

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: April 2, 2021

Respectfully submitted,

For Plaintiff United States of America:

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Appendix A: Areas for Which the Notice Provision in Paragraph XII(A) of the Proposed Final Judgment Applies

| Geographic market | Counties within geographic market | Relevant service |
|---|---|-----------------------------------|
| Birmingham, Alabama | Jefferson and Shelby Counties | SCCW Collection. |
| Chattanooga, Tennessee and North Georgia. | Hamilton, Marion, Rhea, and Sequatchie Counties in Tennessee; and Catoota, Chattooga, Dade, Gordon, Murray, and Walker Counties in Georgia. | MSW Disposal and SCCW Collection. |
| Eastern Montgomery County, Texas | Montgomery County (limited to zip codes 77357, 77365, and 77372). | SCCW Collection. |
| Estill Springs and Fayetteville, Tennessee. | Franklin and Lincoln Counties | MSW Disposal. |
| Hattiesburg, Mississippi | Forrest and Jones Counties | SCCW Collection. |

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DEPARTMENT OF JUSTICE

Antitrust Division

Notice Pursuant to the National Cooperative Research and Production Act of 1993—R Consortium, Inc.

Notice is hereby given that, on March 22, 2021, pursuant to Section 6(a) of the National Cooperative Research and Production Act of 1993, 15 U.S.C. 4301 *et seq.* (“the Act”), R Consortium, Inc. (“R Consortium”) has filed written notifications simultaneously with the Attorney General and the Federal Trade Commission disclosing changes in its membership. The notifications were filed for the purpose of extending the Act’s provisions limiting the recovery of antitrust plaintiffs to actual damages under specified circumstances. Specifically, GlaxoSmithKline USA, Research Triangle Park, NC, has been added as a party to this venture.

No other changes have been made in either the membership or planned activity of the group research project. Membership in this group research project remains open, and R Consortium intends to file additional written notifications disclosing all changes in membership.

On September 15, 2015, R Consortium filed its original notification pursuant to Section 6(a) of the Act. The Department of Justice published a notice in the **Federal Register** pursuant to Section 6(b) of the Act on October 2, 2015 (80 FR 59815).

The last notification was filed with the Department on December 28, 2020. A notice was published in the **Federal Register** pursuant to Section 6(b) of the Act on January 13, 2021 (86 FR 2698).

Suzanne Morris,

Chief, Premerger and Division Statistics, Antitrust Division.

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DEPARTMENT OF JUSTICE

Antitrust Division

Notice Pursuant to the National Cooperative Research and Production Act of 1993—The National Advanced Mobility Consortium, Inc. (Formerly Known as The Robotics Technology Consortium)

Notice is hereby given that, on March 18, 2021, pursuant to Section 6(a) of the National Cooperative Research and Production Act of 1993, 15 U.S.C. 4301 *et seq.* (“the Act”), The National Advanced Mobility Consortium, Inc. (“NAMC”) has filed written notifications simultaneously with the Attorney General and the Federal Trade Commission disclosing changes in its membership. On February 3, 2015, the RTC officially changed its name to NAMC. The notifications were filed for the purpose of extending the Act’s provisions limiting the recovery of antitrust plaintiffs to actual damages under specified circumstances. Specifically, 3-Dimensional Services