(301) 415–1696, E-mail: *Robert.Weisman@nrc.gov,* and Renee V. Holmes, Esq., Telephone: (301) 415–3319, E-Mail: *Renee.Holmes@nrc.gov.*

A person who is not a party may be permitted to make a limited appearance by making an oral or written statement of his or her position on the issues at any session of the hearing or any pre-hearing conference within the limits and conditions fixed by the presiding officer, but may not otherwise participate in the proceeding.

Documents may be examined, and/or copied for a fee, at the NRC's Public Document Room (PDR), located at One White Flint North, Public File Area O1 F21, 11555 Rockville Pike (first floor), Rockville, Maryland, and will be accessible electronically through the Agencywide Documents Access and Management System (ADAMS) Public Electronic Reading Room link at the NRC Web site *http://www.nrc.gov/reading-rm/adams.html.* The ADAMS accession number for the application is ML073320913. The application is also available at: *http://www.nrc.gov/reactors/new-licensing/col.html.* Persons who do not have access to ADAMS or who encounter problems in accessing documents located in ADAMS should contact the NRC PDR Reference staff by telephone at 1–800–397–4209, or 301–415–4737, or by e-mail to *pdr@nrc.gov.*

Dated at Rockville, Maryland, this 29th day of February 2008.

For the Nuclear Regulatory Commission.

Annette L. Vietti-Cook,

Secretary of the Commission.

[FR Doc. E8–4706 Filed 3–7–08; 8:45 am]

BILLING CODE 7590–01–P

DEPARTMENT OF JUSTICE

Notice of Lodging of Consent Decree Under the Clean Air Act and the Resource Conservation and Recovery Act

Under 28 CFR 50.7, notice is hereby given that on February 20, 2008, a proposed Consent Decree (''Consent Decree'') in the matter of *United States* v. *Bridgeport United Recycling, Inc. and United Oil Recovery, Inc.,* Civil Action No. 3:08CV247 (JBA), was lodged with the United States District Court for the District of Connecticut.

In the complaint in this matter, the United States sought injunctive relief and penalties against Bridgeport United Recycling, Inc. (''BUR'') and United Oil Recovery, Inc. (''UOR'') for claims arising under the Resource Conservation and Recovery Act (''RCRA''), 42 U.S.C. 6901 *et seq.*, in connection with the operation of BUR's hazardous waste treatment, storage, and disposal facility located in Bridgeport, Connecticut and UOR's hazardous waste treatment, storage, and disposal facility located in Meriden, Connecticut. Under the Consent Decree, BUR will automate and upgrade the air emission control system used at the Bridgeport facility and pay a civil penalty of $205,798.00. Under the Consent Decree, UOR will pay a civil penalty of $119,392.00.

The Department of Justice will receive for a period of thirty (30) days from the date of this publication comments relating to the Consent Decree. Comments should be addressed to the Assistant Attorney General, Environment and Natural Resources Division, and either emailed to *pubcomment-ees.enrd@usdoj.gov* or mailed to P.O. Box 7611, U.S. Department of Justice, Washington, DC 20044–7611, and should refer to *United States* v. *Bridgeport United Recycling, Inc. and United Oil Recovery, Inc.,* D.J. Ref. No. 90–7–1–08350. Commenters may request an opportunity for a public meeting in the affected area, in accordance with Section 7003(d) of RCRA, 42 U.S.C. 6973(d).

The Consent Decree may be examined at the Office of the United States Attorney, Connecticut Financial Center, 157 Church Street, Floor 23, New Haven, CT 06510, and at U.S. EPA Region I, Robert F. Kennedy Federal Building, Boston, Massachusetts 02203–2211. During the public comment period, the Consent Decree may also be examined on the following Department of Justice Web site: *http://www.usdoj.gov/enrd/Consent_Decrees.html.* A copy of the Consent Decree may also be obtained by mail from the Consent Decree Library, P.O. Box 7611, U.S. Department of Justice, Washington, DC 20044–7611, or by faxing or e-mailing a request to Tonia Fleetwood (*tonia.fleetwood@usdoj.gov*), fax number (202) 514–0097, phone confirmation number (202) 514–1547. In requesting a copy from the Consent Decree Library, please enclose a check in the amount of $8.00 (25 cents per page reproduction cost) payable to the U.S. Treasury, or, if by email or fax, forward a check in that amount to the Consent Decree Library at the stated address.

Maureen Katz,

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

[FR Doc. E8–4608 Filed 3–7–08; 8:45 am]

BILLING CODE 4410–CW–P

DEPARTMENT OF JUSTICE

Antitrust Division

Notice Pursuant to the National Cooperative Research and Production Act of 1993—High Definition Metrology and Process–2 Micron Manufacturing Under ATP Award No. 70NANB7H7041

Notice is hereby given that, on December 13, 2007, pursuant to section 6(a) of the National Cooperative Research and Production Act of 1993, 15 U.S.C. 4301 *et seq.* (''the Act''), High Definition Metrology and Process–2 Micron Manufacturing under ATP Award No.70NANB7H7041 has filed written notifications simultaneously with the Attorney General and the Federal Trade Commission disclosing (1) the identities of the parties and (2) the nature and objectives of the venture. The notifications were filed for the purpose of invoking the Act's provisions limiting the recovery of antitrust plaintiffs to actual damages under specified circumstances.

Pursuant to section 6(b) of the Act, the identities of the parties to the venture are: Engineering and Manufacturing Alliance, Ann Arbor, MI; Coherix Inc., Ann Arbor, MI; Ford Motor Company, Dearborn, MI; and Superior Controls, Plymouth, MI. The general area of planned activity is to develop High Definition Metrology and related manufacturing technologies to realize a significant enhancement in both accuracy and precision in manufacturing, aiming for 2 micron variation in precision manufacturing.

The activities of this venture project will be partially funded by an award from the advanced Technology Program, National Institute of Standards and Technology, U.S. Department of Commerce.

Patricia A. Brink,

Deputy Director of Operations, Antitrust Division.

[FR Doc. E8–4394 Filed 3–7–08; 8:45 am]

BILLING CODE 4410–11–M

DEPARTMENT OF JUSTICE

Antitrust Division

United States v. UnitedHealth Group Incorporated; Proposed Final Judgment and Competitive Impact Statement

Notice is hereby given pursuant to the Antitrust Procedures and Penalties Act, 15 U.S.C. 16(b)–(h), that a Complaint, proposed Final Judgment, Hold Separate and Asset Preservation Stipulation and Order, and Competitive Impact

Statement have been filed with the United States District Court for the District of Columbia in *United States* v. *UnitedHealth Group Incorporated*, Civil Case No. 08–0322. On February 25, 2008, the United States filed a Complaint alleging that the proposed acquisition by UnitedHealth Group Incorporated (''United'') of Sierra Health Services, Inc. (''Sierra'') would violate Section 7 of the Clayton Act, 15 U.S.C. 18. The Complaint alleges that the acquisition would substantially reduce competition between the two largest health insurers selling Medicare Advantage health insurance plans to senior citizens in the Las Vegas, Nevada area, resulting in higher prices, less choice, and a reduction in the quality of Medicare Advantage plans sold to the Medicare-eligible population.

The proposed Final Judgment filed with the Complaint requires the parties to divest United's individual Medicare Advantage business in the Las Vegas area to a purchaser that will remain a viable competitor in the market. Copies of the Complaint, proposed Final Judgment, and Competitive Impact Statement are available for inspection at the Department of Justice, Antitrust Division, Antitrust Documents Group, 325 7th Street, NW., Room 215, Washington, DC 20530 (202–514–2481), on the Department of Justice's Web site at *http://www.usdoj.gov/atr*, and at the Office of the Clerk of the United States District Court for the District of Columbia. Copies of these materials may be obtained from the Antitrust Division upon request and payment of the copying fee set by Department of Justice regulations.

Public comment is invited within 60 days of the date of this notice. Such comments, and responses thereto, will be published in the **Federal Register** and filed with the Court. Comments should be directed to Joshua H. Soven, Chief, Litigation I Section, Antitrust Division, U.S. Department of Justice, 1401 H Street, NW., Suite 4000, Washington, DC 20530 (202–307–0001).

Patricia A. Brink,

Deputy Director of Operations, Antitrust Division.

United States District Court for the District of Columbia, United States of America, 1401 H Street, NW. - Suite 4000, Washington, DC 20530, Plaintiff,

v.

UnitedHealth Group Incorporated, 9900 Bren Road East, Minnetonka, MN 55343, and Sierra Health Services, Inc., 2724 North Tenaya Way, Las Vegas, NV 89128, Defendants.

Civil No. 1:08–cv–00322

Judge: Ellen S. Huvelle

Filed: 2/25/2008

Complaint

The United States of America, acting under the direction of the Attorney General of the United States, brings this civil action to enjoin UnitedHealth Group Incorporated (''United'') from acquiring Sierra Health Services, Inc. (''Sierra''), and alleges as follows:

1. Unless enjoined, United's proposed acquisition of Sierra will substantially increase concentration in an already highly concentrated market that is no broader than Medicare Advantage health insurance plans sold to senior citizens (''seniors'') and other Medicare-eligible individuals in Clark and Nye Counties, Nevada, (''the Las Vegas area''). As defined by Federal law, Medicare Advantage plans consist of Medicare Advantage health maintenance organization plans (''MA–HMO''), Medicare Advantage preferred provider organization plans (''MA–PPO''), and Medicare Advantage private fee-for-service plans (''MA–PFFS''). See 42 U.S.C. 1395w–21(a)(2). United and Sierra together account for approximately 94 percent of the total enrollment in Medicare Advantage plans in the Las Vegas area, which total accounts for approximately $840 million in annual commerce.

