

## **ICN Virtual Promotion & Implementation Workshop - Hypothetical Case Studies**

### **MERGER ROOMS: Proposed acquisition by Sierra of Vista**

### **UNILATERAL CONDUCT ROOMS: Exclusive Dealing by Sierra**

Sterilization is a critical final step in the manufacture of many products, especially healthcare products, to ensure the products are free of unwanted microorganisms before they reach customers. While there are other types of sterilization technologies available, radiation is considered the best method of sterilizing large volumes of dense and heterogeneously packaged products. According to industry reports, in the country of Cambria, gamma radiation is the primary method of radiation-based sterilization of products. X-ray radiation is another radiation method for sterilizing products, but it is not currently available in Cambria.

Sierra is the largest provider of radiation sterilization services in Cambria and uses only gamma radiation to provide this service. Sierra has 12 facilities in Cambria, but has limited presence outside of the country. There is one additional provider of radiation-based sterilization services in Cambria, Nevada. Nevada is the second largest sterilization company in Cambria and the largest globally. Nevada operates 10 gamma radiation facilities in Cambria as well as additional gamma radiation facilities outside Cambria. There is a third company, Vista, that operates many sterilization facilities outside of Cambria, including several x-ray radiation facilities. However, Vista currently offers only non-radiation sterilization services in Cambria.

For most customers, in-house sterilization is not a viable alternative. Instead, these customers bring their products to radiation sterilization service facilities on a contract basis to locations closest to the customers' manufacturing or distribution facilities to minimize turnaround time and shipping costs.

### **Merger Scenario**

Sierra proposes to acquire Vista and filed notice of the proposed transaction in Cambria. Vista's filing included an internal document indicating that it has begun planning to expand its operations by introducing x-ray radiation sterilization services to Cambria. According to the document, Vista plans to add x-ray production capability to its non-radiation sterilizations facilities already in Cambria that are closest to Sierra. The Vista document suggests that x-ray radiation offers comparable, and possibly superior, depth of penetration to gamma, allowing it to compete for customers that currently rely on gamma radiation offered by Nevada and Sierra for sterilization services. It is unclear from that document how definitive these entry plans are or their current status. You have met with the merging parties, and their view is that this is a complementary geographic acquisition and will enable Sierra to expand its gamma sterilization services globally.

### **Unilateral Conduct Scenario**

Sierra recently entered into exclusive agreements with many of the largest medical device companies in Cambria. The agreements require that the medical device companies purchase all radiation sterilization services of any nature or technology from Sierra. Vista lodged a complaint claiming these agreements are preventing Vista from achieving the sales necessary to bring x-ray radiation to Cambria, allowing Sierra to maintain a dominant position.

You have met with Sierra and its view is that there is no evidence that Vista or customers have been harmed by these agreements.