native telephony on carrier validation within the Samsung ecosystem—conduct independent of, not merely derivative of, Google's Android framework. At the pleading stage, those allegations plausibly satisfy the operation-or-management requirement under *Reves*.

D. Causation

For Counts V and VI, the relevant inquiry is proximate cause under *Anza v. Ideal Steel Supply Corp.*, 547 U.S. 451, 457–61 (2006). The Motion argues that any injury to the class is too attenuated because the alleged harm flows through independent carrier pricing decisions rather than directly from the predicate communications, citing *Danielsen v. Burnside-Ott Aviation Training Center, Inc.*, 941 F.2d 1220 (D.C. Cir. 1991). MTD at 29–30. *Danielsen* involved injury dependent on independent decisions of third parties not alleged to be participants in the scheme. The FAC alleges that the predicate communications accompanied the same release-cycle and certification architecture that maintained the challenged framework; that consumers received incomplete representations regarding how parity-grade native Wi-Fi calling was made available; and that subscribers purchased or maintained carrier bundles as the only route to full native functionality. FAC ¶¶ 83–86, 95(3), 100, 125, 129, 135. On the pleaded theory, no independent market actor breaks the causal chain. See *Holmes v. Securities Investor Protection Corp.*, 503 U.S. 258, 268–69 (1992); *Bridge v. Phoenix Bond & Indemnity Co.*, 553 U.S. 639, 654 (2008).

E. RICO Conspiracy (§ 1962(d))

Section 1962(d) prohibits conspiracy to violate § 1962(c). *Salinas v. United States*, 522 U.S. 52, 63–65 (1997); *RSM Production Corp. v. Freshfields Bruckhaus Deringer U.S. LLP*, 682 F.3d 1043, 1048 (D.C. Cir. 2012). The Motion argues that the conspiracy claim fails because the FAC alleges only parallel conduct among independent actors, citing *American Dental Association v. Cigna Corp.*, 605 F.3d 1283 (11th Cir. 2010). MTD at 30. *American Dental* involved allegations of parallel pricing without any structural mechanism linking defendants' conduct. The FAC alleges more than parallelism. It describes complementary roles that neither tier could sustain independently: platforms enforce the credential requirement, while carriers control the credentials

that satisfy it. FAC ¶¶ 100, 131–135, 148. That structural interdependence plausibly alleges agreement under § 1962(d).

VI. THE NAMED PLAINTIFFS AND VOIP-PAL HAVE ARTICLE III AND ANTITRUST STANDING

Defendants challenge standing on multiple grounds. MTD at 6–8. Because Article III standing is a threshold jurisdictional requirement, it must be addressed before the merits. *Lujan v. Defenders of Wildlife*, 504 U.S. 555, 560–61 (1992); *Murthy v. Missouri*, 603 U.S. 43, 56–57 (2024). At the pleading stage, standing allegations are accepted as true and evaluated under the same plausibility standard governing Rule 12. Where exclusion occurs at the platform gate that determines whether competing telephony technologies can reach users at all, the resulting absence of standalone alternatives reflects the success of the exclusionary restraint rather than the absence of consumer demand for such alternatives.

A. Injury in Fact

The Motion argues that the Individual Plaintiffs fail to allege personal purchases or cognizable injury traceable to the challenged conduct, relying on *Mulvey v. American Airlines Inc.*, 2019 WL 1060877, at *4 (D.D.C. Mar. 6, 2019), and *National ATM Council, Inc. v. Visa Inc.*, 922 F. Supp. 2d 73, 80–81 (D.D.C. 2013), for the proposition that generalized allegations of market harm without personal transaction allegations cannot support injury in fact. MTD at 6–7. The FAC alleges otherwise. Each Named Plaintiff—Ray Leon, Richard Inza, and Michael Inza—owns a smartphone and purchases a wireless service plan priced at approximately $50–$100 per month to obtain parity-grade native telephony functionality on a device he already owns. FAC ¶¶ 48–50, 80–82. *Mulvey* and *National ATM Council* involved plaintiffs who alleged industry-wide harm without identifying their own transactions. Here, the FAC identifies each Named Plaintiff's device

ownership, bundle purchase, monthly price, and the specific functionality withheld absent carrier validation.