2. Congress created the Medicare Advantage program as a private market alternative to government-provided traditional Medicare. In establishing the Medicare Advantage program, Congress intended that vigorous competition among private Medicare Advantage insurers would lead insurers to offer seniors richer and more affordable benefits than traditional Medicare, provide a wider array of health insurance choices, and be more responsive to the demands of seniors.

3. The acquisition will decrease competition substantially among Medicare Advantage plans in the Las Vegas area and eliminate substantial head-to-head competition between United (through the PacifiCare health insurance business that United acquired in 2005) and Sierra in the provision of such plans. The competition between United and Sierra has, for years, benefited thousands of seniors. Through competition, United's and Sierra's plans provide seniors with substantially greater benefits than those available under traditional Medicare alternatives, saving seniors thousands of dollars in yearly health care costs. The proposed acquisition will end that competition, eliminating the pressure that these close competitors place on each other to maintain attractive benefits, lower prices, and high-quality health care.

4. United's acquisition of Sierra is likely to reduce competition substantially in the sale of Medicare Advantage plans in the Las Vegas area in violation of Section 7 of the Clayton Act, 15 U.S.C. 18. Accordingly, the United States seeks an order permanently enjoining the transaction.

I. Jurisdiction and Venue

5. The United States files this Complaint pursuant to Sections 15 and 16 of the Clayton Act, as amended, 15 U.S.C. 25 and 26, to prevent and restrain the defendants from violating Section 7 of the Clayton Act, as amended, 15 U.S.C. 18.

6. United and Sierra are engaged in interstate commerce and in activities that substantially affect interstate commerce. The Court has jurisdiction over this action pursuant to Section 15 of the Clayton Act, as amended, 15 U.S.C. 25, and 28 U.S.C. 1331, 1337.

7. United and Sierra transact business and are found in the District of Columbia. Venue is proper under 15 U.S.C. 22 and 28 U.S.C. 1391(c).

II. The Defendants and the Proposed Transaction

8. United is a corporation organized and existing under the laws of Minnesota and has its principal place of business in Minnetonka, Minnesota. United is the largest health insurer in the United States, providing health insurance and other services to more than 70 million people nationwide. In 2007, United reported revenues of approximately $75 billion.

9. United's Medicare Advantage products are sold under the Secure Horizons and AARP brands. United provides health insurance to approximately 27,800 Medicare Advantage enrollees in the Las Vegas area. Approximately 26,000 of these enrollees are individual enrollees whose enrollment is not affiliated with an employer or other group. The remainder are group retirees who enrolled in a United Medicare Advantage plan through an employer or other group.

10. In the Las Vegas area, United has a well-established managed-care network that United uses to provide services to enrollees in its MA–HMO plans. Health care services provided by HealthCare Partners, LLC, The Physicians IPA, Inc., and Summit Medical Group are an integral part of United's managed-care network in the Las Vegas area.

11. Sierra is a corporation organized and existing under the laws of Nevada and has its principal place of business in Las Vegas, Nevada. Sierra is the largest health insurer in Nevada,

providing health insurance and other services to more than 655,000 people. In 2007, Sierra reported revenues of $1.9 billion.

12. Sierra sells Medicare Advantage plans under the Senior Dimensions, Sierra Spectrum, Sierra Nevada Spectrum, and Sierra Optima Select brands. Sierra provides health insurance to approximately 49,500 Medicare Advantage enrollees in the Las Vegas area.

13. Sierra owns Las Vegas's largest medical group, Southwest Medical Associates, Inc. (''SMA''), which employs approximately 250 physicians and other health care professionals. SMA provides care almost exclusively to Sierra members and provides a substantial portion of the care delivered to Sierra's Medicare Advantage members.

14. On March 11, 2007, United and Sierra entered into a merger agreement, whereby United agreed to acquire all outstanding shares of Sierra. The transaction is valued at approximately $2.6 billion.

III. The Medicare Advantage Insurance Market

15. The federal government provides and facilitates the provision of health insurance to millions of Medicare-eligible citizens through two types of programs: traditional Medicare (also known as Original Medicare) and Medicare Advantage. Under traditional Medicare, a beneficiary receives hospital coverage under Medicare Part A and can elect to receive coverage for physician and out-patient services under Part B. For Part A, the government charges no monthly premium if the beneficiary was in the workforce and paid Medicare taxes, but for Part B, the government deducts a monthly premium (currently $96.40 for most beneficiaries) from beneficiaries' Social Security checks. In addition, beneficiaries must pay deductibles and/or co-insurance for doctor visits and hospital stays. If beneficiaries want to limit potentially catastrophic out-of-pocket costs, they need to purchase a separate Medicare Supplement plan. For prescription drug coverage, seniors enrolled in traditional Medicare must purchase Medicare Part D drug coverage for an additional premium.

16. In contrast, Medicare Advantage plans are offered by private insurance companies. These companies compete to offer the most attractive Medicare Advantage benefits to enrollees in a region. Most successful Medicare Advantage plans, including those in the Las Vegas area, offer substantially richer benefits at lower costs to enrollees than traditional Medicare, including lower co-payments, lower co-insurance, caps on total yearly out-of-pocket costs, prescription drug coverage, vision coverage, health club memberships, and other benefits that traditional Medicare does not cover.

17. An insurance company that seeks to offer a Medicare Advantage plan in a region must submit a bid to the Centers for Medicare and Medicaid Services (''CMS'') for each Medicare Advantage plan that it intends to offer. The bid must provide the insurer's anticipated costs per member to cover the basic Medicare Part A and Part B benefits. Those costs, including an anticipated profit margin, are compared to a Medicare benchmark that reflects, in part, the government's likely cost of covering the beneficiaries. If the insurer's bid for Medicare benefits is lower than the benchmark, the Medicare program retains 25 percent of the savings and the insurer must use the other 75 percent to provide supplemental benefits or lower premiums to enrollees. Accordingly, the lower the insurer's projected costs, the more benefits seniors enrolled in the insurer's plan will have available to them.

18. A sufficient number of seniors in the Las Vegas area would not switch away from Medicare Advantage plans to traditional Medicare in the event of a small but significant reduction in benefits under the plans, or a small but significant increase in price, to render the benefit decrease or price increase unprofitable. Accordingly, in the Las Vegas area, the sale of Medicare Advantage plans is a relevant product market and a line of commerce under Section 7 of the Clayton Act, 15 U.S.C. 18.

IV. Relevant Geographic Market

19. Residents in the Las Vegas area (Clark and Nye Counties) may only enroll in Medicare Advantage plans that CMS approves for the county in which they live. Consequently, they could not turn to Medicare Advantage plans elsewhere in the state or in other regions in response to a reduction in competition between Sierra and United in the Las Vegas area. Accordingly, the Las Vegas area is a relevant geographic market or section of the country within the meaning of Section 7 of the Clayton Act.

V. Market Concentration

20. The market for Medicare Advantage plans is highly concentrated and would become significantly more concentrated as a result of the proposed acquisition. Sierra accounts for approximately 60 percent of Medicare Advantage enrollees in the Las Vegas area. United accounts for approximately 34 percent. If consummated, the merger would give United a 94 percent market share. The Herfindahl-Hirschman Index (''HHI'') (a standard measure of market concentration defined and explained in Appendix A) for the Las Vegas area Medicare Advantage market indicates that the market is highly concentrated. The proposed merger would increase concentration by 4,080 points, from 4,756 to 8,836.

21. Sierra and United (through PacifiCare) have accounted for well over 90 percent of Medicare Advantage enrollment in the Las Vegas area for each of the past seven years.

VI. Anticompetitive Effects

22. Under the Medicare Advantage program, private competition for Medicare-eligible individuals has produced substantial benefits for consumers throughout the country, including in the Las Vegas area.

23. Sierra and United have competed vigorously with each other to improve their Medicare Advantage plans and attract members. They monitor each other's benefits to stay competitive and consider each other to be very important competitors.

24. United and Sierra compete against each other for newly Medicare-eligible individuals, try to attract members from each other, and seek to avoid losing members to each other, by offering plans with zero premiums, reducing co-payments, eliminating deductibles, improving drug coverage, offering desirable fitness benefits, and attempting to make their provider networks more attractive to potential members. Such competition will be lost in the Las Vegas area if the proposed acquisition is completed, to the substantial detriment of tens of thousands of seniors. After the acquisition, the combined United/Sierra will not have the same incentive to improve benefits as the two separate companies do today, and likely will raise prices or reduce benefits and services.

25. Competition from existing providers of Medicare Advantage plans and new entrants is unlikely to prevent anticompetitive effects. Such firms face substantial cost, reputation, and distribution disadvantages that will likely make them unable to prevent United from raising prices or reducing benefits and services.

26. Accordingly, the proposed transaction likely will substantially lessen competition in violation of Section 7 of the Clayton Act.

VII. Violations Alleged

27. United's acquisition of Sierra would likely substantially lessen competition in the sale of Medicare Advantage health insurance in the Las Vegas area, in violation of Section 7 of the Clayton Act, 15 U.S.C. 18.

