

Modifying Order

118 F.T.C.

IN THE MATTER OF

THE COCA-COLA COMPANY

MODIFYING ORDER IN REGARD TO ALLEGED VIOLATION
OF SEC. 7 OF THE CLAYTON ACT AND SEC. 5 OF THE
FEDERAL TRADE COMMISSION ACT*Docket 9207. Final Order, June 13, 1994 -- Modifying Order, Dec. 5, 1994*

This order reopens the proceeding and modifies the Commission's final order issued on June 13, 1994, that required the respondent, for ten years, to obtain Commission approval before acquiring certain brand-name soft drink concentrate manufacturers, by eliminating a provision which had expressly defined Coca-Cola Enterprises, Inc. as a Coca-Cola Company subsidiary or affiliate subject to this prior approval requirement.

ORDER REOPENING AND MODIFYING FINAL ORDER

The Commission issued a final order in this proceeding on June 13, 1994, and respondent The Coca-Cola Company -- and Coca-Cola Enterprises, Inc. -- filed petitions for review of that order in the United States Court of Appeals for the District of Columbia Circuit on August 26, 1994. Coca-Cola Enterprises Inc. was not a party to the administrative proceeding and there is no need that it be singled out in the order for identification as a subsidiary or affiliate of The Coca-Cola Company.

Accordingly, the Commission, having determined *sua sponte* to reopen this proceeding and modify Part I.A of the final order, pursuant to Commission Rule 3.72 (a).

It is ordered, That the final order in this matter be, and it hereby is, modified to delete the following sentence from Part I.A of the final order:

For purposes of this order, Coca-Cola Enterprises Inc. is a subsidiary or affiliate of Coca-Cola.

Chairman Steiger and Commissioner Varney acting pursuant to delegated authority, with Commissioner Azcuenaga and Commissioner Starek recused.¹

¹ Effective November 30, 1994, the Commission delegated its functions in certain circumstances when no quorum is available for the transaction of business, so that the Commissioner or Commissioners who are available for quorum purposes may act on behalf of the Commission. *See 59 Fed. Reg.* 61336 (Nov. 30, 1994), Commissioner Azcuenaga abstaining in a separate statement.

Complaint

118 F.T.C.

IN THE MATTER OF

COLUMBIA/HCA HEALTHCARE CORPORATION

CONSENT ORDER, ETC., IN REGARD TO ALLEGED VIOLATION
OF SEC. 7 OF THE CLAYTON ACT AND SEC. 5 OF THE
FEDERAL TRADE COMMISSION ACT*Docket C-3544. Complaint, Dec. 6, 1994--Decision, Dec. 6, 1994*

This consent order permits, among other things, the hospital company to complete its acquisition of Medical Care America, but requires it to divest the Alaska Surgery Center within twelve months to a Commission-approved entity. If the transaction is not completed in the designated time frame, the respondent is required to permit the Commission to appoint a trustee. In addition, the consent order requires the respondent, for ten years, to obtain Commission approval before acquiring an interest worth more than \$1 million in any outpatient surgical services facility in Anchorage, Alaska, and before selling such an interest to any entity that operates an outpatient surgical services facility in Anchorage, Alaska.

Appearances

For the Commission: *Mark J. Horoschak and Philip Eisenstat.*

For the respondent: *Ky P. Ewing, Jr., Vinson & Elkins,*
Washington, D.C.

COMPLAINT

Pursuant to the provisions of the Federal Trade Commission Act, and by virtue of the authority vested in it by said Act, the Federal Trade Commission, having reason to believe that respondent Columbia/HCA Healthcare Corporation ("Columbia/HCA"), a corporation subject to the jurisdiction of the Commission, has entered into an agreement whereby Columbia/HCA will acquire Medical Care America, Inc. ("Medical Care America"); that the acquisition agreement violates Section 5 of the Federal Trade Commission Act, as amended, 15 U.S.C. 45; that the proposed acquisition, if consummated, would violate Section 7 of the Clayton Act, as amended, 15 U.S.C. 18, and Section 5 of the Federal Trade Commission Act, as amended, 15 U.S.C. 45; and it appearing to the Commission that a proceeding by it in respect thereof would be in the public interest, hereby issues its complaint, pursuant to Section 11(b) of the