The FAC alleges two concrete injuries. First, it alleges a recurring economic overcharge. Plaintiffs allege that a standalone VoWiFi alternative could deliver comparable native telephony functionality at approximately $6.50 per month, and that the difference between that benchmark and the bundle price represents a recurring overcharge. FAC ¶¶ 26, 68–73, 70. A monthly overcharge constitutes paradigmatic economic injury. *Hanover Shoe, Inc. v. United Shoe Machinery Corp.*, 392 U.S. 481, 489 (1968). Second, the FAC alleges functional degradation. Absent carrier validation, parity-grade native telephony privileges are withheld from features of consumers' own devices, including native dialer integration. FAC ¶¶ 12–17, 100, 107–108. Interference with the use and functionality of property one already owns is a concrete injury. *Spokeo, Inc. v. Robins*, 578 U.S. 330, 340 (2016).

The Motion invokes *TransUnion LLC v. Ramirez*, 594 U.S. 413 (2021), for the proposition that plaintiffs must demonstrate a concrete real-world injury with a close historical or common-law analog and that speculative or potential harms do not suffice. MTD at 6. *TransUnion* addressed plaintiffs whose alleged injury was entirely contingent—a credit report that had never been shared with a third party. 594 U.S. at 432–33. Here, the FAC alleges ongoing economic and functional consequences: each Named Plaintiff allegedly pays the challenged bundle price each billing cycle and uses a device whose native telephony functionality remains conditioned on continued bundle purchase. Those are concrete present injuries, not speculative ones.

B. Causation

The FAC also plausibly alleges traceability. Plaintiffs allege that the challenged platform conditioning forecloses lower-cost parity-grade alternatives and thereby enables supracompetitive

bundle pricing. FAC ¶¶ 12–17, 48–50, 68–73, 100, 107-108. On the FAC's theory, platform restrictions and carrier validation rules jointly eliminate parity-grade alternatives, forcing consumers to obtain native telephony functionality exclusively through carrier bundles. The resulting overcharge is therefore not the product of independent carrier pricing decisions but of the foreclosure that makes carrier bundles the only available route to parity-grade native integration. The overcharge and associated functional deprivation are thus directly traceable to the challenged architecture. *Bennett v. Spear*, 520 U.S. 154, 167 (1997).

The Motion further argues that Plaintiffs' alleged injuries are derivative of VoIP-Pal's claimed exclusion and therefore insufficient to support Article III standing. MTD at 6–7. But consumer overcharge resulting from structural foreclosure of competition constitutes an independent injury. The Named Plaintiffs allege direct economic harm flowing from the same architectural restriction that forecloses VoIP-Pal—not harm that flows through VoIP-Pal's injury as an intermediate step.

C. Redressability

The FAC also plausibly alleges redressability. Treble damages would compensate the Named Plaintiffs for the alleged overcharge. *Zenith Radio Corp. v. Hazeltine Research, Inc.*, 395 U.S. 100, 123–24 (1969). Injunctive and declaratory relief directed at the challenged authorization-and-enforcement architecture would likewise redress the forward-looking injury by removing the structural condition allegedly preventing lower-cost alternatives.

The Motion relies on *City of Los Angeles v. Lyons*, 461 U.S. 95 (1983), for the proposition that prospective relief requires a sufficient likelihood of future injury and that a structural condition not yet causing imminent individual harm is speculative. MTD at 7. *Lyons* involved a single completed incident and a speculative risk of recurrence dependent on the plaintiff's own future

conduct. Here, the FAC alleges an ongoing platform architecture that continues to govern device functionality and bundle purchase every billing cycle. FAC ¶¶ 48–50, 83–86, 100. The Named Plaintiffs' forward-looking injury therefore recurs with each monthly bundle payment and is not speculative.

