

{ 6802.40 ; 801.40 ; 801.10 } (b)



May 3, 1996

**VIA FACSIMILE**

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

MAY 3 3 35 PM '96  
FEDERAL TRADE COMMISSION  
PREMERGER NOTIFICATION OFFICE

Re: Application of Hart-Scott-Rodino Antitrust Improvements Act of 1976 (the "Act")

Dear Dick:

The purpose of this letter is to clarify certain facts in my letter to you of April 22, a copy of which is enclosed hereto, and to state, for your convenience, the conclusions that we reached regarding the fact situation presented in the April 22 letter.

First, as a clarification of facts, New Hospital A will be controlled by Parent at the time of the transfer of assets between Hospital A and New Hospital A. Likewise, the Mayor and City will control New Hospital B at the time of the transfer of assets between Hospital B and New Hospital B. In addition, Newco will be a §501(c)(3) not-for-profit corporation, which will be created by a Home Rule Petition and which will not issue voting securities.

In our telephone conversations, you agreed with me that this transaction is exempt from the premerger filing requirements of the Act. However, [redacted]

other hand, were exempt under the general position taken by the Premerger Notification Office regarding transfers of assets between not-for-profit corporations that do not issue voting securities.

exemption under 16 C.F.R. §802.30 for intra-person transactions where the acquiring person and the acquired person are the same person by reason of the holding of voting securities). The subsequent formation of Newco in this transaction is in a position that the formation of a not-for-profit corporation that has no voting securities is not reportable under 16 C.F.R. §801.40 because there are no voting securities being acquired. This position is different from the exemption under 16 C.F.R. §802.40 for the formation of a not-for-profit corporation that has no voting securities.



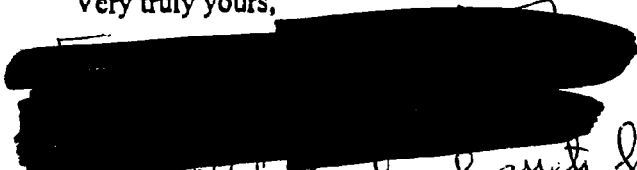
Mr. Richard Smith

Page 2

It is in agreement with the foregoing statement of the conclusions

you in advance for your attention and cooperation.

Very truly yours,



5/13/96. Advised writer that transfer of assets from Hospital  
 to New-Hospital A by System, which is a health care system with  
 other hospitals and activities, and assets from Hospital B to New-Hospital B by  
 City, a political subdivision of state, are viewed by the FIM Office under 501.1(c)(3)  
 as involving no acquisition since System is Parent and ~~will~~ become the sole member  
 of Hospital A (as it was the sole member of Hospital A) and City will  
 become the sole member of Hospital B, also a non-profit). The contributions of New-Hospital  
 through Parent, to Newco, a 501(c)(3) non-profit, as part of the Newco  
 formation, and of New-Hospital B by City to Newco as part of the  
 formation process, are exempt from reporting since Newco is not  
 issuing voting stock to System or to City, which is not a person.

R.B. Smith