28. The proposed transaction would likely have the following effects, among others:

(a) Lessening substantially actual and potential competition in the sale of Medicare Advantage insurance;

(b) eliminating actual and potential competition between United and Sierra in the sale of Medicare Advantage insurance;

(c) increasing prices for Medicare Advantage insurance above those that would prevail absent the acquisition; and

(d) decreasing the level of benefits and service associated with Medicare Advantage insurance to levels below those that would prevail absent the acquisition.

VIII. Prayer for Relief

The United States requests that this Court:

1. Adjudge the proposed acquisition to violate Section 7 of the Clayton Act, 15 U.S.C. 18;

2. Permanently enjoin and restrain the defendants from carrying out the Agreement and Plan of Merger between United and Sierra dated March 11, 2007, or from entering into or carrying out any agreement, understanding, or plan by which United would merge with or acquire Sierra, its capital stock, or any of its assets;

3. Award the United States the costs of this action; and

4. Award the United States such other relief as the Court may deem just and proper.

Respectfully submitted,

Thomas O. Barnett (DC Bar # 426840)
Assistant Attorney General
Antitrust Division

Deborah A. Garza (DC Bar # 395259)
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Antitrust Division

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Natalie A. Rosenfelt
Michelle Seltzer (DC Bar # 475482)

Trial Attorneys, U.S. Department of Justice, Antitrust Division, Litigation I Section, 1401 H Street, NW., Suite 4000, Washington, DC 20530, (202) 353–4211, (202) 307–5802 (fax).

Dated: February 25, 2008.

APPENDIX A

Herfindahl-Hirschman Index

''HHI'' means the Herfindahl-Hirschman Index, a commonly accepted measure of market concentration. It is calculated by squaring the market share of each firm competing in the market and then summing the resulting numbers. For example, for a market consisting of four firms with shares of 30%, 30%, 20%, and 20%, the HHI is 2600 (302 + 302 + 202 + 202 = 2600). The HHI takes into account the relative size distribution of the firms in a market and approaches zero when a market consists of a large number of small firms. The HHI increases both as the number of firms in the market decreases and as the disparity in size between those firms increases.

Markets in which the HHI is between 1000 and 1800 points are considered to be moderately concentrated, and those in which the HHI is in excess of 1800 points are considered to be highly concentrated. See Horizontal Merger Guidelines 1.51 (revised Apr. 8, 1997). Transactions that increase the HHI by more than 100 points in concentrated markets presumptively raise antitrust concerns under the guidelines issued by the U.S. Department of Justice and Federal Trade Commission. See id.

Certificate of Service

I hereby certify that I served a copy of the foregoing Complaint, proposed Final Judgment, Competitive Impact Statement, Hold Separate and Asset Preservation Stipulation and Order, and Explanation of Consent Decree Procedures via e-mail and first class, United States mail on February 25, 2008.

For Defendant Unitedhealth Group, Inc.:

Robert E. Bloch, Esq., Mayer, Brown, Rowe & Maw, LLP, 1909 K Street, NW., Washington, DC 20006–1101.

Steven L. Holley, Esq., Sullivan & Cromwell, LLP, 125 Broad Street, New York, NY 10004.

For Defendant Sierra Health Services, Inc.:

Arthur N. Lerner, Esq., Crowell & Moring, LLP, 1001 Pennsylvania Ave. NW., Washington, DC 20004.

Peter J. Mucchetti, Attorney, Litigation I Section, U.S. Department of Justice—Antitrust Division.

Final Judgment

Whereas, plaintiff, United States of America, filed its Complaint on February 25, 2008, and the United States and Defendant UnitedHealth Group Incorporated and Defendant Sierra Health Services, Inc., by their respective attorneys, have consented to the entry of this Final Judgment without trial or adjudication of any issue of fact or law and without this Final Judgment constituting any evidence against or admission by any party regarding any issue of fact or law;

And whereas, Defendants agree to be bound by the provisions of this Final Judgment pending its approval by the Court; *and whereas*, the essence of this Final Judgment is the prompt and certain divestiture of certain rights and assets by Defendants to ensure that competition is not substantially lessened in the sale of Medicare Advantage Plans to senior citizens and others in the Las Vegas, Nevada area;

And whereas, the United States requires Defendants to make certain divestitures for the purpose of remedying the loss of competition alleged in the Complaint;

And whereas, Defendants have represented to the United States that the divestiture required by this Final Judgment can and will be made, and that Defendants will not later raise any claim of hardship or difficulty as grounds for asking the Court to modify any of the provisions of this Final Judgment;

Now Therefore, before any testimony is taken, without trial or adjudication of any issue of fact or law, and upon consent of the parties, *it is ordered*, Adjudged, and decreed:

I. Jurisdiction

This Court has jurisdiction over the subject matter of, and each of the parties to, this action. The Complaint states a claim upon which relief may be granted against Defendants under Section 7 of the Clayton Act, as amended, 15 U.S.C. 18.

II. Definitions

As used in this Final Judgment:

A. ''Acquirer'' means the entity to whom the Divestiture Assets are divested.

B. ''Clark County'' means Clark County, Nevada.

C. ''Clark County CMS Plans'' means the individual Medicare Advantage plans offered under CMS Plan Nos. H2949–002, H2949–009, and H2949–012, but does not include any Series 800 Medicare Advantage plans offered to retirees through commercial customers or contracts.

D. ''Clark and Nye County CMS Plans'' means the Clark County CMS Plans and the Nye County CMS Plans.

E. ''CMS'' means the Centers for Medicare and Medicaid Services, an agency within the U.S. Department of Health and Human Services.

F. ''Divestiture Assets'' means all tangible and intangible assets dedicated to the administration, operation, selling, and marketing of the Clark and Nye County CMS Plans, including (1) all of United's rights and obligations under United's Medicare Contract No. H2949 with CMS relating to the Clark and Nye County CMS Plans, including the right to offer the Medicare Advantage plan to individual enrollees pursuant to the bids and Evidence of Coverage filed with CMS in 2007 for the 2008 contract year, and the right to receive from CMS a per member per month capitation payment in exchange for providing or arranging for the benefits enumerated in the bids and Evidence of Coverage, and (2) copies of all business, financial and operational books, records, and data, both current and historical, that relate to the Clark County CMS Plans or the Nye County CMS Plans. Where books, records, or data relate to the Clark County CMS Plans or the Nye County CMS Plans, but not solely to these Plans, United shall provide excerpts relating to these Plans. Nothing herein requires United to take any action prohibited by the Health Insurance Portability and Accountability Act of 1996 (HIPAA).

G. ''Evidence of Coverage'' means the document that outlines an enrollee's benefits and exclusions under a Medicare Advantage Plan.

H. ''HealthCare Partners'' means JSA Healthcare Nevada, LLC, a Nevada limited liability company, and its affiliated entities, including HealthCare Partners, LLC and Summit Medical Group.

I. ''Humana'' means Humana Inc., a Delaware corporation with its headquarters in Louisville, Kentucky.

J. ''Las Vegas Area'' means Clark County and Nye County.

K. ''Medicare Advantage Line of Business'' means the operations of United that implement and administer the Clark and Nye County CMS Plans.

L. ''Medicare Advantage Plan'' means Medicare Advantage health maintenance organization plans, Medicare Advantage preferred provider organization plans, and Medicare Advantage private fee-for-service plans, as defined by 42 U.S.C. 1395w–21(a)(2).

M. ''Nye County'' means Nye County, Nevada.

N. ''Nye County CMS Plans'' means the individual Medicare Advantage plans offered under CMS Plan Nos. H2949–007 and H2949–011, but does not include any Series 800 Medicare Advantage plans offered to retirees through commercial customers or contracts.

O. ''PIPA'' means The Physicians IPA, Inc., a Nevada non-profit corporation based in Las Vegas, Nevada.

P. ''Provider Network'' means all health care providers, including physicians, hospitals, ancillary service providers, and other health care providers with which United contracts for the provision of covered medical services for United's Medicare Advantage Plans in the Las Vegas area.

Q. ''Sierra'' means Defendant Sierra Health Services, Inc., a Nevada corporation with its headquarters in Las Vegas, Nevada, its successors and assigns, and its subsidiaries, divisions, groups, affiliates, partnerships and joint ventures, and their respective directors, officers, managers, agents, and employees.

R. ''Transaction'' means the merger contemplated by the Agreement and Plan of Merger dated as of March 11, 2007, by and among United, Sapphire Acquisition, Inc. and Sierra.

S. ''United'' means Defendant UnitedHealth Group Incorporated, a Minnesota corporation with its headquarters in Minnetonka, Minnesota, its successors and assigns, and its subsidiaries, divisions, groups, affiliates, partnerships and joint ventures, and their respective directors, officers, managers, agents, and employees.

III. Applicability

A. This Final Judgment applies to United and Sierra, and to all other persons in active concert or participation with any of them who receive actual notice of this Final Judgment by personal service or otherwise.

B. If, prior to complying with Section IV and VI of this Final Judgment, Defendants sell or otherwise dispose of all or substantially all of their assets or of lesser business units that include the Divestiture Assets, they shall require the purchaser to be bound by the provisions of this Final Judgment. Defendants need not obtain such an agreement from the Acquirer of the assets divested pursuant to this Final Judgment.

