

Hospital acquisition  
Size of transaction

April 26, 1996

HAND DELIVER

John M. Sipple, Esquire  
Assistant Director  
Bureau of Competition  
Federal Trade Commission  
Room 388  
Sixth Street & Pennsylvania Avenue, N.W.  
Washington, D.C. 20580

Re: Hart-Scott-Rodino Reportability of [REDACTED] Transaction

Dear John:

We represent an approximately [REDACTED] "A") that wishes to acquire a much smaller [REDACTED] "B"). We do not believe that the transaction is reportable under the Hart-Scott-Rodino Antitrust Improvements Act of 1976, 15 U.S.C. § 18a, for the reasons given below. However, the parties would like to confirm this assessment with your office.

[REDACTED] with assets of over \$200,000,000. It wishes to acquire [REDACTED] B, a much smaller [REDACTED] in severe financial difficulty. Although [REDACTED] B has slightly more than [REDACTED] for some time there have been fewer than 20 [REDACTED] in the [REDACTED] each day -- and this number is declining. Although the transaction is an acquisition of the smaller [REDACTED] by the larger, due to community relations issues, it will be carried out by the creation of a new parent company that will become the sole corporate member of both [REDACTED]. No cash will change hands, but the new parent will be responsible for the liabilities of [REDACTED] B, which are approximately \$4,000,000 at formation. [REDACTED] A will be the controlling entity of the new parent, holding 13 of 18 Board seats. (Thereafter, the Board will select its own members.) Because [REDACTED] A will appoint the majority of the Board of the new parent at the time the affiliation is accomplished, the parties believe the transaction should be viewed as an acquisition of [REDACTED] B by [REDACTED] A.

[REDACTED]

John M. Sipple, Esquire  
Page 2  
April 26, 1996

In connection with the "sale" of its assets [REDACTED] B commissioned an appraisal, on a going business basis, of its fair market value, which resulted in a valuation of slightly over \$5,000,000. The fair market value of all of its assets is approximately \$8,000,000. Thus, the proposed transaction, viewed as an acquisition of [REDACTED] B by [REDACTED] does not meet the size-of-transaction test.

The parties believe that, given these facts, the transaction is not reportable under the Hart-Scott-Rodino Act. Once you have reviewed this letter, please call me with your comments.

Very truly  
[REDACTED]

Confirmed that it is proper to view this transaction as an acquisition by A of the assets of B, since A will control the Board of Directors at the time of acquisition and will have the power to appoint 13 of 18 of B's directors upon formation. As such, the acquisition is exempt because it does not meet the size of transaction test.

JMP

[REDACTED]