4. *Affected public who will be asked or required to respond, as well as a brief abstract:*

Primary: Individuals or households.

Other (if applicable): None.

Abstract: The Financial History Questionnaire—ATF Form 8620.28 will be used to determine if a candidate for Federal or contractor employment at the Bureau of Alcohol, Tobacco, Firearms and Explosives (ATF), satisfies all just financial obligations.

5. *An estimate of the total number of respondents and the amount of time estimated for an average respondent to respond:* An estimated 2,000 respondents will use the form annually, and it will take each respondent approximately 10 minutes to complete their responses.

6. *An estimate of the total public burden (in hours) associated with the collection:* The estimated annual public burden associated with this collection is 333 hours, which is equal to 2,000 (# of respondents) * .166667 (20 minutes).

If additional information is required contact: Melody Braswell, Department Clearance Officer, United States Department of Justice, Justice Management Division, Policy and Planning Staff, Two Constitution Square, 145 N Street NE, 3E.405A, Washington, DC 20530.

Dated: April 26, 2021.

Melody Braswell,

Department Clearance Officer for PRA, U.S. Department of Justice.

[FR Doc. 2021–08940 Filed 4–28–21; 8:45 am]

BILLING CODE 4410–FY–P

DEPARTMENT OF JUSTICE

Antitrust Division

United States v. *Intuit Inc., et al.;* Response to Public Comments

Pursuant to the Antitrust Procedures and Penalties Act, 15 U.S.C. 16(b)–(h), the United States hereby publishes below the Response to Public Comments on the Proposed Final Judgment in *United States* v. *Intuit Inc., et al.,* Civil Action No. 1:20–cv–03441–ABJ, which was filed in the United States District Court for the District of Columbia on April 23, 2021, together with a copy of the one comment received by the United States.

A copy of the comment and the United States' response to the comment is available at *https://www.justice.gov/atr/case/us-v-intuit-inc-and-credit-karma-inc.* A copy of the comment and the United States' response are available for inspection at the Office of the Clerk of the United States District Court for the District of Columbia. Copies of these materials may also be obtained from the Antitrust Division upon request and payment of the copying fee set by Department of Justice regulations.

Suzanne Morris,

Chief, Premerger and Division Statistics, Antitrust Division.

United States District Court for the District of Columbia

United States of America, *Plaintiff,* v. Intuit Inc., and Credit Karma, Inc., *Defendants.* Civil Action No.: 1:20–cv–03441–ABJ

Response of Plaintiff United States to Public Comment on the Proposed Final Judgment

Pursuant to the requirements of the Antitrust Procedures and Penalties Act (the ''APPA'' or ''Tunney Act''), 15 U.S.C. 16, the United States hereby responds to the one public comment received regarding the proposed Final Judgment in this case. After careful consideration of the submitted comment, the United States continues to believe that the divestiture required by the proposed Final Judgment provides an effective and appropriate remedy for the antitrust violation alleged in the Complaint and is therefore in the public interest. The United States will move the Court for entry of the Amended Proposed Final Judgment after the public comment and this response have been published as required by 15 U.S.C. 16(d).

I. Procedural History

On February 24, 2020, Intuit Inc. (''Intuit'') agreed to acquire Credit Karma, Inc. (''Credit Karma'') (collectively, ''Defendants'') for approximately $7.1 billion. After a thorough and comprehensive investigation, the United States filed a civil antitrust Complaint against Defendants on November 25, 2020, seeking to enjoin the proposed transaction because it would likely substantially lessen competition for the development, provision, operation, and support of digital do-it-yourself (''DDIY'') tax preparation products that help individuals file U.S. federal and state income tax returns (''DDIY tax preparation products''), in violation of Section 7 of the Clayton Act, 15 U.S.C. 18. *See* Dkt. No. 1.

