

court “must accord deference to the government’s predictions about the efficacy of its remedies, and may not require that the remedies perfectly match the alleged violations.” *SBC Commc’ns*, 489 F. Supp. 2d at 17; *see also U.S. Airways*, 38 F. Supp. 3d at 74–75 (noting that a court should not reject the proposed remedies because it believes others are preferable and that room must be made for the government to grant concessions in the negotiation process for settlements); *Microsoft*, 56 F.3d at 1461 (noting the need for courts to be “deferential to the government’s predictions as to the effect of the proposed remedies”); *United States v. Archer-Daniels-Midland Co.*, 272 F. Supp. 2d 1, 6 (D.D.C. 2003) (noting that the court should grant “due respect to the government’s prediction as to the effect of proposed remedies, its perception of the market structure, and its views of the nature of the case”). The ultimate question is whether “the remedies [obtained in the decree are] so inconsonant with the allegations charged as to fall outside of the ‘reaches of the public interest.’” *Microsoft*, 56 F.3d at 1461. To meet this standard, the United States “need only provide a factual basis for concluding that the settlements are reasonably adequate remedies for the alleged harms.” *SBC Commc’ns*, 489 F. Supp. 2d at 17.

Moreover, a court’s role under the APPA is limited to reviewing the remedy in relationship to the violations that the United States has alleged in its complaint, and does not authorize a court to “construct [its] own hypothetical case and then evaluate the decree against that case.” *Microsoft*, 56 F.3d at 1459; *see also U.S. Airways*, 38 F. Supp. 3d at 75 (noting that the court must simply determine whether there is a factual foundation for the government’s decisions such that its conclusions regarding the proposed settlements are reasonable). Because the “court’s authority to review the decree depends entirely on the government’s exercising its prosecutorial discretion by bringing a case in the first place,” it follows that “the court is only authorized to review the decree itself,” and not to “effectively re-draft the complaint” to inquire into other matters that the United States did not pursue. *Microsoft*, 56 F.3d at 1459–60. As the court confirmed in *SBC Communications*, courts “cannot look beyond the complaint in making the public interest determination unless the complaint is drafted so narrowly as to make a mockery of judicial power.” *SBC Commc’ns*, 489 F. Supp. 2d at 15.

In its 2004 amendments,⁹ Congress made clear its intent to preserve the practical benefits of utilizing consent decrees in antitrust enforcement, adding the unambiguous instruction that “[n]othing in this section shall be construed to require the court to conduct an evidentiary hearing or to

require the court to permit anyone to intervene.” 15 U.S.C. § 16(e)(2); *see also U.S. Airways*, 38 F. Supp. 3d at 76 (indicating that a court is not required to hold an evidentiary hearing or to permit intervenors as part of its review under the Tunney Act). This language explicitly wrote into the statute what Congress intended when it first enacted the Tunney Act in 1974. As Senator Tunney explained: “[t]he court is nowhere compelled to go to trial or to engage in extended proceedings which might have the effect of vitiating the benefits of prompt and less costly settlement through the consent decree process.” 119 Cong. Rec. 24,598 (1973) (statement of Sen. Tunney). Rather, the procedure for the public interest determination is left to the discretion of the court, with the recognition that the court’s “scope of review remains sharply proscribed by precedent and the nature of Tunney Act proceedings.” *SBC Commc’ns*, 489 F. Supp. 2d at 11. A court can make its public interest determination based on the competitive impact statement and response to public comments alone. *U.S. Airways*, 38 F. Supp. 3d at 76. *See also United States v. Enova Corp.*, 107 F. Supp. 2d 10, 17 (D.D.C. 2000) (noting that the “Tunney Act expressly allows the court to make its public interest determination on the basis of the competitive impact statement and response to comments alone”); S. Rep. No. 93–298 93d Cong., 1st Sess., at 6 (1973) (“Where the public interest can be meaningfully evaluated simply on the basis of briefs and oral arguments, that is the approach that should be utilized.”).

VIII. DETERMINATIVE DOCUMENTS

There are no determinative materials or documents within the meaning of the APPA that were considered by the United States in formulating the proposed Final Judgment.