D. Antitrust Standing

The Named Plaintiffs also satisfy antitrust standing. The Motion argues that they fail the *Associated General Contractors of California, Inc. v. California State Council of Carpenters*, 459 U.S. 519, 535 & n.31 (1983), factors because the alleged injury flows from harm to competitors rather than directly to consumers and because the Named Plaintiffs are not efficient enforcers of the alleged restraint. MTD at 8. Those arguments fail on the FAC's allegations. Consumer overcharge resulting from foreclosure of competition constitutes classic antitrust injury flowing directly to the Named Plaintiffs as end purchasers. *Brunswick Corp. v. Pueblo Bowl-O-Mat, Inc.*, 429 U.S. 477, 489 (1977); *Cargill, Inc. v. Monfort of Colorado, Inc.*, 479 U.S. 104, 109 (1986). The Named Plaintiffs are direct purchasers allegedly paying the supracompetitive bundle price, not derivative victims of competitor harm. *Illinois Brick Co. v. Illinois*, 431 U.S. 720, 735–36 (1977). The FAC plausibly alleges measurable damages based on the difference between the bundle price and the alleged standalone VoWiFi benchmark. FAC ¶¶ 26, 48–50, 68–73, 70. As direct purchasers, the Named Plaintiffs are therefore the most efficient enforcers of the alleged restraint.

E. VoIP-Pal's Standing

VoIP-Pal appears in this action only to seek structural injunctive and declaratory relief aligned with the relief sought for the class. FAC ¶ 159, 240. It does not serve as the source of consumer standing or seek consumer damages. The Motion argues that VoIP-Pal is not a class

member and therefore lacks standing to seek class relief, relying on *Empagran, S.A. v. F. Hoffman-La Roche Ltd.*, 453 F. Supp. 2d 1 (D.D.C. 2006). MTD at 7–8. *Empagran* addressed a foreign purchaser attempting to assert domestic antitrust claims on behalf of U.S. consumers—a standing gap not present here. VoIP-Pal seeks structural injunctive and declaratory relief coextensive with the class relief and does not rely on class membership to establish standing. Its standing rests on its own independent foreclosure injury at the platform interface.

The FAC plausibly alleges that VoIP-Pal suffered its own independent injury through foreclosure at the platform interface—the gate through which parity-grade native telephony access must pass. Foreclosure from such a deployment pathway constitutes cognizable competitor injury. *United States v. Microsoft Corp.*, 253 F.3d 34, 58–67 (D.C. Cir. 2001); *Andrx Pharmaceuticals, Inc. v. Biovail Corp.*, 256 F.3d 799, 806–07 (D.C. Cir. 2001). Independent technical review confirms technological readiness sufficient to support competitor standing under *Andrx*: Smart421 concluded that Digifonica had advanced from research and development to readiness for live product execution and support. Smart421 Technical Review (Dec. 6, 2006) § 2.1; FAC ¶¶ 68, 78–81. The historically active Wi-Fi-first market—five providers offering service at $0–$5 per month before carrier-exclusive integration eliminated each, documented in FAC ¶ 85 n.4 and Appendix C (Dkt. 9-3)—further confirms that the lost licensing opportunities were commercially real. At the pleading stage, that combination of technological readiness and commercially documented market opportunity plausibly establishes competitor-side foreclosure injury under *Andrx*.

Defendants attempt to portray the absence of standalone native Wi-Fi calling providers as evidence that such services are not commercially viable. The FAC alleges the opposite. The reason independent providers could not deploy or test standalone native Wi-Fi calling alternatives was that Defendants' operating-system and firmware rules denied those providers access to the native

telephony interface required for market entry. When exclusion occurs at the platform gate that determines whether competing telephony technologies can reach users at all, the resulting absence of standalone alternatives reflects the success of the restraint rather than the absence of consumer demand.

F. Conclusion

The FAC plausibly alleges that the Named Plaintiffs suffer a recurring bundle overcharge and the withholding of parity-grade native telephony functionality, injuries that are traceable to the challenged architecture and redressable through damages and prospective relief. The Rule 12(b)(1) motion should therefore be denied.