At the same time the Complaint was filed, the United States filed a proposed Final Judgment and an Asset Preservation and Hold Separate Stipulation and Order (''Stipulation and Order'') in which the United States and Defendants consent to entry of the proposed Final Judgment after compliance with the requirements of the APPA. *See* Dkt. Nos. 2–2, 2–1. On December 1, 2020, the Court entered the Stipulation and Order. *See* Dkt. No. 3. On December 8, 2020, the divestiture contemplated by the proposed Final Judgment was effectuated to Square, Inc. (''Square''). Pursuant to requirements under the APPA, the United States filed the Competitive Impact Statement on December 10, 2020, describing the transaction and the proposed Final Judgment. *See* Dkt. Nos. 3, 10. On December 16, 2020, the United States published the Complaint, proposed Final Judgment, and Competitive Impact Statement in the **Federal Register***, see* 85 FR 81501 (Dec. 16, 2020), and caused notice regarding the same, together with directions for the submission of written comments relating to the proposed Final Judgment, to be published in *The Washington Post* from December 15, 2020, through December 21, 2020. The 60-day period for public comment ended on February 19, 2020. The United States received one comment concerning the allegations in the Complaint, attached as Exhibit 1. On March 9, 2021, the United States filed a Joint Notice of Amended Proposed Final Judgment (the ''Joint Notice''), attaching an Amended Proposed Final Judgment as Exhibit 1. *See* Dkt. Nos. 13, 13–1. As stated in the Joint Notice, the Amended Proposed Final Judgement addresses a technical clarification to the original proposed Final Judgment to allow Intuit to comply with its obligations under its Memorandum of Understanding with the Internal Revenue Service (IRS) in connection with Intuit's participation in the IRS Free File program. *See* Dkt. No. 13 at pp. 1, 3. The Amended Proposed Final Judgment is identical in all respects to the original proposed Final Judgment except for the change to Paragraph IV(O)(2), which has been made for the limited purpose of permitting Intuit to comply with obligations to the IRS. *See* Dkt. 13 at p. 4.

II. The Complaint and the Amended Proposed Final Judgment

The Complaint alleges that Intuit's proposed acquisition of Credit Karma would likely eliminate existing head-to-head competition between Intuit's DDIY tax preparation business, TurboTax, and Credit Karma's DDIY tax preparation business, Credit Karma Tax (''CKT''). Specifically, CKT has been an important competitive constraint on Intuit's TurboTax, and such head-to-head competition has led to lower prices and increased quality for DDIY tax preparation products. The Complaint also alleges that, absent the merger, the competition between TurboTax and

CKT would intensify as CKT continues to grow and erode Intuit's substantial base of TurboTax customers. The proposed acquisition, if left unremedied, would reduce existing and future competition, resulting in higher prices, lower quality, and reduced choice for the DDIY tax preparation products upon which millions of American consumers rely, in violation of Section 7 of the Clayton Act, 15 U.S.C. 18.

The Amended Proposed Final Judgment is designed to remedy the likely harm to competition alleged in the Complaint by requiring a divestiture that will establish an independent, economically viable competitor. Under the Amended Proposed Final Judgment, Defendants are required to divest CKT, as well as other related tangible and intangible assets, to an acquirer approved by the United States, in such a way as to satisfy the United States, in its sole discretion, that the divestiture assets can and will be operated by the acquirer as a viable, ongoing business that can compete effectively in the market for DDIY tax preparation products. Intuit proposed Square as the acquirer. After a rigorous evaluation, the United States approved Square as the acquirer. Square is a well-financed company with a popular and expanding consumer finance platform called Cash App. Square will offer the divestiture assets as a new DDIY tax preparation product via Cash App.[1]

The Amended Proposed Final Judgment also allows the acquirer, at its option, to enter into a transition services agreement with Defendants for a period of up to 24 months. As explained in the Competitive Impact Statement, this option gives the acquirer sufficient time to integrate the divestiture assets into its existing business and to ensure customers can smoothly transition from CKT to the acquirer. *See* Dkt. No. 10 at 9.

III. Standard of Judicial Review

The Clayton Act, as amended by the APPA, requires that proposed consent judgments in antitrust cases brought by the United States be subject to a 60-day comment period, after which the Court shall determine whether entry of the proposed Final Judgment ''is in the public interest.'' 15 U.S.C. 16(e)(1). In making that determination, the Court, in accordance with the statute as amended in 2004, is required to consider:

(A) The competitive impact of such judgment, including termination of alleged violations, provisions for enforcement and modification, duration of relief sought, anticipated effects of alternative remedies actually considered, whether its terms are ambiguous, and any other competitive considerations bearing upon the adequacy of such judgment that the court deems necessary to a determination of whether the consent judgment is in the public interest; and

(B) the impact of entry of such judgment upon competition in the relevant market or markets, upon the public generally and individuals alleging specific injury from the violations set forth in the complaint including consideration of the public benefit, if any, to be derived from a determination of the issues at trial.