IV. Divestiture of the Divestiture Assets

A. Defendants are ordered, within forty-five (45) calendar days after the filing of the Complaint in this matter, to divest the Divestiture Assets in a manner consistent with this Final Judgment to an Acquirer acceptable to the United States in its sole discretion and on terms acceptable to the United States in its sole discretion, including any agreement for transitional support services entered into pursuant to Section IV(J) of this Final Judgment. The United States, in its sole discretion, may grant one or more extensions of this time period, not to exceed sixty (60) calendar days in total, and shall notify the Court in each such circumstance. Defendants shall accomplish the divestiture of the Divestiture Assets as expeditiously as possible and in such a manner as will allow the Acquirer to be a viable, ongoing business engaged in the sale of Medicare Advantage Plans in the Las Vegas Area.

B. If applications for approval have been filed with CMS and the appropriate other governmental units within twenty (20) calendar days after the filing of the Complaint in this matter, but these required approvals have not been issued before the end of the period permitted for Divestiture in Section IV(A), the United States may extend the period for Divestiture until five (5) business days after all necessary government approvals have been received.

C. The Divestiture shall be accomplished in such a way as to satisfy the United States, in its sole discretion, that the Divestiture Assets can and will be used by the Acquirer as part of a viable, ongoing business engaged in the sale of Medicare Advantage Plans in the Las Vegas Area. Defendants must demonstrate to the sole satisfaction of the United States that the Divestiture will remedy the competitive harm alleged in the Complaint. The Divestiture shall be:

(1) Made to an Acquirer that, in the United States's sole judgment, has the intent and capability (including the necessary managerial, operational, technical, and financial capability) to compete effectively in the sale of Medicare Advantage Plans in the Las Vegas Area; and

(2) Accomplished so as to satisfy the United States, in its sole discretion, that none of the terms of any agreement between Defendants and the Acquirer gives Defendants the ability unreasonably to raise the Acquirer's costs, to lower the Acquirer's efficiency, or otherwise to interfere with the Acquirer's ability to compete effectively.

D. Defendants shall not take any action that will impede in any way the permitting, operation, or divestiture of the Divestiture Assets.

E. Defendants shall provide to the Acquirer, the United States, and any Monitoring Trustee, information relating to the personnel primarily involved in the operation of the Divestiture Assets to enable the Acquirer to make offers of employment to those persons.

Defendants shall not interfere with any negotiations by the Acquirer to employ any of those persons. For a period of two (2) years from the filing of the Complaint in this matter, Defendants shall not hire or solicit to hire any such person who was hired by the Acquirer, unless the Acquirer has notified such person that the Acquirer does not intend to continue to employ the person.

F. Defendants shall assist the negotiation of and entry into agreement(s) between the Acquirer and HealthCare Partners that will allow members of the Clark and Nye County CMS Plans to have continued access to substantially all of United's Provider Network as of January 2008 on terms no less favorable than United's agreements as of January 2008.

G. Upon completing the Divestiture and through March 31, 2010, Defendants shall have no agreements with HealthCare Partners or PIPA that provide for access by United to HealthCare Partners or PIPA in connection with enrollees in any type of individual Medicare Advantage plan of Defendants in the Las Vegas Area.

H. Upon completing the Divestiture and through March 31, 2009, Defendants shall not use the AARP brand, or any other substantially similar brand, name, or logo, for any type of individual Medicare Advantage plan of Defendants in the Las Vegas Area. Upon completing the Divestiture and through March 31, 2010, Defendants shall not use the SecureHorizons brand, or any other substantially similar brand, name, or logo, for any type of individual Medicare Advantage plan of Defendants in the Las Vegas Area.

I. At the Acquirer's option, and subject to approval by the United States, Defendants will allow the Acquirer to license and use the SecureHorizons brand, and any other substantially similar brand, name, or logo, with the Divestiture Assets for twelve months upon completing the Divestiture.

J. At the Acquirer's option, and subject to approval by the United States, Defendants will provide transitional support services for medical claims processing, appeals and grievances, call-center support, enrollment and eligibility services, access to form templates, pharmacy services, disease management, Medicare risk-adjustment services, quality-assurance services, and such other transition services that are reasonably necessary for the Acquirer to operate the Divestiture Assets. Defendants shall not provide such transitional support services for more than twelve months from the date of the completion of the Divestiture unless the United States shall otherwise approve.

K. To ensure an effective transition and transfer of enrollees in the Clark and Nye County CMS Plans to the Acquirer, Defendants shall cooperate and work with the Acquirer in transition planning and implementing the transfer of the Divestiture Assets.

L. Defendants will communicate and cooperate fully with the Acquirer to promptly identify and obtain all consents of government agencies necessary to divest the Divestiture Assets.

M. Defendants will communicate and cooperate fully with the Acquirer to work in good faith with CMS to select a novation process that is efficient and minimizes any potential disruption and confusion to enrollees in the Clark and Nye County CMS Plans.

N. United shall warrant to the Acquirer that, since January 1, 2007, United has operated the Divestiture Assets in all material respects in the ordinary course of business consistent with past practices except for the global capitation agreement that United entered into with HealthCare Partners effective January 1, 2008. United shall also warrant that there has not been (a) any material loss or change with respect to the Divestiture Assets; (b) any event, circumstance, development, or change that has had a material adverse effect on the Divestiture Assets; or (c) any change by United of its accounting or actuarial methods, principles, or practices that is relevant to the Divestiture Assets.

O. Defendants shall comply with all laws applicable to the Divestiture Assets.

P. Defendants shall not take any action having the effect of delaying the authorization or scheduling of health care services provided to enrollees in the Clark and Nye County CMS Plans in a manner inconsistent with Defendants' past practice with respect to the Clark and Nye County CMS Plans.

Q. Defendants shall not make any material change to the customary terms and conditions upon which it does business with respect to the Medicare Advantage Line of Business that would be expected, individually or in the aggregate, to have a materially adverse effect on the Medicare Advantage Line of Business.

R. United shall identify its top ten independent insurance agents, general agents, producers, and brokers (collectively, ''Brokers'') that have entered into a Broker contract with respect to the Medicare Advantage Line of Business along with the corresponding number of enrollees produced by each such Broker. United will introduce the Acquirer to any such Broker for the purpose of the Acquirer having an opportunity, at the Acquirer's option, to negotiate an agreement with the Broker to market and sell the Clark and Nye County CMS Plans after the completion of the Divestiture.

S. Defendants shall first attempt to sell the Divestiture Assets to Humana.

T. If Defendants fail to divest the Divestiture Assets by May 15, 2008, at the discretion of the United States, United shall be required to submit all necessary filings to CMS to ensure that the Divestiture Assets remain a viable, ongoing business, offering the same Medicare Advantage Plans that United offered in 2008 with comparable benefits and premiums.

V. Appointment of Monitoring Trustee

A. Upon the filing of this Final Judgment, the United States may, in its sole discretion, appoint a Monitoring Trustee, subject to approval by the Court.

B. The Monitoring Trustee shall have the power and authority to monitor Defendants' compliance with the terms of this Final Judgment and the Hold Separate and Asset Preservation Stipulation and Order entered by this Court and shall have such powers as this Court deems appropriate. Subject to Section V(D) of this Final Judgment, the Monitoring Trustee may hire at the cost and expense of United any consultants, accountants, attorneys, or other persons, who shall be solely accountable to the Monitoring Trustee, reasonably necessary in the Monitoring Trustee's judgment.

C. Defendants shall not object to actions taken by the Monitoring Trustee in fulfillment of the Monitoring Trustee's responsibilities under any Order of this Court on any ground other than the Monitoring Trustee's malfeasance. Any such objections by Defendants must be conveyed in writing to the United States and the Monitoring Trustee within ten (10) calendar days after the action taken by the Monitoring Trustee giving rise to the Defendants' objection.

D. The Monitoring Trustee shall serve at the cost and expense of United, on such terms and conditions as the United States approves. The compensation of the Monitoring Trustee and any consultants, accountants, attorneys, and other persons retained by the Monitoring Trustee shall be on reasonable and customary terms commensurate with the individuals' experience and responsibilities.

E. The Monitoring Trustee shall have no responsibility or obligation for the operation of Defendants' businesses.

F. Defendants shall assist the Monitoring Trustee in monitoring

Defendants' compliance with their individual obligations under this Final Judgment and under the Hold Separate and Asset Preservation Stipulation and Order. The Monitoring Trustee and any consultants, accountants, attorneys, and other persons retained by the Monitoring Trustee shall have full and complete access to the personnel, books, records, and facilities relating to the Divestiture Assets, subject to reasonable protection for trade secret or other confidential research, development, or commercial information or any applicable privileges. Defendants shall take no action to interfere with or to impede the Monitoring Trustee's accomplishment of its responsibilities.

G. After its appointment, the Monitoring Trustee shall file monthly reports with the United States and the Court setting forth the Defendants' efforts to comply with their individual obligations under this Final Judgment and under the Hold Separate and Asset Preservation Stipulation and Order. To the extent such reports contain information that the trustee deems confidential, such reports shall not be filed in the public docket of the Court.

H. The Monitoring Trustee shall serve until the divestiture of all the Divestiture Assets is finalized pursuant to either Section IV or Section VI of this Final Judgment and any agreement(s) for transitional support services described in Section IV(J) herein have expired.

VI. Appointment of Trustee

A. If Defendants have not divested the Divestiture Assets within the time period specified in Section IV(A), Defendants shall notify the United States of that fact in writing. Upon application of the United States, the Court shall appoint a trustee selected by the United States and approved by the Court to effect the divestiture of the Divestiture Assets.