VII. MATTERS SUBJECT TO JUDICIAL NOTICE

Under Federal Rule of Evidence 201(b), a court may take judicial notice of facts not subject to reasonable dispute because they can be accurately determined from reliable sources. Courts in this Circuit routinely take judicial notice of publicly available materials, including government publications and documents published on a party's own website. *Abhe & Svoboda, Inc. v. Chao*, 508 F.3d 1052, 1059 (D.C. Cir. 2007); *Kaempe v. Myers*, 367 F.3d 958, 965 (D.C. Cir. 2004). Courts may do so without converting a Rule 12 motion into one for summary judgment where the materials are referenced in the complaint and are offered only to establish their existence. *Kaempe*, 367 F.3d at 965.

Defendants themselves invoke the same principle. In footnote 2 of the Motion, Defendants request judicial notice of SEC filings under *Abhe & Svoboda*, 508 F.3d at 1059, to characterize VoIP-Pal's operational status. MTD at 3 n.2. Having invoked Federal Rule of Evidence 201(b) for their own purposes, Defendants cannot oppose its application to the categories of publicly available materials identified below. These materials are referenced in the FAC and are offered

only to establish the existence of publicly available information, not to resolve disputed factual questions. FAC ¶ 85 n.3–4.

A. Platform Technical Documentation

Developer documentation, technical specifications, and release materials published by Apple, Google, and Samsung on their official developer platforms. FAC ¶¶ 83–86, 100–108. Because these materials are published by Defendants themselves, their authenticity cannot reasonably be disputed. See Fed. R. Evid. 201(b)(2).

B. Consumer-Facing Carrier Representations

Publicly available carrier advertising and promotional materials describing Wi-Fi calling as included at no additional charge. FAC ¶¶ 95(3), 125, 129, 135. Defendants rely on these same representations in arguing that their disclosures were truthful and that no material omission is plausible. MTD at 28–29. Judicial notice is requested only to establish that the representations were made and were publicly available, not to determine whether they were materially misleading.

C. Government Statistical Sources

Public statistical publications including U.S. Census Bureau poverty data, CMS nursing facility enrollment statistics, and FCC/USAC Affordable Connectivity Program enrollment figures. These materials illustrate the scale of populations for whom lower-cost standalone Wi-Fi calling alternatives could be economically significant. FAC ¶¶ 26–27, 48–50, 68–73, 70. Government statistical publications are among the most readily noticeable categories of public records under *Abhe & Svoboda*, 508 F.3d at 1059.

D. Historical Market Evidence and EU Regulatory Materials

Publicly available publications documenting the Wi-Fi-first telephony market that operated in the United States between 2013 and 2016. FAC ¶ 85 n.4; Appendix C (Dkt. 9-3). Plaintiffs also

reference Apple's publicly disclosed Digital Markets Act compliance materials concerning deployment of certain telephony APIs in the European Union but not the United States. FAC ¶ 86. These materials are referenced in the FAC and are offered to corroborate the historical market allegations and the U.S.-specific geographic market theory, not to establish the truth of any disputed factual assertion.

E. Scope and Effect

These materials are offered solely for judicial notice of their existence and public availability. Defendants' own invocation of Rule 201(b) in footnote 2 of the Motion to support judicial notice of SEC filings, MTD at 3 n.2, confirms that the standard is satisfied for publicly available materials whose authenticity cannot reasonably be disputed. Their consideration does not convert the present motion into one for summary judgment under Rule 12(d) because they are offered only to establish the existence of publicly available information, not to resolve any factual dispute bearing on the merits. See Fed. R. Civ. P. 12(d); *Kaempe*, 367 F.3d at 965.

VIII. DISMISSAL WITH PREJUDICE IS UNWARRANTED

Defendants request dismissal with prejudice, arguing that any alleged deficiency is incurable because related complaints have previously been filed. MTD at 31–35. That request misstates the governing standard. Dismissal with prejudice is appropriate only where amendment would be futile—meaning the complaint could not state a claim as a matter of law even if amended. *Foman v. Davis*, 371 U.S. 178, 182 (1962); *Firestone v. Firestone*, 76 F.3d 1205, 1209 (D.C. Cir. 1996). Defendants bear the burden of demonstrating such futility. They have not met it.