15 U.S.C. 16(e)(1)(A) & (B). In considering these statutory factors, the Court's inquiry is necessarily a limited one as the government is entitled to ''broad discretion to settle with the defendant within the reaches of the public interest.'' *United States* v. *Microsoft Corp.,* 56 F.3d 1448, 1461 (DC Cir. 1995); *United States* v. *U.S. Airways Grp., Inc.,* 38 F. Supp. 3d 69, 75 (D.D.C. 2014) (explaining that the ''court's inquiry is limited'' in APPA settlements); *United States* v. *InBev N.V./S.A.,* No. 08–1965 (JR), 2009 U.S. Dist. LEXIS 84787, at *3 (D.D.C. Aug. 11, 2009) (noting that a court's review of a consent judgment is limited and only inquires ''into whether the government's determination that the proposed remedies will cure the antitrust violations alleged in the complaint was reasonable, and whether the mechanisms to enforce the final judgment are clear and manageable'').

Under the APPA, a court considers, among other things, the relationship between the remedy secured and the specific allegations in the government's complaint, whether the proposed Final Judgment is sufficiently clear, whether its enforcement mechanisms are sufficient, and whether it may positively harm third parties. *See Microsoft,* 56 F.3d at 1458–62. With respect to the adequacy of the relief secured by the proposed Final Judgment, a court may not '''make de novo determination of facts and issues.''' *United States* v. *W. Elec. Co.,* 993 F.2d 1572, 1577 (DC Cir. 1993); *see also Microsoft,* 56 F.3d at 1460–62; *United States* v. *Alcoa, Inc.,* 152 F. Supp. 2d 37, 40 (D.D.C. 2001); *United States* v. *Enova Corp.,* 107 F. Supp. 2d 10, 16 (D.D.C. 2000); *InBev,* 2009 U.S. Dist. LEXIS 84787, at *3. Instead, ''[t]he balancing of competing social and political interests affected by a proposed antitrust consent decree must be left, in the first instance, to the discretion of the Attorney General.'' *W. Elec. Co.,* 993 F.2d at 1577 (quotation marks omitted).

''The court should bear in mind the *flexibility* of the public interest inquiry: The court's function is not to determine whether the resulting array of rights and liabilities is one that will *best* serve society, but only to confirm that the resulting settlement is within the *reaches* of the public interest.'' *Microsoft,* 56 F.3d at 1460 (quotation marks omitted); *see also United States* v. *Deutsche Telekom AG,* No. 19–2232 (TJK), 2020 WL 1873555, at *7 (D.D.C. Apr. 14, 2020). More demanding requirements would ''have enormous practical consequences for the government's ability to negotiate future settlements,'' contrary to congressional intent. *Id.* at 1456. ''The Tunney Act was not intended to create a disincentive to the use of the consent decree.'' *Id.*

The United States' predictions about the efficacy of the remedy are to be afforded deference by the Court. *See, e.g., Microsoft,* 56 F.3d at 1461 (recognizing courts should give ''due respect to the Justice Department's . . . view of the nature of its case''); *United States* v. *Iron Mountain, Inc.,* 217 F. Supp. 3d 146, 152–53 (D.D.C. 2016) (''In evaluating objections to settlement agreements under the Tunney Act, a court must be mindful that [t]he government need not prove that the settlements will perfectly remedy the alleged antitrust harms[;] it need only provide a factual basis for concluding that the settlements are reasonably adequate remedies for the alleged harms.'') (internal citations omitted); *United States* v. *Republic Servs., Inc.,* 723 F. Supp. 2d 157, 160 (D.D.C. 2010) (noting ''the deferential review to which the government's proposed remedy is accorded''); *United States* v. *Archer-Daniels-Midland Co.,* 272 F. Supp. 2d 1, 6 (D.D.C. 2003) (''A district court must accord due respect to the government's prediction as to the effect of proposed remedies, its perception of the market structure, and its view of the nature of 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

[1] *See* Square's Q4 2020 Shareholder Letter at 16, *available at https://s27.q4cdn.com/311240100/files/doc_financials/2020/q4/2020-Q4-Shareholder-Letter-Square.pdf* (last visited March 25, 2021) (''In the fourth quarter, we completed our acquisition of Credit Karma Tax for $50 million, which we intend to incorporate into the Cash App ecosystem as a tax filing product for individuals.'').