B. After the appointment of a trustee becomes effective, only the trustee shall have the right to sell the Divestiture Assets. The trustee shall have the power and authority to accomplish the divestiture to an Acquirer acceptable to the United States at such price and on such terms as are then obtainable upon reasonable effort by the trustee, subject to the provisions of Sections IV, VI, and VII of this Final Judgment, and shall have such other powers as this Court deems appropriate. Subject to Section VI(D) of this Final Judgment, the trustee may hire at the cost and expense of Defendants any investment bankers, attorneys, or other agents, who shall be solely accountable to the trustee, reasonably necessary in the trustee's judgment to assist in the divestiture.

C. Defendants shall not object to a sale by the trustee on any ground other than the trustee's malfeasance. Any such objections by Defendants must be conveyed in writing to the United States and the trustee within ten (10) calendar days after the trustee has provided the notice required under Section VII.

D. The trustee shall serve at the cost and expense of Defendants, on such terms and conditions as the United States approves, and shall account for all monies derived from the sale of the assets sold by the trustee and all costs and expenses so incurred. After approval by the Court of the trustee's accounting, including fees for its services and those of any professionals and agents retained by the trustee, all remaining money shall be paid to Defendants and the trust shall then be terminated. The compensation of the trustee and any professionals and agents retained by the trustee shall be reasonable in light of the value of the Divestiture Assets and based on a fee arrangement providing the trustee with an incentive based on the price and terms of the divestiture and the speed with which it is accomplished, but timeliness is paramount.

E. Defendants shall assist the trustee in accomplishing the required divestiture. The trustee and any consultants, accountants, attorneys, and other persons retained by the trustee shall have full and complete access to the personnel, books, records, and facilities relating to the Divestiture Assets, and Defendants shall develop financial and other information relevant to such business as the trustee may reasonably request, subject to reasonable protection for trade secret or other confidential research, development, or commercial information. Defendants shall take no action to interfere with or to impede the trustee's accomplishment of the divestiture.

F. After its appointment, the trustee shall file monthly reports with the United States and the Court setting forth the trustee's efforts to accomplish the divestiture ordered under this Final Judgment. To the extent that such reports contain information that the trustee deems confidential, such reports shall not be filed in the public docket of the Court. Such reports shall include the name, address, and telephone number of each person who, during the preceding month, made an offer to acquire, expressed an interest in acquiring, entered into negotiations to acquire, or was contacted or made an inquiry about acquiring, any interest in the Divestiture Assets, and shall describe in detail each contact with any such person. The trustee shall maintain full records of all efforts made to divest the Divestiture Assets.

G. If the trustee has not accomplished the divestiture ordered under this Final Judgment within six months after its appointment, the trustee shall promptly file with the Court a report setting forth (1) the trustee's efforts to accomplish the required divestiture, (2) the reasons, in the trustee's judgment, why the required divestiture has not been accomplished, and (3) the trustee's recommendations. To the extent that such reports contain information that the trustee deems confidential, such reports shall not be filed in the public docket of the Court. The trustee shall at the same time furnish such report to the United States which shall have the right to make additional recommendations consistent with the purpose of the trust. The Court thereafter shall enter such orders as it shall deem appropriate to carry out the purpose of the Final Judgment, which may, if necessary, include extending the trust and the term of the trustee's appointment by a period requested by the United States.

VII. Notice of Proposed Divestiture

A. Within two (2) business days following execution of a definitive divestiture agreement, Defendants or the trustee, whichever is then responsible for effecting the divestiture required herein, shall notify the United States and any Monitoring Trustee of any proposed divestiture required by Section IV or VI of this Final Judgment. If the trustee is responsible, it shall similarly notify Defendants. The notice shall set forth the details of the proposed divestiture and list the name, address, and telephone number of each person not previously identified who offered or expressed an interest in or desire to acquire any ownership interest in the Divestiture Assets, together with full details of the same.

B. Within fifteen (15) calendar days of receipt by the United States of such notice, the United States may request from Defendants, the proposed Acquirer, any other third party, or the trustee, if applicable, additional information concerning the proposed divestiture, the proposed Acquirer, and any other potential Acquirer. Defendants and the trustee shall furnish any additional information requested within fifteen (15) calendar days of the receipt of the request, unless the parties shall otherwise agree.

C. Within thirty (30) calendar days after receipt of the notice or within twenty (20) calendar days after the United States has been provided the additional information requested from Defendants, the proposed Acquirer, any

third party, and the trustee, whichever is later, the United States shall provide written notice to Defendants and the trustee, if there is one, stating whether or not it objects to the proposed divestiture. If the United States provides written notice that it does not object, the divestiture may be consummated, subject only to Defendants' limited right to object to the sale under Section VI(C) of this Final Judgment. Absent written notice that the United States does not object to the proposed Acquirer or upon objection by the United States, a divestiture proposed under Section IV or Section VI shall not be consummated. Upon objection by Defendants under Section VI(C), a divestiture proposed under Section VI shall not be consummated unless approved by the Court.

VIII. Financing

Defendants shall not finance all or any part of any Purchase made pursuant to Section IV or VI of this Final Judgment.

IX. Hold Separate and Preservation of Assets

Until the divestiture required by this Final Judgment has been accomplished, Defendants shall take all steps necessary to comply with the Hold Separate and Asset Preservation Stipulation and Order entered by this Court. Defendants shall take no action that will jeopardize any divestiture ordered by this Court.

X. Affidavits and Records

A. Within twenty (20) calendar days of the filing of the Complaint in this matter, and every thirty (30) calendar days thereafter until the divestiture has been completed under Section IV or VI, Defendants shall deliver to the United States and any Monitoring Trustee an affidavit as to the fact and manner of its compliance with Section IV or VI of this Final Judgment. Each such affidavit shall include the name, address, and telephone number of each person who, during the preceding thirty (30) calendar days, made an offer to acquire, expressed an interest in acquiring, entered into negotiations to acquire, or was contacted or made an inquiry about acquiring, any interest in the Divestiture Assets, and shall describe in detail each contact with any such person during that period. Each such affidavit shall also include a description of the efforts Defendants have taken to solicit buyers for the Divestiture Assets, and to provide required information to prospective Acquirers, including the limitations, if any, on such information. Assuming that the information set forth in the affidavit is true and complete, any objection by the United States to information provided by Defendants, including limitation on information, shall be made within fourteen (14) calendar days of receipt of such affidavit.

B. Within twenty (20) calendar days of the filing of the Complaint in this matter, Defendants shall deliver to the United States and any Monitoring Trustee an affidavit that describes in reasonable detail all actions that Defendants have taken and all steps that Defendants have implemented on an ongoing basis to comply with Section IX of this Final Judgment. Defendants shall deliver to the United States and any Monitoring Trustee an affidavit describing any changes to the efforts and actions outlined in Defendants' earlier affidavits filed pursuant to this section within fifteen (15) calendar days after the change is implemented.

C. Defendants shall keep all records of all efforts made to preserve and divest the Divestiture Assets until one year after such divestiture has been completed.

XI. Compliance Inspection

A. For the purposes of determining or securing compliance with this Final Judgment, or of determining whether the Final Judgment should be modified or vacated, and subject to any legally recognized privilege, from time to time authorized representatives of the United States Department of Justice, including persons retained by the United States, shall, upon written request of an authorized representative of the Assistant Attorney General in charge of the Antitrust Division, and on reasonable notice to Defendants, be permitted:

(1) To access during Defendants' office hours to inspect and copy, or at the United States's option, to require that Defendants provide hard copy and electronic copies of, all books, ledgers, accounts, records, data, and documents in the possession, custody, or control of Defendants, relating to any matters contained in this Final Judgment; and

(2) to interview, either informally or on the record, Defendants' officers, employees, or agents, who may have their individual counsel present, regarding these matters. The interviews shall be subject to the reasonable convenience of the interviewee and without restraint or interference by Defendants.

B. Upon the written request of an authorized representative of the Assistant Attorney General in charge of the Antitrust Division, Defendants shall submit written reports, or responses to written interrogatories, under oath if requested, relating to any of the matters contained in this Final Judgment.

C. No information or documents obtained by the means provided in this section shall be divulged by the United States to any person other than an authorized representative of the executive branch of the United States, which includes CMS, except in the course of legal proceedings to which the United States is a party (including grand jury proceedings), or for the purpose of securing compliance with this Final Judgment, or as otherwise required by law.

D. If at the time information or documents are furnished by Defendants to the United States, Defendants represent and identify in writing the material in any such information or documents to which a claim of protection may be asserted under Rule 26(c)(7) of the Federal Rules of Civil Procedure, and Defendants mark each pertinent page of such material, ''Subject to claim of protection under Rule 26(c)(7) of the Federal Rules of Civil Procedure,'' then the United States shall give Defendants ten (10) calendar days notice prior to divulging such material in any legal proceeding (other than grand jury proceedings).

XII. No Reacquisition

Defendants may not reacquire any part of the Divestiture Assets during the term of this Final Judgment provided, however, that this Final Judgment shall not prohibit Defendants from offering individual Medicare Advantage Plans in the ordinary course of business otherwise in conformity with this Final Judgment.

XIII. Retention of Jurisdiction

This Court retains jurisdiction to enable any party to this Final Judgment to apply to this Court at any time for further orders and directions as may be necessary or appropriate to carry out or construe this Final Judgment, to modify any of its provisions, to enforce compliance, and to punish violations of its provisions.

