Though highly regulated, and sometimes illegal, the lure to take kickbacks can seem insurmountable. As a prominent case points out, the practice can have several repercussions on a veterinarian's business, relationships and reputation. In a recent proceeding out of the Southern District of Texas, plaintiffs PetRays, LP ("PetRays") and Horizon Radiology, LLP ("Horizon") brought serious allegations against defendants LogicRad, Inc. ("LogicRad") and VDIC, Inc. ("VDIC"). The complaint focuses on the Radiographic Digital Converter (RDC), a machine which takes several high-resolution photographs of an X-Ray image in digital form. The images can then be uploaded to providers of veterinary telemedicine services. Because some alternatives to the RDC are much more costly and inefficient, it is one of the most widely used radiograph devices in the veterinary industry.

Defendant VDIC is one of the few providers of veterinary telemedicine in the United States, a process highly used by smaller medical practices. As part of its telemedicine service, VDIC produces and sells VetMedStat software. When defendant LogicRad, a wholly owned subsidiary of VDIC, bought the RDC technology, LogicRad began loading all RDCs with VetMedStat software and allegedly offering "kickbacks" to distributors who referred veterinarians to VDIC consultants.

In early 2007, Horizon, Inc., a teleradiology services provider and distributor, entered into a distributor agreement with LogicRad. PetRays alleges LogicRad terminated its distributor agreement when it learned certain Horizon employees had an ownership interest in PetRays, a veterinary telemedicine consultant firm competing directly with VDIC. LogicRad also refused to allow Horizon to distribute RDCs programmed with any other telemedicine service software unless the plaintiffs agreed to waive any and all complaints about VDIC's alleged kickbacks and fee-splitting arrangements.

In response, plaintiffs Horizon and PetRays sued LogicRad and VDIC, alleging the defendants violated the Sherman Antitrust Act. The plaintiffs based their claims on LogicRad's perceived monopoly over the market for RDCs, a good with no reasonable substitute for small veterinarian practices. By refusing to sell RDCs to the plaintiffs, arbitrarily tying the purchase of RDCs to the purchase of VetMedStat software and providing "kickbacks" to certain RDC distributors, the plaintiffs allege the defendants engaged in an "unreasonable restraint of trade" in direct contravention to the Sherman Antitrust Act.

Although this suit was ultimately discontinued, it provides a good example of the possible ethical and legal implications for veterinarians with interests in telemedicine, sales or manufacturing companies or for those who are receiving kickbacks from such companies. These types of practices are highly regulated by both the federal and state governments and can subject an offender to <u>**criminal and civil liability**</u>. To avoid liability, veterinarians should be careful to:

- Buy and sell products at fair market price.
- Refuse kickbacks from distributors or consultants.
- Immediately consult an attorney with concerns of any suspicious behavior.