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 consent 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 APPA). This language explicitly wrote into the statute what Congress intended when it first enacted the APPA 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).

IV. Summary of Comment and the United States' Response

The United States received one public comment in response to the proposed Final Judgment. The comment is from Travis Curtis, a Credit Karma Tax user and former TurboTax user and employee. Mr. Curtis's overarching concern is that Square will not effectively compete with nor constrain Intuit. More specifically, the concerns raised in the comment can be grouped into three categories: (1) Concerns with Square as the acquirer; (2) adequacy of the provisions within the proposed Final Judgment; and (3) dissatisfaction with Intuit's company history. Upon review, the United States believes that nothing in the comment warrants a change to the proposed Final Judgment or supports a conclusion that the Amended Proposed Final Judgment is not in the public interest. As required by the APPA, the comment, with the author's contact information removed, and this response will be published in the **Federal Register**.

a. Square Has the Means and Incentive To Compete Effectively

Mr. Curtis expresses concern with Square as the approved acquirer and contends that Square does not meet the criteria for a divestiture buyer outlined in the proposed Final Judgment. In support of that contention, Mr. Curtis states that Square's available customer base is smaller than Credit Karma's customer base; Square's user demographics are less-aligned with the tax-paying population than are Credit Karma's user demographics; and the divestiture assets do not have ''any clear or immediate benefits'' to Square's business model. Exhibit 1 at 1–2.

Square meets the criteria outlined in the Amended Proposed Final Judgment. Paragraph IV.D. of the Amended Proposed Final Judgment requires divestiture to an acquirer that ''has the intent and capability (including the necessary managerial, operational, technical, and financial capability) to compete effectively in the development, provision, operation, and support of digital do-it-yourself personal United States federal or state income tax return preparation and e-filing products and services.'' The United States rigorously evaluated Square, including its qualifications, experience, incentives, business plans, finances, and commercial relationships. Based on that evaluation, the United States concluded that Square is capable, willing, and incentivized to compete effectively and will preserve competition in the market for DDIY tax preparation products.

Although Square operates a multi-billion-dollar business with a variety of financial solutions for businesses and consumers, Mr. Curtis questions Square's ability to compete in the market for DDIY tax preparation products. Specifically, he suggests that Square is an unacceptable purchaser because its consumer-facing platform, Cash App, has a smaller and different user base than Credit Karma's broad consumer-facing platform. As a result, Mr. Curtis contends, Square will have less opportunity than Credit Karma to advertise the CKT DDIY tax product to existing users.

There is no basis for this concern. Although Square may have a smaller user base for its personal finance products than Credit Karma, Square has the ability to market the divestiture assets to tens of millions of existing users. Moreover, Square has grown its Cash App user base tenfold over the past four years, demonstrating its marketing and customer-acquisition capabilities.[2] Square's existing consumer-facing products—and experience in those markets—will enhance, rather than hinder, Square's ability to compete in the market for DDIY tax preparation products.

Mr. Curtis also questions Square's commitment to competing in the market for DDIY tax preparation products. Specifically, he suggests that Square is an unacceptable acquirer because ''CKT does not have any clear or immediate benefits to the Square model.'' Exhibit 1 at 1–2. The United States assessed Square's business plans and incentives to compete and found that Square has the incentive to maintain the level of premerger competition in the market for DDIY tax preparation products.

The United States determined that the addition of DDIY tax preparation capabilities is consistent with Square's stated strategy and past business practices. The United States' assessment was confirmed by Square in a recent filing with the Securities and Exchange Commission, in which Square stated that it ''see[s] the launch and advertising of new Cash App features as an important way to attract new customers'' and offers certain features for free to encourage use of the platform.[3]

Mr. Curtis also suggests selling the divestiture assets to the IRS instead of Square to remedy perceived failings of the Free File Alliance program. However, any alleged failings of the Free File Alliance program are outside the scope of the United States' merger review, the violations alleged in the Complaint, and the present APPA proceedings. *See U.S. Airways,* 38 F.

[2] *See* Square's Q4 2020 Shareholder Letter at 4, *available at https://s27.q4cdn.com/311240100/files/doc_financials/2020/q4/2020-Q4-Shareholder-Letter-Square.pdf* (last visited March 25, 2021).