Respectfully submitted,

Dated: December 4, 2018

FOR PLAINTIFF UNITED STATES OF AMERICA:

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NATIONAL SCIENCE FOUNDATION

Request for Information on National Strategic Overview for Quantum Information Science

AGENCY: National Science Foundation.

ACTION: Notice of request for information.

SUMMARY: The National Science and Technology Council (NSTC)

Subcommittee on Quantum Information Science (SCQIS) release of the “National Strategic Overview for Quantum Information Science” (hereafter “Strategic Overview”) calls upon agencies to develop plans to address six key policy areas to enable continued American leadership in quantum information science. The National Science Foundation (NSF), working with the NSTC, is requesting information from the research and development community around quantum information science (QIS) to inform the subcommittee as the Government develops potential means of addressing specific policy recommendations.

DATES: Interested persons are invited to submit comments on or before 11:59 p.m. (ET) on January 25, 2019.

ADDRESSES: Comments submitted in response to this notice may be sent by either of the following methods:

- **Email:** nfscqis@nsf.gov. Email submissions should be machine-readable and not be copyright-protected. Submissions should include “RFI Response: National Strategic Overview for Quantum Information Science” in the subject line of the message.

- **Direct input to the website:** <http://www.nfscqis.org>

Instructions: Response to this RFI is voluntary. Each individual or institution is requested to submit only one response. Submissions must not exceed the equivalent of one page for each question, or eight pages total, in 12 point or larger font, with a page number provided on each page. Responses should include the name of the person(s) or organization(s) filing the comment.

Responses to this RFI may be posted online as discussions proceed. Therefore, we request that no business proprietary information, copyrighted information, or personally identifiable information be submitted in response to this RFI.

In accordance with FAR 15.202(3), responses to this notice are not offers and cannot be accepted by the Government to form a binding contract. Responders are solely responsible for all expenses associated with responding to this RFI.

FOR FURTHER INFORMATION CONTACT: C. Denise Caldwell at (703)-292-7371 or nfscqis@nsf.gov. Individuals who use a telecommunications device for the deaf (TDD) may call the Federal Information Relay Service (FIRS) at 1–800–877–8339 between 8 a.m. and 8 p.m., Eastern time, Monday through Friday.

SUPPLEMENTARY INFORMATION: The National Science and Technology

⁹The 2004 amendments substituted “shall” for “may” in directing relevant factors for a court to consider and amended the list of factors to focus on competitive considerations and to address potentially ambiguous judgment terms. *Compare* 15 U.S.C. § 16(e) (2004), with 15 U.S.C. § 16(e)(1) (2006); *see also SBC Commc’ns*, 489 F. Supp. 2d at 11 (concluding that the 2004 amendments “effected minimal changes” to Tunney Act review).

Council's Subcommittee on Quantum Information Science "National Strategic Overview for Quantum Information Science" (hereafter "Strategic Overview") was released in September 2018. This document calls upon agencies to develop plans to address six key policy areas to enable continued American leadership in quantum information science. On behalf of Federal agencies the NSTC Subcommittee on Quantum Information Science seeks public input to inform the subcommittee as the Government develops potential means of addressing the specific policy recommendations included in the "Strategic Overview". Responders are asked to answer one or more of the following questions:

1. What specific actions could the US Government take that would contribute best to implementing the policy recommendations in the Strategic Overview? What challenges, not listed in section 3, should also be taken into account in implementation of the Strategic Overview recommendations?

2. What are the scientific and technological challenges that, with substantial resources and focus over the next ten years, will transform the QIS research and development landscape?

3. Regarding industrial engagement, what roles can the U.S. Government play in enabling the innovation ecosystem around QIS-related technologies? Are there critical barriers for industrial innovation in this space? How can these barriers be addressed? What role can the U.S. Government play in mitigating early or premature investment risks?

4. How can the U.S. Government engage with academia and other workforce development programs and stakeholders to appropriately train and maintain researchers in QIS while expanding the size and scope of the 'quantum-smart' workforce?

5. What existing infrastructure should be leveraged, and what new infrastructure could be considered, to foster future breakthroughs in QIS research and development?