A. Ongoing Conduct Defeats Futility

The FAC alleges continuing conduct rather than a completed historical event. The most recent platform releases referenced in the complaint occurred within months of filing and allegedly

continue to condition native telephony functionality on carrier-issued entitlements. FAC ¶¶ 83–86, 100–108. Because the architecture is implemented through successive software and firmware releases, the alleged conditioning is repeatedly recompiled and reintroduced across new platform versions. The resulting injury—bundle overcharges paid by device owners—recurs each billing cycle. Where a complaint challenges ongoing technological conduct producing recurring economic injury, dismissal with prejudice is particularly inappropriate. *Firestone*, 76 F.3d at 1209.

B. The Claims Rest on Established Doctrine

The FAC applies settled legal doctrines. Count I proceeds under the product-design maintenance framework recognized in *United States v. Microsoft Corp.*, 253 F.3d 34, 58–67 (D.C. Cir. 2001). Count II proceeds under the structural interdependence framework recognized in *Interstate Circuit, Inc. v. United States*, 306 U.S. 208, 222–23 (1939). Counts V and VI proceed under the RICO enterprise framework articulated in *Boyle v. United States*, 556 U.S. 938, 946 (2009). Consumer standing rests on the core direct-purchaser authorities: *Hanover Shoe*, *Brunswick*, and *Illinois Brick*. The FAC therefore applies established precedent to the alleged operation of a platform architecture affecting consumer pricing and functionality.

Even if the Court were to conclude that aspects of the market definition or conditioning mechanism require further factual detail, such issues would represent curable pleading deficiencies rather than incurable legal defects. In that circumstance, the appropriate course would be dismissal without prejudice and leave to amend. *Foman*, 371 U.S. at 182.

C. Defendants' Futility Arguments Fail

The Motion argues that the Named Plaintiffs fail to allege concrete injury sufficient to sustain the complaint through amendment. MTD at 6-8. The FAC directly alleges otherwise: each Named Plaintiff owns a smartphone, purchases a wireless service plan priced at approximately

$50–$100 per month, and pays those charges to obtain parity-grade native telephony functionality on a device he already owns. FAC ¶¶ 48–50. That is paradigmatic consumer overcharge injury, not a deficiency that amendment could not cure even if the Court required additional factual detail.

The Motion likewise argues that the RICO claims are incurably deficient because the FAC fails to allege an enterprise, predicate acts with adequate particularity, and proximate causation. MTD at 33–34. The FAC alleges a defined enterprise operating since approximately 2014, predicate communications identified by category and release cycle, and a causal chain unbroken by any independent market actor. Any identified pleading deficiency would represent a curable defect rather than a legal bar to amendment.

The Motion also argues that prior related filings by the same or affiliated plaintiffs demonstrate serial litigation conduct warranting dismissal with prejudice under the standards recognized in *Cheeks v. Fort Myer Construction Corp.*, 216 F. Supp. 3d 146 (D.D.C. 2016), and *Miller v. Holzmann*, 281 F. Supp. 3d 15 (D.D.C. 2017). MTD at 34–35. *Cheeks* and *Miller* each involved repeated re-filings after explicit judicial guidance identifying specific deficiencies. This case presents no such circumstance. This is the first amended complaint in this action, and it challenges an ongoing architecture that has continued to evolve through successive platform releases. FAC ¶¶ 83–86, 100–108. The related filings address different tiers of the same architecture in separate actions; they do not constitute the type of serial re-filing addressed in *Cheeks* and *Miller*.

D. Defendants' Own Positions Undermine Futility

Defendants' own litigation positions further undermine any claim of futility. Samsung simultaneously argues that the claims are incurably deficient while seeking merits adjudication in arbitration, with this Court preserved as the alternative forum. In its arbitration filings, Samsung

characterizes the same conduct as "concerted misconduct" intertwined with carrier relationships and describes its firmware design as facilitating carrier dominance over Wi-Fi calling functionality. Dkt. 30-1 at 18, 20–22. A party that attributes substantive antitrust significance to the challenged conduct while arguing that the claims are legally impossible has not demonstrated futility as a matter of law.