[3] *See* Square's 2020 10–K at 12, *available at https://s27.q4cdn.com/311240100/files/doc_financials/2020/q4/Square-10K-2020.pdf* (last visited March 25, 2021).

Supp. 3d at 76 ('' '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. . . .' '') (quoting *United States* v. *Graftech Int'l,* No. 10–cv–2039, 2011 WL 1566781, at *13 (D.D.C. Mar. 24, 2011)).

b. The Divestiture Gives Square Everything Necessary To Preserve Competition

Mr. Curtis contends that, regardless of the identity of the approved acquirer, the provisions of the proposed Final Judgment are inadequate. He then lists a variety of additional provisions that ostensibly should have been included in the proposed Final Judgment. Exhibit 1 at 2. This is incorrect, however. The divestiture gives Square everything necessary to preserve competition.

First, Mr. Curtis notes that there are ''[n]o requirements for transitioning the log-in and account environment required to separate CKT accounts from CK accounts with minimal burden to the consumer.'' Exhibit 1 at 2. However, the Amended Proposed Final Judgment allows customers to seamlessly access their CKT accounts after Square's purchase of the divestiture assets. Under Paragraph II.F.8. of the Amended Proposed Final Judgment, Square is receiving ''all records and data,'' including customer accounts, as part of the divestiture. For the Year 1 Period defined in the Amended Proposed Final Judgment, and pursuant to Paragraphs IV.M.2., IV.M.4., and IV.M.5. of the Amended Proposed Final Judgment, CKT users will continue to have access to their accounts through the same links that they have always used. Paragraph IV.L. provides Square with the option to receive transition services related to, among other things, data migration and technology infrastructure, to ensure that Square can make users' account data available once the divestiture assets are integrated with Square's platform.

Second, Mr. Curtis complains that ''[m]any of the commitments of the Defendant, such as how long they must keep the CKT link on CK, are for only 2 years.'' Exhibit 1 at 2. The restrictions on the Defendants' behavior that Mr. Curtis seeks to extend are time-limited for an important reason. They are designed to allow a smooth transition of the divestiture assets to the acquirer without creating ongoing entanglements, which could dampen competition between Defendants and acquirer. A longer time period would unnecessarily compromise Square's independence.

Third, Mr. Curtis advocates for prohibiting the transfer of customer consents under Section 7216 of the Internal Revenue Code and Treasury Regulations thereunder. Exhibit 1 at 2. In fact, the Amended Proposed Final Judgment does not impose any transfer requirement. Instead, Defendants are required to support the acquirer's efforts in obtaining such consents from customers during the Year 1 Period, as defined in the proposed Final Judgment. *See* Dkt. No. 2–2 at ¶ IV.M.3 & Dkt. No. 13–1 at ¶ IV.M.3. This arrangement gives Square the opportunity to more fully integrate data from the CKT business into the other features of its Cash App platform if the customer consents, putting Square in the same position as CKT.

Finally, Mr. Curtis also implies that additional measures proscribing Defendants' and acquirer's activities going forward should be included in the proposed Final Judgment, such as limiting Defendants' use of ''paid search terms or other forms of advertising and marketing''; requiring long-term investment commitments from the acquirer; and limiting partnerships between Defendants and the acquirer in ''industries outside of DDIY tax prep.'' Exhibit 1 at 2.

These additional proscriptions are unnecessary. First, the Amended Proposed Final Judgment is not intended to weaken or limit Intuit; it is intended to position Square to compete as effectively as CKT. Therefore, it is not necessary to restrict Intuit's marketing activities following its acquisition of Credit Karma. Second, the United States typically does not attempt to limit an acquirer's ability to resell the divestiture assets, because ''[c]onditions change over time'' and ''[t]he market for corporate control is imperfect.'' [4] Instead, the United States insists that ''the purchaser have both the intention and ability to compete in the market for the foreseeable future.'' [5] Similarly, because conditions change over time, the United States is not well-positioned to make business decisions, such as investment levels, for the acquirer after it assumes control of the divestiture assets. Finally, it is not necessary to limit partnerships between Defendants and Square in industries that are not implicated by the proposed transaction because Square has every incentive to use the divestiture assets to compete and succeed in the market for DDIY tax preparation products.