6. What other activities/partnerships could the U.S. Government use to engage with stakeholders to ensure America's prosperity and economic growth through QIS research and development?

7. How can the United States continue to attract and retain the best domestic and international talent and expertise in QIS?

8. How can the United States ensure that US researchers in QIS have access to cutting-edge international technologies, research facilities, and knowledge?

Reference: National Strategic Overview for Quantum Information Science, <https://www.whitehouse.gov/wp-content/uploads/2018/09/National-Strategic-Overview-for-Quantum-Information-Science.pdf>.

Submitted by the National Science Foundation in support of the NSTC Subcommittee on Quantum Information Science on December 6, 2018.

Suzanne H. Plimpton,
Reports Clearance Officer, National Science Foundation.

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NUCLEAR REGULATORY COMMISSION

[NRC-2018-0156]

Information Collection: NRC Form 748, National Source Tracking Transaction Report

AGENCY: Nuclear Regulatory Commission.

ACTION: Notice of submission to the Office of Management and Budget; request for comment.

SUMMARY: The U.S. Nuclear Regulatory Commission (NRC) has recently submitted a request for renewal of an existing collection of information to the Office of Management and Budget (OMB) for review. The information collection is entitled, "NRC Form 748, National Source Tracking Transaction Report."

DATES: Submit comments by January 10, 2019.

ADDRESSES: Submit comments directly to the OMB reviewer at: OMB Office of Information and Regulatory Affairs (3150-0202), Attn: Desk Officer for the Nuclear Regulatory Commission, 725 17th Street NW, Washington, DC 20503; email: oir_submission@omb.eop.gov.

FOR FURTHER INFORMATION CONTACT: David Cullison, NRC Clearance Officer, U.S. Nuclear Regulatory Commission, Washington, DC 20555-0001; telephone: 301-415-2084; email: INFOCOLLECTS.Resource@nrc.gov.

SUPPLEMENTARY INFORMATION:

I. Obtaining Information and Submitting Comments

A. Obtaining Information

Please refer to Docket ID NRC-2018-0156 when contacting the NRC about the availability of information for this action. You may obtain publicly-available information related to this action by any of the following methods:

- *Federal rulemaking Website:* Go to <http://www.regulations.gov> and search for Docket ID NRC-2018-0156. A copy of the collection of information and related instructions may be obtained without charge by accessing Docket ID NRC-2018-0156 on this website.

- *NRC's Agencywide Documents Access and Management System (ADAMS):* You may obtain publicly-available documents online in the ADAMS Public Documents collection at <http://www.nrc.gov/reading-rm/adams.html>. To begin the search, select "Begin Web-based ADAMS Search." For problems with ADAMS, please contact the NRC's Public Document Room (PDR) reference staff at 1-800-397-4209, 301-415-4737, or by email to pdr.resource@nrc.gov. A copy of the collection of information and related instructions may be obtained without charge by accessing ADAMS Accession No. ML18276A272. The supporting statement is available in ADAMS under Accession No. ML18276A270.

- *NRC's PDR:* You may examine and purchase copies of public documents at the NRC's PDR, Room O1-F21, One White Flint North, 11555 Rockville Pike, Rockville, Maryland 20852.

- *NRC's Clearance Officer:* A copy of the collection of information and related instructions may be obtained without charge by contacting the NRC's Clearance Officer, David Cullison, Office of the Chief Information Officer, U.S. Nuclear Regulatory Commission, Washington, DC 20555-0001; telephone: 301-415-2084; email: INFOCOLLECTS.Resource@NRC.GOV.

B. Submitting Comments

The NRC cautions you not to include identifying or contact information in comment submissions that you do not want to be publicly disclosed in your comment submission. All comment submissions are posted at <http://www.regulations.gov> and entered into ADAMS. Comment submissions are not routinely edited to remove identifying or contact information.

If you are requesting or aggregating comments from other persons for submission to the OMB, then you should inform those persons not to include identifying or contact information that they do not want to be publicly disclosed in their comment submission. Your request should state that comment submissions are not routinely edited to remove such information before making the comment submissions available to the public or entering the comment into ADAMS.