IX. THE CLAIM-SPLITTING DEFENSE DOES NOT BAR THIS CLASS ACTION

Claim-splitting bars a later action only where two cases involve the same parties asserting the same claims arising from the same nucleus of operative facts. *Steele v. United States*, 144 F.4th 316, 325 (D.C. Cir. 2025) (quoting *Smalls v. United States*, 471 F.3d 186, 192 (D.C. Cir. 2006)); *Clayton v. District of Columbia*, 36 F. Supp. 3d 91, 97 (D.D.C. 2014). The Motion argues that the existence of the standalone competitor action and this consumer class action constitutes impermissible claim-splitting warranting dismissal. MTD at 32–33. That argument fails because neither requirement for claim-splitting is satisfied. This action is a consumer class case brought on behalf of approximately 373 million device owners alleging bundle overcharges and functional degradation. The separate action brought by VoIP-Pal alleges competitor foreclosure. Although both actions arise from the same alleged Lock-and-Key architecture, they involve different parties, different injuries, and different remedies. At the pleading stage, factual overlap between related actions does not establish claim-splitting as a matter of law. Defendants bear the burden of demonstrating identity of parties and claims. *Stanton v. District of Columbia Court of Appeals*, 127 F.3d 72, 78 (D.C. Cir. 1997).

A. Different Parties

The standalone competitor action names VoIP-Pal as the sole plaintiff asserting competitor injury. This action includes Ray Leon, Richard Inza, and Michael Inza as Named Plaintiffs

asserting consumer injuries on behalf of a nationwide class of device owners.

VoIP-Pal appears in both cases but in different capacities. In the standalone action it seeks damages for competitor foreclosure at the platform interface. In this action it appears only as a co-plaintiff seeking structural injunctive relief aligned with the consumer class relief. It does not seek consumer damages and does not serve as the class representative. FAC ¶ 50.

The Motion relies on *Steele*, 144 F.4th at 326, for the proposition that the presence of a common party across related filings is sufficient to trigger claim-splitting regardless of whether the claims and injuries differ. MTD at 32–33. *Steele* involved identical parties pursuing identical claims in successive proceedings—not a consumer class and a competitor plaintiff asserting distinct injuries against overlapping but non-identical defendant groups. The consumer plaintiffs and their claims are therefore distinct from the competitor claims in the standalone action.

B. Different Claims

The claims asserted in the two actions are likewise distinct. The standalone action alleges competitor foreclosure—loss of market entry and licensing opportunities resulting from VoIP-Pal's alleged exclusion at the platform gate. This action alleges consumer injury—bundle overcharges and functional degradation experienced by device owners.

These injuries belong to different plaintiff categories under the direct-purchaser framework. *Illinois Brick Co. v. Illinois*, 431 U.S. 720, 735 (1977). Consumers who allegedly pay the supracompetitive bundle price pursue consumer damages, while competitors allegedly excluded from the market pursue their own foreclosure claims.

The Motion relies on *Apotex, Inc. v. FDA*, 393 F.3d 210, 217 (D.C. Cir. 2004), for the proposition that actions sharing the same nucleus of operative facts constitute the same cause of action regardless of the injuries asserted. MTD at 33. *Apotex* addresses claim preclusion between

successive actions by the same plaintiff—not the relationship between a consumer class action and a competitor action filed by different plaintiffs.

A single restraint may produce multiple legally distinct injuries in the hands of legally distinct plaintiffs. The fact that both actions arise from the same alleged Lock-and-Key mechanism therefore does not merge them into a single cause of action.

C. Different Relief

The remedies sought in the two actions further confirm that claim-splitting does not apply. The competitor action seeks remedies for competitor foreclosure, including lost licensing revenue and restoration of market entry opportunities. This action seeks consumer remedies, including treble damages under Rule 23(b)(3), injunctive relief preventing architectural re-locking, and related declaratory relief. FAC ¶¶ 82, 162, 170.

VoIP-Pal's participation in this action seeks structural injunctive relief coextensive with the relief sought by the consumer class—specifically, a neutral certification pathway allowing independent providers to obtain parity-grade native telephony privileges without carrier bundle conditioning. That relief addresses consumer harm and is not duplicative of the competitor remedies sought in the standalone action. *Gratz v. Bollinger*, 539 U.S. 244, 263–64 (2003).