[4] *See* U.S. Department of Justice, Antitrust Division Merger Remedies Manual, at 30–31 (Sept. 2020), (*https://www.justice.gov/atr/page/file/1312416/download*).

[5] *See id.* at 30.

The proposed Final Judgment is the result of a thorough investigation, during which the United States scrutinized Defendants' and the acquirer's businesses and operations to identify a full complement of assets, personnel, and rights needed to preserve competition in the market for DDIY tax preparation products. The divestiture gives Square everything necessary to preserve competition.

c. Comments Regarding Intuit's History Are Beyond the Scope of This Action

Mr. Curtis also notes dissatisfaction with aspects of Intuit's company history. These concerns go beyond the allegations in the United States' Complaint and are thus beyond the scope of APPA review. *See U.S. Airways,* 38 F. Supp. 3d at 76 ('' '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. . . .' '') (quoting *Graftech,* 2011 WL 1566781, at *13).

V. Conclusion

After careful consideration of the public comment, the United States continues to believe that the Amended Proposed Final Judgment provides an effective and appropriate remedy for the antitrust violation alleged in the Complaint and is therefore in the public interest. The United States will move this Court to enter the Final Judgment after the comment and this response are published as required by 15 U.S.C. 16(d).

Dated: April 23, 2021.

Respectfully submitted,

FOR PLAINTIFF UNITED STATES OF AMERICA

/s/ ____________________

Brian Hanna,

Attorney for the United States. U.S. Department of Justice, Antitrust Division, 450 Fifth Street NW, Suite 8000, Washington, DC 20530, Tel: (202) 598–8360, Email: brian.hanna2@usdoj.gov.

EXHIBIT 1

From: [Redacted]

To: ATR-Antitrust—Internet (ATR)

Subject: Public Comment on *U.S.* V. *INTUIT INC. AND CREDIT KARMA, INC.*

Date: Friday, February 5, 2021 5:36:41 p.m.

To Whom It May Concern,

My name is Travis Curtis and I write to add public comment to the case *United States* v. *Intuit Inc. and Credit Karma, Inc.* according to the Tunney Act. I write today as a taxpayer, DDIY tax prep software user, Credit Karma

Tax user, former TurboTax user and employee. I worked for four tax seasons at Intuit TurboTax as a Business Data Analyst. I have also worked at other financial services and tech companies as a data analyst in valuation, operations, marketing, and product. I say this to provide background and for transparency sake as my concerns are honest and sincere and I would like them to be treated as such.

The Proposed Final Judgement states, ''D. The divestiture must be made to an Acquirer that, in the United States' sole judgment, has the intent and capability (including the necessary managerial, operational, technical, and financial capability) to compete effectively in the development, provision, operation, and support of digital do-it-yourself personal United States federal or state income tax return preparation and e-filing products and services.'' I believe that Square does not meet these requirements for an eligible Acquirer and that the Proposed Final Judgement comes short in its requirements and does not adequately provide protection to the consumer for the following reasons:

1. Credit Karma Tax would be moving from a business with 100 million customers to Square's CashApp which is roughly 30 million, more than a two thirds reduction in the available customer base to advertise within the platform.

2. Square user demographic aligns with the tax paying population much less than Credit Karma, which would result in a further reduction of customer base. Poor match of user demographic. CK provides credit scores so one can safely assume a large % of the user base overlaps with the tax paying base. Square provides B2B products to small businesses and provides money transfer services to consumers with CashApp, its largest offering by number of users. This service is marketed to a younger and lower income demographic, including students, often as a substitute to a bank account. Both of these factors lead me to assume the % of the Square user base that can and would use CKT is much smaller

3. Loss of supportive business model. CKT data directly benefits and feeds into the CK business model and revenue generation. CKT does not have any clear or immediate benefits to the Square model. The lead of Square's Cash App, Brian Grassadonia, has stated, ''We're thrilled to bring this easy-to-use tax product to customers as we continue to build out the suite of tools Cash App offers. With this acquisition, we believe Cash App will be able to ease customers' burden of preparing taxes every year.''; however, that is the most firm commitment or reasoning announced by Square.

