
42 U.S. Code § 247d–7f

Collaboration and coordination

(a) Limited antitrust exemption

(1) Meetings and consultations to discuss security countermeasures, qualified countermeasures, or qualified pandemic or epidemic product development

(A) Authority to conduct meetings and consultations

The Secretary, in coordination with the Attorney General and the Secretary of Homeland Security, may conduct meetings and consultations with persons engaged in the development of a security countermeasure (as defined in section 247d–6b of this title), a qualified countermeasure (as defined in section 247d–6a of this title), or a qualified pandemic or epidemic product (as defined in section 247d–6d of this title) for the purpose of the development, manufacture, distribution, purchase, or storage of a countermeasure or product. The Secretary may convene such meeting or consultation at the request of the Secretary of Homeland Security, the Attorney General, the Chairman of the Federal Trade Commission (referred to in this section as the “Chairman”), or any interested person, or upon initiation by the Secretary. The Secretary shall give prior notice of any such meeting or consultation, and the topics to be discussed, to the Attorney General, the Chairman, and the Secretary of Homeland Security.

(B) Meeting and consultation conditions

A meeting or consultation conducted under subparagraph (A) shall—

- (i) be chaired or, in the case of a consultation, facilitated by the Secretary;
- (ii) be open to persons involved in the development, manufacture, distribution, purchase, or storage of a countermeasure or product, as determined by the Secretary;
- (iii) be open to the Attorney General, the Secretary of Homeland Security, and the Chairman;
- (iv) be limited to discussions involving covered activities; and
- (v) be conducted in such manner as to ensure that no national security, confidential commercial, or proprietary information is disclosed outside the meeting or consultation.

(C) Limitation

The Secretary may not require participants to disclose confidential commercial or proprietary information.

(D) Transcript

The Secretary shall maintain a complete verbatim transcript of each meeting or consultation conducted under this subsection. Such transcript (or a portion thereof) shall not be disclosed under section 552 of title 5 to the extent that the Secretary, in consultation with the Attorney General and the Secretary of Homeland Security, determines that disclosure of such transcript (or portion thereof) would pose a threat to national security. The transcript (or portion thereof) with respect to which the Secretary has made such a determination shall be deemed to be information described in subsection (b)(3) of such

section 552.

(E) Exemption

(i) In general

Subject to clause (ii), it shall not be a violation of the antitrust laws for any person to participate in a meeting or consultation conducted in accordance with this paragraph.

(ii) Limitation

Clause (i) shall not apply to any agreement or conduct that results from a meeting or consultation and that is not covered by an exemption granted under paragraph (4).

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