XIV. Expiration of Final Judgment

Unless this Court grants an extension, this Final Judgment shall expire ten (10) years from the date of its entry.

XV. Public Interest Determination

Entry of this Final Judgment is in the public interest. The parties have complied with the requirements of the Antitrust Procedures and Penalties Act, 15 U.S.C. 16, including making copies available to the public of this Final Judgment, the Competitive Impact Statement, and any comments thereon

and the United States's responses to comments. Based upon the record before the Court, which includes the Competitive Impact Statement and any comments and response to comments filed with the Court, entry of this Final Judgment is in the public interest.

Court approval subject to procedures of Antitrust Procedures and Penalties Act, 15 U.S.C. 16.

Date

United States District Judge

U

Competitive Impact Statement

Plaintiff United States of America (''United States''), pursuant to Section 2(b) of the Antitrust Procedures and Penalties Act (''APPA'' or ''Tunney Act''), 15 U.S.C. 16(b)–(h), files this Competitive Impact Statement relating to the proposed Final Judgment submitted for entry in this civil antitrust proceeding.

I. Nature and Purpose of the Proceeding

Defendants entered into an Agreement and Plan of Merger dated March 11, 2007, whereby UnitedHealth Group, Inc. (''United'') agreed to acquire all outstanding shares of Sierra Health Services, Inc. (''Sierra''). The United States filed a civil antitrust Complaint on February 25, 2008 seeking to enjoin the proposed acquisition. The Complaint alleges that the proposed acquisition likely will substantially lessen competition in the sale of Medicare Advantage plans in Clark and Nye Counties, Nevada (''the Las Vegas area''), in violation of Section 7 of the Clayton Act (''Section 7''), 15 U.S.C. 18. As defined by federal law, Medicare Advantage plans consist of Medicare Advantage health maintenance organization (''MA–HMO'') plans, Medicare Advantage preferred provider organization (''MA–PPO'') plans, and Medicare Advantage Private Fee-for-Service (''MA–PFFS'') plans. See 42 U.S.C. 1395w–21(a)(2).

When the Complaint was filed, the United States also filed a Hold Separate and Asset Preservation Stipulation and Order (''Hold Separate Order'') and proposed Final Judgment. The proposed Final Judgment, which is explained more fully below, would permit United to complete its acquisition of Sierra but would require the divestiture of certain assets (the ''Divestiture Assets'') relating to United's Medicare Advantage line of business in the Las Vegas area and injunctive relief sufficient to preserve competition in the sale of Medicare Advantage plans in the Las Vegas area.

Until the divestiture of the Divestiture Assets has been accomplished, the Hold Separate Order requires Defendants to take all steps necessary to preserve the Divestiture Assets and ensure that Sierra operates as an independent, ongoing, economically viable, competitive business held entirely separate, distinct and apart from United's other operations. Further, until the divestiture of the Divestiture Assets, Defendants must take all steps necessary to ensure that United's Medicare Advantage line of business in Las Vegas will be maintained and operated as an ongoing, economically viable and active line of business; that competition between United and Sierra in the sale of Medicare Advantage plans in the Las Vegas area is maintained during the pendency of the ordered divestitures; and that Defendants preserve and maintain the Divestiture Assets associated with United's Medicare Advantage line of business in the Las Vegas area. The Hold Separate Order thus ensures that competition is protected pending completion of the required divestitures and that the assets are preserved so that relief will be effective.

The United States and Defendants have stipulated that the proposed Final Judgment may be entered after compliance with the APPA. Entry of the proposed Final Judgment would terminate this action, except that the Court would retain jurisdiction to construe, modify, or enforce the provisions of the proposed Final Judgment and to punish violations thereof.

II. Description of the Events Giving Rise to the Alleged Violations

A. The Defendants and the Proposed Transaction

United is a Minnesota corporation and has its principal place of business in Minnetonka, Minnesota. United is the largest health insurer in the United States, providing health insurance and other services to more than 70 million people nationwide. In 2007, United reported revenues of approximately $75 billion. United provides health insurance to approximately 27,800 Medicare Advantage enrollees in the Las Vegas area under the Secure Horizons and AARP brands.

United has a well-established managed-care network in the Las Vegas area that it uses to provide services to enrollees in Medicare Advantage plans. Health care services provided by HealthCare Partners, LLC (''HealthCare Partners''), The Physicians IPA, Inc., and Summit Medical Group are an integral part of this network.

Sierra is a Nevada corporation with its principal place of business in Las Vegas, Nevada. Sierra is the largest health insurer in Nevada, providing health insurance and other services to more than 655,000 people. In 2007, Sierra reported revenues of $1.9 billion. Sierra provides health insurance to approximately 49,500 Medicare Advantage enrollees in the Las Vegas area. It sells Medicare Advantage HMO products under the Senior Dimensions brand. Sierra sells Medicare Advantage preferred provider organization (''PPO'') plans under the Sierra Spectrum and Sierra Nevada Spectrum brands. Sierra also sells MA–PFFS plans under the Sierra Optima Select brand.

Sierra owns the largest medical group in Las Vegas, Southwest Medical Associates, Inc. (''SMA''), which employs approximately 250 physicians and other health care professionals. Sierra uses SMA to provide a substantial portion of the care delivered to Sierra's Medicare Advantage members, particularly HMO and PPO members.

On March 11, 2007, United and Sierra entered into an Agreement and Plan of Merger whereby United agreed to acquire all outstanding shares of Sierra. The transaction is valued at approximately $2.6 billion. The transaction would give United a 94 percent share of Medicare Advantage enrollees in the Las Vegas area.

B. The Relevant Product Market is No Broader Than the Sale of Medicare Advantage Health Insurance in the Las Vegas Area

The Complaint alleges that United's proposed acquisition of Sierra is likely to substantially lessen competition in a market no broader than the sale of Medicare Advantage health insurance plans to senior citizens (''seniors'') and other Medicare-eligible individuals in the Las Vegas area, in violation of Section 7 of the Clayton Act. Due in large part to the lower out-of-pocket costs and richer benefits that many Medicare Advantage plans offer seniors over traditional Medicare, seniors in the Las Vegas area would not likely switch away from Medicare Advantage plans to traditional Medicare in sufficient numbers to make an anticompetitive price increase or reduction in quality unprofitable.

In a product market that consists of all Medicare Advantage plans, the parties have a combined market share of approximately 94 percent. In a product market of Medicare Advantage coordinated-care plans (MA–HMO and MA–PPO plans), the parties have a

combined market share of approximately 99 percent.[1]

1. Healthcare Options for Seniors

The federal government facilitates the provision of health insurance to millions of Medicare-eligible citizens through two types of programs: (1) government-provided traditional Medicare (also known as Original Medicare) and (2) privately-provided Medicare Advantage.

Under traditional Medicare, a beneficiary receives hospital coverage under Medicare Part A and can elect to receive coverage for physician and out-patient services under Part B. For Part A, the government charges no monthly premium if the beneficiary was in the workforce and paid Medicare taxes. For Part B, the government deducts a monthly premium (currently $96.40 for most beneficiaries) from beneficiaries' Social Security checks. In addition, beneficiaries must pay deductibles and/or co-insurance for doctor visits and hospital stays. If beneficiaries want to limit potentially catastrophic out-of-pocket costs, they need to purchase a separate Medicare Supplement plan. For prescription drug coverage, seniors enrolled in traditional Medicare must purchase Medicare Part D drug coverage for an additional premium.

Medicare Advantage plans are offered by private insurance companies. In establishing the Medicare Advantage program, Congress intended that vigorous competition among private insurers would lead insurers to offer seniors richer and more affordable benefits, provide a wider array of health-insurance choices, and be responsive to the demands of seniors. In fact, most successful Medicare Advantage plans, including those in the Las Vegas area, offer substantially richer benefits at lower costs to enrollees than traditional Medicare.

2. CMS Regulation of Medicare Advantage Plans

An insurance company that seeks to offer a Medicare Advantage plan in a region must submit a bid to the Centers for Medicare and Medicaid Services (''CMS'') for each Medicare Advantage plan that it intends to offer. The bid must provide the insurer's anticipated costs per member to cover the basic Medicare Part A and Part B benefits. Those costs, including an anticipated profit margin, are compared to a Medicare benchmark that reflects, in part, the government's likely cost of covering the beneficiaries. If the insurer's bid for Medicare benefits is lower than the benchmark, the Medicare program retains 25 percent of the savings and the insurer must use the other 75 percent to provide supplemental benefits or lower premiums to enrollees. Accordingly, the lower the insurer's projected costs, the more benefits seniors enrolled in the insurer's plan will have available to them.

CMS's role in approving bids for Medicare Advantage plans does not displace or reduce competition among participating health insurance companies. Rather, the structure of the Medicare Advantage program encourages insurers to compete against each other to attract Medicare beneficiaries by providing low prices and more benefits.

3. Medicare Advantage Plans Provide Better Benefits Than Traditional Medicare

As stated above, many Medicare Advantage plans, including the United and Sierra plans offered in the Las Vegas area, provide substantially richer benefits at lower costs to enrollees than traditional Medicare. They offer lower co-payments, lower co-insurance, caps on total yearly out-of-pocket costs, prescription drug coverage, vision coverage, health club memberships, and other benefits that traditional Medicare does not cover.