I would like to do a more formal analysis of these two businesses; however, there is little publicly available information and the Competitive Impact Statement provides no details, no metrics, and no analysis of the businesses to support the conclusion that Square meets the requirements of an Acquirer. There is nothing about how much of the CKT customer base came from the CK customer base, retention rates, new customer attraction rates, analysis of marketing channels, the entire document is devoid of any analysis of impact. I am not a lawyer nor do I have any experience with these documents; however, I expected some sort of justification for the decision.

Regardless of the chosen acquirer, I believe that the Proposed Final Judgement's requirements, limitations, and enforcement of the parties fall short in the following ways:

1. No requirements for transitioning the log-in and account environment required to separate CKT accounts from CK accounts with minimal burden to the consumer.

2. Many of the commitments of the Defendant, such as how long they must keep the CKT link on CK, are for only 2 years.

3. Signed 7216 waivers/consents should not transfer over at all.

4. No limitations on the Defendant on paid search terms or other forms of advertising and marketing. As of today, Jan 14th 2021, Intuit has paid to get the top result for the term ''credit karma tax''.

5. No requirements or commitments from the Acquirer to invest or continue business long term.

6. No limitations on other partnerships between Intuit and the Acquirer industries outside of DDIY tax prep.

These inadequacies in the Proposed Final Judgement at worst allow for blatant corruption as nothing prevents Intuit and Square from having colluded together on this to get rid of CKT and at best do little to ensure the continued success of CKT. While I make no assertion about motives, I cannot help be concerned by the lack of protection provided to CKT, taxpayers, and consumers. Technology companies have been given a large amount of leeway when it comes to regulation out of fear of stifling innovation; however, this has created a completely opaque environment where those same technology companies are taking advantage of the situation.

The following hypothetical scenario would be completely possible under the Proposed Final Judgement: Intuit acquires Credit Karma and sells Credit Karma Tax to Square. Intuit then adds a button to the Credit Karma website directing customers to the TurboTax site to get their taxes done by a tax professional. Since the Proposed Final Judgement only places limitations of DDIY tax preparation software and the current link from CK to CKT, there is nothing to prevent them from adding a new button that links to non-DDIY tax preparation solutions, such as the new TurboTax Live Full Service product which Intuit has launched for the fiscal year 2020 tax season. That change could take place any moment. Credit Karma Tax has also benefited from being able to market to the Credit Karma user base; however, under the rules, Credit Karma Tax will only have access to advertise to the CKT customer base, from 100 million customers to ~2 million, a 98% reduction. After 2 years, even the existing button from Credit Karma to CKT can be changed to go to TurboTax. Worst of all is the possibility that the sale to Square could be paid off elsewhere. Both Intuit and Square are primarily B2B companies, not B2C; Intuit maintains Quickbooks and Square maintains their B2B POS hardware business. Even if Square didn't want CKT at all, Intuit could easily make up the sale price of CKT to Square by offering a deal or partnership between other, and franky larger, business units as the proposed rules only limit further partnerships between Square and Intuit in the DDIY tax prep space. Since Intuit is now entering the prepared taxes industry with TurboTax Live Full Service, they could even create a partnership in that space without violating the terms laid out. In the end, Intuit would be able to acquire Credit Karma, get rid of a major competitor in CKT, and even get paid $50 million dollars along the way.

While I want to believe in the good intentions of all involved, I cannot overlook the context of the moment and the history of the actors involved. In 2010, Inuit was sued by the DOJ for employee antitrust violations, in 2019 and 2020 there was much reporting about Intuit's efforts to hide their IRS Free File product from the consumer, and currently Intuit is trying to settle a class action for the same issues with a value that would leave compensation at ~$2.10 per impacted customer. Intuit has also failed to innovate within the Free File Alliance product, a provision of the MOU, for years.

If there truly is concern about ensuring consumers continue to have a free DDIY tax prep solution, there should be consideration to sell Credit Karma Tax to the IRS so that the IRS may directly provide this service to the American people for free. The $50 million sale would account for <0.5% of the IRS's operating budget. While this may be an extreme suggestion to some, I believe it is time that the American taxpayers get what they were promised when the industry successfully lobbied and created the Free File Alliance. The FFA program has been a failure since its creation and this is a once in a lifetime opportunity to fix it and truly put the taxpayer first, all for less than one half of a percent of the IRS budget.

Sincerely,

Travis Curtis.

