

Facts show that the "authority" is a county agency  
 & therefore exempt even though it is incorporated. State  
 It declares it to be an "agency" ve  
 is used determinator

7X(c)(4)  
 § 801.1(a)

VIA FACSIMILE

Mr. Richard Smith  
 Mr. Victor Cohen  
 Premerger Notification Office  
 Federal Trade Commission  
 Washington, D.C.

This material may be subject to the  
 confidentiality provisions of Section  
 7(b) of the Act for which no date  
 release under the Freedom of Information  
 Act.

Re: Application of Hart-Scott-Rodino Antitrust Improvements Act of 1976

Dear Dick and Victor:

A/D

As a follow-up to my conversation with Victor of last Friday, this letter outlines specific  
 facts concerning a [redacted] so that you can confirm that the Premerger  
 Notification Office will consider any transaction involving this health care authority as exempt  
 from the filing requirements of the Hart-Scott-Rodino Antitrust Improvements Act of 1976 (the  
 "Act") because of the application of Section 7(c)(4) of the Act and/or because the [redacted]  
 [redacted] is excluded from the definition of "entity" under 16 C.F.R. §801.1(a)(2).

[Large redacted block]

The Authorities Act expressly provides that :

"(a) In addition to all other powers granted elsewhere in this article, and subject to  
 the express provisions of its certificate of incorporation, an authority shall have the  
 following powers, together with all powers incidental thereto or necessary to the  
 discharge thereof in corporate form:

....  
 (31) To exercise all powers granted hereunder in such manner as it may  
 determine to be consistent with the purposes of this article, notwithstanding that as a  
 consequence of such exercise of such powers it engages in activities that may be deemed  
 "anticompetitive" within the contemplation of the antitrust laws of the state or the United  
 States. ....

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Mr. Victor Cohen  
Premerger Notification Office  
February 13, 1995  
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(c) As a basis for the power granted in subdivision (31) of the preceding subsection (a), the legislature hereby:

....  
(2) Determines, as an expression of the public policy of the state with respect to the displacement of competition in the field of [redacted], that each authority, when exercising its powers hereunder with respect to the [redacted] acts as an agency or instrumentality of its authorizing subdivisions and as a political subdivision of the state."

[redacted] emphasis added.

There seems to be no question that this [redacted] is exempt from filing under the Act because the statute under which it was incorporated expressly refers to it as an agency or instrumentality of its authorizing subdivision (in this case, an [redacted] and as a political subdivision of the state.

Please telephone me at [redacted] to confirm that you are in agreement with my conclusion that transactions involving this health care authority are outside of the notification provisions of the Act.

Very truly yours,

[redacted signature]

AL