

the case.”). The ultimate question is whether “the remedies [obtained by the Final Judgment are] so inconsonant with the allegations charged as to fall outside of the ‘reaches of the public interest.’” *Microsoft*, 56 F.3d at 1461 (quoting *W. Elec. Co.*, 900 F.2d at 309).

Moreover, the 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 the 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); *InBev*, 2009 U.S. Dist. LEXIS 84787, at *20 (“[T]he ‘public interest’ is not to be measured by comparing the violations alleged in the complaint against those the court believes could have, or even should have, been alleged”). 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 redraft the complaint” to inquire into other matters that the United States did not pursue. *Microsoft*, 56 F.3d at 1459–60.

In its 2004 amendments to the APPA, Congress made clear its intent to preserve the practical benefits of using judgments proposed by the United States in antitrust enforcement, Public Law 108–237 § 221, and added 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). “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 (citing *Enova Corp.*, 107 F. Supp. 2d at 17).

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.

Dated: August 7, 2026
Respectfully Submitted,
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DEPARTMENT OF JUSTICE

National Institute of Corrections

[4410–36]

Advisory Board; Notice of Meeting

This notice announces a forthcoming meeting of the National Institute of Corrections (NIC) Advisory Board.

Name of the Committee: NIC Advisory Board.

General Function of the Committee: To aid the National Institute of Corrections in developing long-range plans, advise on program development, and recommend guidance to assist NIC’s efforts in the areas of training, technical assistance, information services, and policy/program development assistance to Federal, state, and local corrections agencies.

Date and Time: Public meeting 8:30 a.m.–5:00 p.m. ET on Wednesday and Thursday, September 9–10, 2026. Closed session 8:30 a.m.–12:00 p.m. ET, Friday, September 11, 2026.

Location: 400 First Street NW, Washington, DC 20534.

Contact Person: Marla Clayton, Designated Federal Officer (DFO) to the NIC Advisory Board, The National Institute of Corrections, 400 First Street

NW, Washington, DC 20534. To contact Ms. Clayton, please email M1Clayton@bop.gov.

Agenda: From September 9–11, 2026, the Advisory Board will: (1) receive a brief Agency Report from the NIC Director, (2) receive feedback from various data gathering efforts, and (3) updates from agency partners to the Board. Time for questions and counsel from the Board is built into the agenda.

Procedure: On Wednesday and Thursday, September 9–10, 2026, 8:30 a.m.–5:00 p.m. ET, the meeting is open to the public. Interested persons may request to attend virtually and present data, information, or views, orally and/or in writing, on issues pending before the committee. Such requests must be made to the contact person on or before Tuesday, September 1, 2026. The public comment period is scheduled for 4:45 p.m.–5:00 p.m. ET on September 10, 2026. The time allotted for each presentation and/or comment is limited. Those who wish to make formal oral presentations should notify the contact person and submit a brief statement of the general nature of the evidence or arguments they wish to present, the names, titles, agencies, addresses, and email addresses of proposed participants, and an indication of the approximate time requested to make their presentation on or before September 1, 2026.

Closed Committee Deliberations: On September 11, 2026, between 8:30 a.m.–12:00 p.m. ET, the meeting will be closed to permit discussion of information that (1) relates solely to the internal personnel rules and practices of an agency (5 U.S.C. 552b(c) (2)), and (2) disclose information the premature disclosure of which would be likely to significantly frustrate implementation of a proposed agency action (5 U.S.C. 552b(c) (6)).

General Information: NIC welcomes the attendance of the public at its advisory committee meetings and will make every effort to accommodate persons with physical disabilities or special needs. If you require special accommodations due to a disability, please contact Marla Clayton by September 1, 2026. Notice of this meeting is given under the Federal Advisory Committee Act (5 U.S.C. app. 2).

Marla A. Clayton,

Designated Federal Officer, National Institute of Corrections.

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