[FR Doc. 2021–08971 Filed 4–28–21; 8:45 am]

BILLING CODE 4410–11–P

DEPARTMENT OF JUSTICE

National Institute of Corrections

Advisory Board; Notice of Meeting

This notice announces a forthcoming meeting of the National Institute of Corrections (NIC) Advisory Board. At least one portion of the meeting will be closed to the public.

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: 2:00–5:00 p.m. EDT on Wednesday, May 26, 2021: 2:00–5:00 p.m. EDT on Thursday, May 27, 2021 (approximate times).

Location: Virtual Platform.

Contact Person: Leslie LeMaster, Executive Assistant, National Institute of Corrections, 320 First Street NW, Room 901–3, Washington, DC 20534. To contact Ms. LeMaster, please call (303) 338–6620.

Agenda: On May 26–27, 2021, the Advisory Board will: (1) Receive a brief Agency Report from the NIC Acting Director, (2) receive project-specific updates from both the NIC prisons and jails divisions, and (3) receive a Subcommittee Report related to the identification of potential NIC Director candidates. Time for questions and counsel from the Board is built in to the agenda.

Procedure: On May 26, 2021, from 2:00 p.m. until 5:00 p.m. and on May 27, 2021, from 2:00 p.m. until 4:00 p.m., the meeting is open to the public. Interested persons may request to attend virtually, present data, information, or views, orally or in writing, on issues pending before the committee. Such requests must be made to the contact person on or before May 14, 2021. Oral presentations from the public will be scheduled between approximately 4:00 p.m. to 4:15 p.m. on May 26, 2021. Time allotted for each presentation may be 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 and addresses of proposed participants, and an indication of the approximate time requested to make their presentation on or before May 14, 2021.

Closed Committee Deliberations: On May 27, 2021, between 4:00 p.m. and 5:00 p.m., 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) is of a personal nature where disclosure would constitute a clearly unwarranted invasion of personal privacy (5 U.S.C. 552b(c)(6)). The Advisory Board will discuss the outcomes of the subcommittee's review of potential candidates for the position of Director of the National Institute of Corrections and make determinations as to the Advisory Board's recommendations to the U.S. Attorney General.

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 Leslie LeMaster at least 7 days in advance of the meeting. Notice of this meeting is given under the Federal Advisory Committee Act (5 U.S.C. app. 2).

Shaina Vanek,

Acting Director, National Institute of Corrections.

[FR Doc. 2021–08918 Filed 4–28–21; 8:45 am]

BILLING CODE 4410–36–P

DEPARTMENT OF LABOR

Office of Disability Employment Policy

Agency Information Collection Activities; Comment Request; EARN Perspectives of Jobseekers With Disabilities: The Impact of Employer Messaging

ACTION: Notice of information collections and request for comments.

SUMMARY: In compliance with the Paperwork Reduction Act of 1995, the DOL is soliciting public comments regarding this ODEP-sponsored information collection to the Office of Management and Budget (OMB) for review and approval.

DATES: Comments pertaining to this information collection are due on or before June 28, 2021.

ADDRESSES:

Electronic submission: You may submit comments and attachments electronically at *http://www.regulations.gov.* Follow the online instructions for submitting comments. Mail submission: 200 Constitution Ave. NW, Room S–5315, Washington, DC 2020. Comments are invited on: (1) Whether the collection of information is necessary for the proper performance of the functions of the DOL, including whether the information will have practical utility; (2) if the information will be processed and used in a timely manner; (3) the accuracy of the DOL's estimates of the burden and cost of the collection of information, including the validity of the methodology and assumptions used; (4) ways to enhance the quality, utility and clarity of the information collection; and (5) ways to minimize the burden of the collection of information on those who are to respond, including the use of automated collection techniques or other forms of information technology.

FOR FURTHER INFORMATION CONTACT: Lou Orslene by telephone at 202–693–7928 (this is not a toll-free number) or by email at *DOL_PRA_PUBLIC@dol.gov.*

SUPPLEMENTARY INFORMATION: The Employer Assistance and Resource Network on Disability Inclusion (EARN) is a resource for employers seeking to recruit, hire, retain, and advance qualified employees with disabilities. EARN assists employers through online support and a range of education and outreach activities, including webinars, a website with employer-focused resources such as toolkits, a monthly e-newsletter, social media posts, and training videos. It is funded by the U.S. Department of Labor's Office of Disability Employment Policy under a