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Mergers and Acquisitions

FTC Announces Closure of Investigation Of Provider's Bid for Two Cardiac Clinics

The Federal Trade Commission April 11 announced that it has closed its nonpublic investigation of Providence Health & Services' proposed acquisition of two heart clinics in Spokane, Wash.—Spokane Cardiology and Heart Clinics Northwest (*In re Providence Health & Services*, FTC, File No. 101 0191, *investigation closed 4/11/11*).

The FTC staff and the Antitrust Division of the Washington attorney general's office conducted an investigation of the proposed acquisitions, even though the deal was not required to be reported under the Hart-Scott-Rodino Antitrust Improvements Act. The FTC and state staffs preliminarily concluded that the acquisition was likely to have anticompetitive effects in violation of Clayton Act § 7 and FTC Act § 5.

The agency's decision to close the investigation came after Providence Health & Services announced in February that it was abandoning its plan to acquire the two clinics—a deal announced in July 2010.

In a letter to all parties, Richard Feinstein, Director of the FTC's Bureau of Competition, cautioned that the commission's action "is not to be construed as a determination that a violation may not have occurred, just as the pendency of an investigation should not be construed as a determination that a violation has occurred. The Commission reserves the right to take such further action as the public interest may require."

In a separate statement, Feinstein acknowledged "that physicians across the country are exploring a variety of new business arrangements as part of an effort to achieve cost containment and quality objectives." He also noted that, in some cases, such arrangements can create highly concentrated markets that can harm consumers through higher prices or lower quality of care.

Counsel for Providence Health & Services in the case was Douglas C. Ross, with Davis Wright Tremaine LLP, Seattle. Counsel for Spokane Cardiology was Mary R. Giannini, with Witherspoon Kelley, Spokane, Wash. Counsel for Heart Clinics Northwest was Donald K. Querna, with Randall Danskin also in Spokane.

The Closing Letters issued to the parties are available on the FTC website at <http://www.ftc.gov/opa/2011/04/providence.shtm>.