A sufficient number of seniors in the Las Vegas area would not switch away from Medicare Advantage plans to traditional Medicare in the event of a small but significant reduction in benefits under the plans, or a small but significant increase in price, to render the benefit decrease or price increase unprofitable. Accordingly, the sale of Medicare Advantage plans is a relevant product market and a line of commerce in the Las Vegas area under Section 7 of the Clayton Act.

C. The Las Vegas Area Is a Relevant Geographic Market

Medicare-eligible residents in the Las Vegas area (Clark and Nye Counties) may only enroll in Medicare Advantage plans that CMS approves for the county in which they live. Consequently, they could not turn to Medicare Advantage plans elsewhere in the United States. Because Medicare-eligible residents in the Las Vegas area cannot purchase substitute Medicare Advantage plans sold in other geographic areas, the Las Vegas area is a relevant geographic market within the meaning of Section 7 of the Clayton Act.

D. Anticompetitive Effects of the Proposed Transaction

The relevant market is highly concentrated and would become significantly more concentrated as a result of the proposed acquisition. Sierra accounts for approximately 60 percent of Medicare Advantage enrollees in the Las Vegas area. United accounts for approximately 34 percent. If consummated without divestiture relief, the merger would give the merged company a 94 percent market share.

The acquisition of Sierra by United would eliminate substantial head-to-head competition between United and Sierra that for years has benefited thousands of seniors. United and Sierra have competed with each other to sell Medicare Advantage plans that provide seniors with substantially greater benefits than those available under traditional Medicare, saving seniors thousands of dollars in yearly health care costs. The proposed acquisition would end that competition, eliminating the pressure that these close competitors place on each other to maintain attractive benefits, lower prices, and high-quality health care.

United and Sierra have competed against each other for newly Medicare-eligible individuals, sought to attract members from each other, and worked to avoid losing members to each other, by offering plans with zero premiums, reducing co-payments, eliminating deductibles, improving drug coverage, offering desirable fitness benefits, and attempting to make their provider networks more attractive to potential members. They have monitored each other's benefits to stay competitive and have considered each other important competitors. After the acquisition, the combined United/Sierra would not have the same incentive to improve benefits of Medicare Advantage plans as the two separate companies do today, and likely would raise prices or reduce services.

Competition from existing competitors with small market shares that offer Medicare Advantage plans or new entrants would be unlikely to prevent anticompetitive effects. Such firms face substantial cost, reputation, and distribution disadvantages that would likely prevent them from expanding membership sufficiently to prevent United from raising prices or reducing services.

[1] There may be a narrower product market that consists of Medicare Advantage coordinated-care plans, but the Division did not need to determine whether such a product market exists to conclude that the merger is likely to substantially lessen competition and to identify an appropriate remedy for the reduction in competition that otherwise would have resulted from the merger.

III. Explanation of the Proposed Final Judgment

A. The Divestiture Assets

The proposed Final Judgment is designed to eliminate the anticompetitive effects identified in the Complaint by requiring United to divest its individual Medicare Advantage line of business in the Las Vegas area to an acquirer approved by the United States and on terms acceptable to the United States. This line of business covers approximately 25,800 individual Medicare Advantage beneficiaries. As described in Section IV of the proposed Final Judgment, United is required to divest all tangible and intangible assets dedicated to the administration, operation, selling, and marketing of its Medicare Advantage plans to individuals in the Las Vegas area (''the Divestiture Assets''), including all of United's rights and obligations under the relevant United contracts with CMS. The divestiture, as contemplated in the proposed Final Judgment, is designed to allow the acquirer of the assets to offer uninterrupted care to subscribers of United's divested Medicare Advantage plans, including the ability of subscribers to continue to see the same health care professionals available to them under the United Medicare Advantage plans.

The Divestiture Assets do not include assets relating to approximately 1,800 group enrollees who enrolled in a Medicare Advantage plan through an employer or other group. The United States concluded that divesting these assets was not necessary to eliminate the transaction's anticompetitive effects and could be disruptive to those beneficiaries.

The divestiture eliminates the anticompetitive effects of the merger by requiring United to divest all of its individual Medicare Advantage business in the Las Vegas area to an acquirer that can compete vigorously with the merged United-Sierra. The divestiture must be accomplished by selling or conveying the Divestiture Assets to an acquirer that, in the sole discretion of the United States, will be a viable, ongoing competitor in the Las Vegas area Medicare Advantage market. The divestiture shall be (i) made to an acquirer that has the intent and capability (including the necessary managerial, operational, technical, and financial capability) to compete effectively in the sale of Medicare Advantage products, and (ii) accomplished so as to satisfy the United States that none of the terms of any agreement between United and any acquirer gives United the ability to interfere with the acquirer's ability to compete effectively.

B. Selected Provisions of the Proposed Final Judgment

In antitrust cases involving mergers in which the United States seeks a divestiture remedy, it requires completion of the divestiture within the shortest time period reasonable under the circumstances. A quick divestiture has the benefits of restoring competition lost in the acquisition and reducing the possibility of dissipation of the value of the assets. Section IV(A) of the proposed Final Judgment requires Defendants to divest the Divestiture Assets as a viable, ongoing business within 45 days after the filing of the Complaint. [2]

United has proposed to sell the Divestiture Assets to Humana Inc., and the United States has tentatively approved of Humana as the acquirer. Consequently, Section IV(S) of the proposed Final Judgment requires United first to attempt to sell the Divestiture Assets to Humana.

Other provisions of the proposed Final Judgment require Defendants to take several steps to enable the acquirer to provide prompt and effective competition in the Medicare Advantage market. Section IV(F) requires that Defendants assist the acquirer of the Divestiture Assets to enter into an agreement with HealthCare Partners that will allow members of United's Medicare Advantage plans to have continued access to substantially all of United's provider network of physicians, hospitals, ancillary service providers, and other health care providers on terms no less favorable than United's agreement with HealthCare Partners. Section IV(J) also requires that, at the acquirer's option, and subject to approval by the United States, Defendants provide transitional support services for medical claims processing, appeals and grievances, call-center support, enrollment and eligibility services, access to form templates, pharmacy services, disease management, Medicare risk-adjustment services, quality-assurance services, and such other transition services that are reasonably necessary for the acquirer to operate the Divestiture Assets.

Defendants will not provide these transitional support services for more than twelve months without approval from the United States. Likewise, if Defendants fail to divest the Divestiture Assets by May 15, 2008, Section IV(T) requires United, at the discretion of the United States, to submit all necessary filings to CMS to ensure that the acquirer of the Divestiture Assets (or United, prior to sale of the assets) would be able to continue to offer Medicare Advantage plans in the Las Vegas area.

From the date that United sells the Divestiture Assets until March 31, 2010, Section IV(G) of the proposed Final Judgment prohibits United from entering into agreements with HealthCare Partners, Physicians IPA, Inc., or Summit Medical Group for any type of individual Medicare Advantage plan of Defendants in the Las Vegas area. Currently, these health care providers participate in United's Medicare Advantage network, but do not participate in Sierra's. The purpose of this requirement is to insure that the acquirer of the Divestiture Assets is placed in the same competitive position with respect to the merged company as United has today with respect to Sierra.

In addition, Section IV(H) prohibits United from using the AARP brand for any of its individual Medicare Advantage plans in the Las Vegas area from the date that United sells the Divestiture Assets until March 31, 2009, and from using the SecureHorizons brands for any individual Medicare Advantage plans in the Las Vegas area from the date that United sells the Divestiture Assets until March 31, 2010. This prohibition will give the acquirer of the Divestiture Assets time to establish its own brand and reduce beneficiary confusion as to which company operates the plan in which the beneficiary is enrolled.

Section V of the proposed Final Judgment permits the appointment of a Monitoring Trustee by the United States in its sole discretion, subject to the Court's approval. If appointed, the Monitoring Trustee will have the power and authority to monitor Defendants' compliance with the terms of the Final Judgment and the Hold Separate Order. The Monitoring Trustee will have access to all personnel, books, records, and information necessary to monitor such compliance, and will serve at the cost and expense of United. The Monitoring Trustee will file monthly reports with the United States and the Court setting forth Defendants' efforts to comply with their obligations under the proposed Final Judgment and the Stipulation.

Section VI of the proposed Final Judgment provides that in the event the Defendants do not accomplish the divestiture within the period prescribed in the proposed Final Judgment, the Court will appoint a trustee selected by the United States to effect the

[2] Section IV(A) of the proposed Final Judgment provides that the United States, in its sole discretion, may grant one or more extensions to the 45-day period, not to exceed sixty calender days in total. The United States will notify the Court if such an extension is granted.

divestitures. If a trustee is appointed, the proposed Final Judgment provides that Defendants will pay all costs and expenses of the trustee. The trustee's commission will be structured so as to provide an incentive for the trustee based on the price obtained and the speed with which the divestitures are accomplished. After his or her appointment becomes effective, the trustee will file monthly reports with the Court and the United States setting forth his or her efforts to accomplish the divestiture. At the end of six months, if the divestitures have not been accomplished, the trustee and the United States will make recommendations to the Court, which shall enter such orders as appropriate, in order to carry out the purpose of the trust, including extending the trust or the term of the trustee's appointment.

