

ANALYSIS OF AGREEMENT CONTAINING CONSENT ORDERS
TO AID PUBLIC COMMENT

In the Matter of

THE RELEVANT PRODUCTS AND STRUCTURE OF THE MARKETS

I. 2

THE RELEVANT GEOGRAPHIC MARKET

The relevant geographic market for point-of-care blood gas testing systems and point-of-care cardiac marker testing systems is the United States. These products are medical devices regulated by the U.S. Food and Drug Administration ("FDA"). Medical devices sold outside of the United States, but not approved for sale in the United States, do not provide viable competitive alternatives for U.S. consumers.

COMPETITIVE EFFECTS OF THE ACQUISITION

The proposed Acquisition would likely result in significant competitive harm to consumers in the markets for point-of-care blood gas testing systems and point-of-care cardiac marker testing systems. In each relevant market, customers are able to leverage Abbott and Alere against each other to obtain better prices and improved products. By eliminating this direct and substantial head-to-head competition, the proposed Acquisition likely would allow the combined firm to exercise market power unilaterally, resulting in higher prices, reduced innovation, and less choice for consumers.

ENTRY CONDITIONS

Entry in the relevant markets would not be timely, likely, or sufficient in magnitude, character, and scope to deter or counteract the anticompetitive effects of the proposed Acquisition. New entry would require significant investment of time and money for product research and development, regulatory approval by the FDA, and establishment of a U.S. sales and service infrastructure. Such development efforts are difficult, time-consuming, and expensive, and often fail to result in a competitive product reaching the market.

THE CONSENT AGREEMENT

The Consent Agreement eliminates the competitive concerns raised by the proposed Acquisition by requiring Alere to divest: (1) its point-of-care blood gas testing business, including its Ottawa, Canada facilities, to Siemens; and (2) its point-of-care cardiac marker testing business, including its San Diego, California facility, to Qidel. Alere must divest all assets and rights to research, develop, manufacture, market, and sell its point-of-care blood gas testing and point-of-care cardiac marker testing product lines, including all related intellectual property and other confidential business information. Furthermore, Siemens and Qidel intend to hire substantially all of Alere's employees whose responsibilities primarily relate to research, development, manufacture, or sale of the relevant products. The provisions of the Consent Agreement ensure that Siemens and Qidel become independent, viable, and effective competitors in the respective markets in order to maintain the competition that currently exists

