''court's inquiry is limited'' in Tunney Act 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 mechanism to enforce the final judgment are clear and manageable'').

As the U.S. Court of Appeals for the District of Columbia Circuit has held, 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 (D.C. Cir. 1993) (quotation marks omitted); *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). 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 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 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: February 19, 2020.

Respectfully submitted,

For Plaintiff, United States of America

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(D.C. Bar #461048) *

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* Attorney of Record.

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BILLING CODE 4410–11–P

DEPARTMENT OF JUSTICE

Notice of Lodging Proposed Consent Decree

In accordance with Departmental Policy, 28 CFR 50.7, notice is hereby given that a proposed Consent Decree in *United States* v. *George Gradel Co., Inc., et al.,* Civil Action No. 3:20–cv–00373, was lodged with the United States District Court for the Northern District of Ohio, Western Division, on February 19, 2020.

This proposed Consent Decree concerns a complaint filed by the United States against George Gradel Co., Inc., and First Energy Nuclear Operating Co., pursuant to Sections 301(a), 309(b), and 309(d) of the Clean Water Act, 33

U.S.C. 1311(a), 1319(b), and 1319(d), to obtain injunctive relief from and impose civil penalties against the Defendants for violating the Clean Water Act by discharging pollutants without a permit into waters of the United States. The proposed Consent Decree resolves these allegations by requiring the Defendants to perform mitigation and to pay a civil penalty.

The Department of Justice will accept written comments relating to this proposed Consent Decree for thirty (30) days from the date of publication of this Notice. Please address comments to Phillip R. Dupré, United States Department of Justice, Environment and Natural Resources Division, Environmental Defense Section, Post Office Box 7611, Washington, DC 20044, and refer to *United States* v. *George Gradel Co., Inc., et al.,* DJ No. 90–5–1–1–20652.

The proposed Consent Decree may be examined at the Clerk's Office, United States District Court for the Northern District of Ohio, 1716 Spielbusch Avenue, Toledo, OH 43604. In addition, the proposed Consent Decree may be examined electronically at *http://www.justice.gov/enrd/consent-decrees.*

Cherie Rogers,

Assistant Section Chief, Environmental Defense Section, Environment and Natural Resources Division.

[FR Doc. 2020–04079 Filed 2–27–20; 8:45 am]

BILLING CODE 4410–CW–P

LIBRARY OF CONGRESS

Copyright Royalty Board

[Docket No. 20–CRB–0005–AU]

Notice of Intent To Audit

AGENCY: Copyright Royalty Board (CRB), Library of Congress.

ACTION: Public notice.

SUMMARY: The Copyright Royalty Judges announce receipt of a notice from SoundExchange of SoundExchange's intent to audit the various services, including Commercial Webcaster services, Preexisting Subscription Service(s), New Subscription Service(s), and Business Establishment Service, of Mood Media Corporation and its affiliates for 2017, 2018, and 2019 pursuant to four statutory licenses.

ADDRESSES: Docket: For access to the docket to read background documents, go to eCRB, the Copyright Royalty Board's electronic filing and case management system, at *https://app.crb.gov/* and search for docket number 20–CRB–0005–AU.

FOR FURTHER INFORMATION CONTACT: Anita Blaine, Program Specialist, by telephone at (202) 707–7658 or by email at *crb@loc.gov.*

SUMMARY INFORMATION: The Copyright Act, title 17 of the United States Code, grants to sound recordings copyright owners the exclusive right to publicly perform sound recordings by means of certain digital audio transmissions, subject to limitations. Specifically, the right is limited by the statutory license in section 114 which allows nonexempt noninteractive digital subscription services, eligible nonsubscription services, pre-existing subscription services, new subscription services, and preexisting satellite digital audio radio services to perform publicly sound recordings by means of digital audio transmissions. 17 U.S.C. 114(f). In addition, a statutory license in section 112 allows a service to make necessary ephemeral reproductions to facilitate the digital transmission of the sound recording, including for transmissions to business establishments. 17 U.S.C. 112(e).

Licensees may operate under these licenses provided they pay the royalty fees and comply with the terms set by the Copyright Royalty Judges. The rates and terms for the section 112 and 114 licenses are set forth in 37 CFR parts 380 and 382–84.

As part of the terms set for these licenses, the Judges designated SoundExchange, Inc., as the Collective, *i.e.,* the organization charged with collecting the royalty payments and statements of account submitted by Commercial Webcasters, Preexisting Subscription Services, New Subscription Services, and Business Establishment Services, and with distributing the royalties to the copyright owners and performers entitled to receive them under the section 112 and 114 licenses. *See* 37 CFR 380.4, 382.5, 383.4, 384.4.

As the Collective, SoundExchange may, only once a year, conduct an audit of a licensee for any or all of the prior three calendar years in order to verify royalty payments. SoundExchange must first file with the Judges a notice of intent to audit a licensee and deliver the notice to the licensee. 37 CFR 380.6, 382.7, 383.4. 384.6.

On January 29, 2020, SoundExchange filed with the Judges a notice of intent to audit Mood Media Corporation and its affiliates (primarily Muzak LLC and DMX Music) for the years 2017, 2018, and 2019. The Judges must publish notice in the **Federal Register** within 30 days of receipt of a notice announcing the Collective's intent to conduct an audit. *Id.* Today's notice fulfills this requirement with respect to SoundExchange's January 29, 2020 notice of intent to audit.

Dated: February 24, 2020.

Jesse M. Feder,

Chief Copyright Royalty Judge.

[FR Doc. 2020–04102 Filed 2–27–20; 8:45 am]

BILLING CODE 1410–72–P

NATIONAL ARCHIVES AND RECORDS ADMINISTRATION

[NARA–2020–022]

Agency Guidance; Portal

AGENCY: National Archives and Records Administration (NARA).

ACTION: Notice of centralized agency guidance portal.

SUMMARY: We are announcing that we have established an online centralized portal that includes information about our guidance and a searchable, indexed listing of, and links to, our guidance documents. The portal, located on our website, does not displace other listings of or links to our guidance documents in topic-specific sections of our website.

DATES: The portal is online beginning February 28, 2020, although we will be refining it and adding existing guidance through the end of May 2020.

ADDRESSES: The portal's URL is *archives.gov/guidance.*

FOR FURTHER INFORMATION CONTACT: Kimberly Keravuori, Regulatory and External Policy Program Manager, by mail at National Archives and Records Administration, Suite 4100, 8601 Adelphi Road, College Park, MD 20740–6001, or by email at *regulation_comments@nara.gov.*

SUPPLEMENTARY INFORMATION: Executive Order 13891, and OMB implementing guidance memorandum M–20–02, require Federal agencies to establish an online, centralized, searchable database of their guidance documents, to include certain identifying information, and to provide information on how to comment on open guidance and how to request revisions to the agency's guidance. They also require agencies to publish notice in the **Federal Register** of the new guidance portal.

Although the E.O. and OMB memorandum primarily discuss guidance affecting the public, OMB has clarified that guidance affecting other agencies must also be included in the portal. Most of our guidance pertains to other Federal agencies, including records management guidance, controlled unclassified information