IV. Remedies Available to Potential Private Litigants

Section 4 of the Clayton Act, 15 U.S.C. 15, provides that any person who has been injured as a result of conduct prohibited by the antitrust laws may bring suit in federal court to recover three times the damages that the person has suffered, as well as costs and reasonable attorneys' fees. Entry of the proposed Final Judgment will neither impair nor assist the bringing of any private antitrust damage action. Under the provisions of Section 5(a) of the Clayton Act, 15 U.S.C. 16(a), the proposed Final Judgment has no prima facie effect in any subsequent private lawsuit that may be brought against defendants.

V. Procedures Available for Modification of the Proposed Final Judgment

The United States and defendants have stipulated that the proposed Final Judgment may be entered by the Court after compliance with the provisions of the APPA, provided that the United States has not withdrawn its consent. The APPA conditions entry upon the Court's determination that the proposed Final Judgment is in the public interest.

The APPA provides a period of at least sixty days preceding the effective date of the proposed Final Judgment within which any person may submit to the United States written comments regarding the proposed Final Judgment. Any person who wishes to comment should do so within sixty days of the date of publication of this Competitive Impact Statement in the **Federal Register** or the last date of publication in a newspaper of the summary of this Competitive Impact Statement; whichever is later. All comments received during this period will be considered by the United States Department of Justice, which remains free to withdraw its consent to the proposed Final Judgment at any time prior to the Court's entry of judgment. The comments and the response of the United States will be filed with the Court and published in the **Federal Register**.

Written comments should be submitted to:

Joshua H. Soven, Chief, Litigation I Section, Antitrust Division, U.S. Department of Justice, 1401 H Street, NW., Suite 4000, Washington, DC 20530.

The proposed Final Judgment provides that the Court retains jurisdiction over this action, and the parties may apply to the Court for any order necessary or appropriate for the modification, interpretation, or enforcement of the Final Judgment.

VI. Alternatives to the Proposed Final Judgment

The United States considered, as an alternative to the proposed Final Judgment, a full trial on the merits against defendants. The United States could have continued the litigation and sought preliminary and permanent injunctions against United's acquisition of Sierra. The United States is satisfied, however, that the divestiture of the assets and other relief contained in the proposed Final Judgment will preserve competition in the product and geographic markets identified in the Complaint. Thus, the proposed Final Judgment would achieve all or substantially all of the relief the United States would have obtained through litigation, but avoids the time, expense, and uncertainty of a full trial on the merits of the Complaint.

VII. Standard of Review Under the APPA for the Proposed Final Judgment

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 sixty-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 (D.C. Cir. 1995); see generally *United States* v. *SBC Commc'ns, Inc.*, 489 F. Supp. 2d 1 (D.D.C. 2007) (assessing public interest standard under the Tunney Act).[3]

As the United States 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 set forth in the government's complaint, whether the decree is sufficiently clear, whether enforcement mechanisms are sufficient, and whether the decree may positively harm third parties. *See Microsoft*, 56 F.3d at 1458–62. With respect to the adequacy of the relief secured by the decree, a court may not ''engage in an unrestricted evaluation of what relief would best serve the public.'' *United States* v. *BNS, Inc.*, 858 F.2d 456, 462 (9th Cir. 1988) (citing *United States* v. *Bechtel Corp.*, 648 F.2d 660, 666 (9th Cir. 1981)); see also Microsoft, 56 F.3d at 1460–62; *United States* v. *Alcoa, Inc.*, 152 F. Supp. 2d 37, 40 (D.D.C. 2001). Courts have held that:

> [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. The court's role in protecting the public interest is one of insuring that the government has not breached its duty to the public in consenting to the decree. The court is required to determine not whether a particular decree is the one that will best serve society, but

[3] The 2004 amendments substituted ''shall'' for ''may'' in directing relevant factors for court to consider and amended the list of factors to focus on competitive considerations and to address potentially ambiguous judgment terms. Compare 15 U.S.C. 16(e) (2004), with 15 U.S.C. 16(e)(1) (2006); see also *SBC Commc'ns*, 489 F. Supp. 2d at 11 (concluding that the 2004 amendments ''effected minimal changes'' to Tunney Act review).

whether the settlement is ''*within the reaches of the public interest.*'' More elaborate requirements might undermine the effectiveness of antitrust enforcement by consent decree.

Bechtel, 648 F.2d at 666 (emphasis added) (citations omitted).[4] In determining whether a proposed settlement is in the public interest, a district court ''must accord deference to the government's predictions about the efficacy of its remedies, and may not require that the remedies perfectly match the alleged violations.'' SBC Commc'ns, 489 F. Supp. 2d at 17; see also Microsoft, 56 F.3d at 1461 (noting the need for courts to be ''deferential to the government's predictions as to the effect of the proposed remedies''); *United States* v. *Archer-Daniels-Midland Co.*, 272 F. Supp. 2d 1, 6 (D.D.C. 2003) (noting that the court should grant due respect to the United States' prediction as to the effect of proposed remedies, its perception of the market structure, and its views of the nature of the case).

Courts have greater flexibility in approving proposed consent decrees than in crafting their own decrees following a finding of liability in a litigated matter. ''[A] proposed decree must be approved even if it falls short of the remedy the court would impose on its own, as long as it falls within the range of acceptability or is 'within the reaches of public interest.' '' *United States* v. *Am. Tel. & Tel. Co.*, 552 F. Supp. 131, 151 (D.D.C. 1982) (citations omitted) (quoting *United States* v. *Gillette Co.*, 406 F. Supp. 713, 716 (D. Mass. 1975)), aff'd sub nom. *Maryland* v. *United States*, 460 U.S. 1001 (1983); see also *United States* v. *Alcan Aluminum Ltd.,* 605 F. Supp. 619, 622 (W.D. Ky. 1985) (approving the consent decree even though the court would have imposed a greater remedy). To meet this standard, the United States ''need only provide a factual basis for concluding that the settlements are reasonably adequate remedies for the alleged harms.'' SBC Commc'ns, 489 F. Supp. 2d at 17.

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. 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. Id. at 1459–60. As this Court recently confirmed in SBC Communications, courts ''cannot look beyond the complaint in making the public interest determination unless the complaint is drafted so narrowly as to make a mockery of judicial power.'' SBC Commc'ns, 489 F. Supp. 2d at 15.

In its 2004 amendments, Congress made clear its intent to preserve the practical benefits of utilizing consent decrees in antitrust enforcement, adding 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). The language wrote into the statute what Congress intended when it 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 Senator Tunney). Rather, the procedure for the public interest determination is left to the discretion of the court, with the recognition that the court's ''scope of review remains sharply proscribed by precedent and the nature of Tunney Act proceedings.'' SBC Commc'ns, 489 F. Supp. 2d at 11.[5]

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 25, 2008.

Respectfully Submitted,
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[4] Cf. BNS, 858 F.2d at 464 (holding that the court's ''ultimate authority under the [APPA] is limited to approving or disapproving the consent decree''); *United States* v. *Gillette Co.*, 406 F. Supp. 713, 716 (D. Mass. 1975) (noting that, in this way, the court is constrained to ''look at the overall picture not hypercritically, nor with a microscope, but with an artist's reducing glass''). See generally Microsoft, 56 F.3d at 1461 (discussing whether ''the remedies [obtained in the decree are] so inconsonant with the allegations charged as to fall outside of the 'reaches of the public interest' '').

[5] See *United States* v. *Enova Corp.,* 107 F. Supp. 2d 10, 17 (D.D.C. 2000) (noting that the ''Tunney Act expressly allows the court to make its public interest determination on the basis of the competitive impact statement and response to comments alone''); S. Rep. No. 93–298, 93d Cong., 1st Sess., at 6 (1973) (''Where the public interest can be meaningfully evaluated simply on the basis of briefs and oral arguments, that is the approach that should be utilized.''); *United States* v. *Mid-Am. Dairymen, Inc.,* 1977–1 Trade Cas. (CCH) 61,508, at 71,980 (W.D. Mo. 1977) (''Absent a showing of corrupt failure of the government to discharge its duty, the Court, in making its public interest finding, should * * * carefully consider the explanations of the government in the competitive impact statement and its responses to comments in order to determine whether those explanations are reasonable under the circumstances.'').

DEPARTMENT OF LABOR

Mine Safety and Health Administration

Petitions for Modification

AGENCY: Mine Safety and Health Administration, Labor.

ACTION: Notice of petitions for modification of existing mandatory safety standards.

SUMMARY: Section 101(c) of the Federal Mine Safety and Health Act of 1977 and 30 CFR part 44 govern the application, processing, and disposition of petitions for modification. This notice is a summary of petitions for modification filed by the parties listed below to modify the application of existing mandatory safety standards published in Title 30 of the Code of Federal Regulations.

DATES: All comments on the petitions must be received by the Office of Standards, Regulations, and Variances on or before April 9, 2008.

ADDRESSES: You may submit your comments, identified by ''docket number'' on the subject line, by any of the following methods:

1. *Electronic mail: Standards-Petitions@dol.gov.*
2. *Facsimile:* 1–202–693–9441.
3. *Regular Mail:* MSHA, Office of Standards, Regulations, and Variances, 1100 Wilson Boulevard, Room 2349, Arlington, Virginia 22209, Attention: Patricia W. Silvey, Director, Office of Standards, Regulations, and Variances.
4. *Hand-Delivery or Courier:* MSHA, Office of Standards, Regulations, and Variances, 1100 Wilson Boulevard, Room 2349, Arlington, Virginia 22209, Attention: Patricia W. Silvey, Director,