

801.1(a)(2)

October 29, 2007

CONFIDENTIAL

VIA E-MAIL

Mr. B. Michael Verne
Premerger Notification Office
Bureau of Competition
Federal Trade Commission
7th & Pennsylvania Avenue, NW
Washington, DC 20580

Dear Mike:

I am writing to confirm my understanding of telephone conversation we had on October 25, 2007 concerning the potential reportability under the Hart-Scott-Rodino Antitrust Improvements Act of 1976, as amended ("HSR Act") of a proposed transaction discussed below.

Proposed Transaction

The acquiring party ("Buyer") intends to purchase assets consisting of a [REDACTED] and other facilities (collectively the "Business"). The party selling the business ("Seller") is a "village" under Michigan's The General Law Village Act. Section 61.12 of that Act instructs in part "[a] village incorporated under this act is a body politic and corporate under the name designated for it upon incorporation." Seller also is referred to as a Michigan municipal corporation.

Seller operates the Business under Section 67.4 of the Act, which provides in part that "[a] village may acquire, purchase, and erect public buildings required for the use of the village, and may . . . own real estate necessary for public grounds, . . . public buildings, and other purposes necessary or convenient for the public good, and for the exercise of the powers conferred in this act. . . ." Seller has no separate village charter; rather it uses the Act for its authority for its actions. Seller has enacted a village ordinance which states that the hospital (including other assets constituting the Business) "has been and is established as a municipal hospital, an agency of the [village], a Michigan municipal corporation."

The assets constituting the Business are directly owned by the village. The Business is not owned through a separate corporation that is owned and controlled by the village.

[REDACTED]

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Analysis and Conclusions

You confirmed that the transaction described above is not reportable under the HSR Act regardless of the value of the transaction. Specifically, you confirmed:

(1) The transaction is exempt under 15 U.S.C. § 18a(c)(4) which exempts "transfers to or from a Federal agency or a State or political subdivision thereof." You agreed that Seller would be a "political subdivision" under this statutory exemption; and

(2) Similarly, the transaction is exempt since Seller is not an entity under 16 C.F.R. § 801.1(a)(2), and acquisitions from a non-entity are not reportable under the HSR Act. See 16 C.F.R. § 801.1(a)(2); ABA Section of Antitrust Law, Premerger Notification Practice Manual (4th ed. 2007) Informal Interpretations 11 & 12.

* * *

Please let me know as soon as possible if you disagree with any of the conclusions discussed above, or if I have misunderstood any aspect of your advice. Thank you for your assistance in this matter.

Sincerely,

[REDACTED]

AGREE -
BM
10/29/07

[REDACTED]