D. Factual Overlap Does Not Create Claim-Splitting

The Motion relies on *Katz v. Gerardi*, 655 F.3d 1212, 1217 (10th Cir. 2011), and *Colorado River Water Conservation District v. United States*, 424 U.S. 800 (1976), for the proposition that factual overlap across related proceedings requires dismissal or abstention. MTD at 32–33. Those authorities do not support dismissal here. *Katz* requires identity of claims—not merely factual overlap—and applies only where a plaintiff seeks recovery twice for the same injury. The consumer class does not seek recovery for VoIP-Pal's competitor injury, and VoIP-Pal does not

seek recovery for consumer overcharges. *Colorado River* concerns abstention where parallel proceedings in different courts risk conflicting judgments. That concern does not exist here: all related actions are pending before the same judge in this District, and Plaintiffs have moved under 42(a) for coordinated pretrial management.

The Motion also cites *Jolley v. United States*, 2023 WL 3619415, at *5 (D.D.C. May 24, 2023), in support of its claim-splitting argument. MTD at 33. *Jolley* reflects the opposite principle. Where related cases present different claims arising from the same factual background, courts favor coordination rather than dismissal. That is precisely the posture of the related actions here.

E. Conclusion

The consumer class action and the standalone competitor action involve different plaintiffs, different injuries, and different remedies. Defendants have not demonstrated the identity of parties and claims required for claim-splitting under *Steele* and *Clayton*. The fact that both actions arise from the same alleged platform architecture does not create impermissible claim-splitting; at most, it supports coordinated case management under Rule 42(a). At the pleading stage, the claim-splitting defense provides no basis for dismissal.

On March 11, 2026, AT&T, T-Mobile, and Verizon filed a Notice of Supplemental Authority in the coordinated carrier dockets, Nos. 1:24-cv-03051-RDM and 1:24-cv-03054-RDM, citing *Rx Solutions, Inc. v. Caremark, L.L.C.,* 164 F.4th 436 (5th Cir. 2026). Because the Lock-and-Key architecture pleaded in this action establishes that the carrier authorization tier and the platform enforcement tier are structurally interdependent, Plaintiffs respectfully bring that filing to this Court's attention. Far from undermining Plaintiffs' claims, *Rx Solutions* confirms them: the Fifth Circuit identified failure to plead a relevant market and failure to allege consumer harm — specifically increased prices, decreased supply, or decreased quality to consumers — as the

deficiencies requiring dismissal. 164 F.4th at 442–45. Both complaints satisfy each standard. On relevant market, Plaintiffs plead carrier-grade VoWi-Fi as a legally distinct product market, non-interchangeable with OTT alternatives, with 97% subscriber market control establishing market power and cross-elasticity of demand. On consumer harm, Plaintiffs plead that consumers cannot purchase VoWi-Fi independently, are charged full cellular rates for calls that never traverse carrier towers, and suffer quantified price overcharges — a senior paying $45 per month for unused services, a family of four paying $180 per month when a standalone alternative was viable at $20 per month. The platform FAC independently satisfies the same standards under a product-design conditioning theory under *United States v. Microsoft Corp.,* 253 F.3d 34, 58–67 (D.C. Cir. 2001) — a theory *Rx Solutions* never addressed and therefore cannot govern. Plaintiffs reserve the right to respond separately and directly to Defendants' Notice of Supplemental Authority in the carrier dockets.

CONCLUSION

WHEREFORE, Plaintiffs Ray Leon, Richard Inza, Michael Inza, and VoIP-Pal.com Inc. respectfully requests that the Court deny Defendants' Motion to Dismiss.

Respectfully submitted,

/s/ Travis Pittman

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Filed: March 17, 2026

CERTIFICATE OF SERVICE

I hereby certify that a true and correct copy of the foregoing Plaintiff's Motion was served on March 17, 2026 to all counsel of record via the Court's electronic filing system.

/s/ Travis Pittman
Travis Pittman