

Is There Too Little Antitrust Enforcement in the US Hospital Sector?

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KEY FINDINGS AND CONCLUSIONS

- ▶ From 2002 to 2020, there were over 1,000 hospital mergers in the US. During that period, the Federal Trade Commission (FTC) took enforcement actions against 13 transactions. We show that 20% of those mergers (238) could have been flagged by the FTC using standard merger screening tools as likely to lessen competition and raise prices.
- ▶ The FTC appears to have visibility into many of the potentially problematic transactions: approximately half of the deals that could be predicted to lessen competition between 2002 and 2020 were reportable to the FTC under Hart-Scott-Rodino reporting guidelines.
- ▶ Using data that includes the prices hospitals negotiate with insurers, we find that mergers that occurred between 2010 and 2015 that could have been flagged by the FTC as likely to raise prices by lessening competition did indeed lead to overall price increases of, on average, 5%. Mergers increased both inpatient and outpatient prices.
- ▶ We show that mergers in lower income, higher poverty, and lower population density regions generated especially large average price increases, particularly for outpatient services. We posit this occurred because those regions had fewer free-standing surgical and imaging locations that also compete against hospitals in the outpatient market.
- ▶ The health care spending increases generated by the price increases that resulted from hospital mergers far outweigh the funding granted to the FTC to manage merger activity. There were 53 mergers per year, on average, between 2010 and 2015. We estimate that an average year of hospital mergers raised health spending on the privately insured in the year following the merger by \$204 million. In contrast, the FTC's average annual budget and antitrust enforcement budget between 2010 and 2015 were \$315 and \$136 million, respectively. This suggests that the FTC may be underfunded.
- ▶ We conclude there was underenforcement of antitrust laws from 2002 to 2020.

KEY CONTEXT

- ▶ The \$1.3 trillion US hospital sector accounts for 6% of US GDP. The average price for an inpatient hospital stay is \$25,000.
- ▶ According to the US Bureau of Labor Statistics, from 2000 to present, prices in the hospital industry have grown faster than prices in any other sector of the US economy.
- ▶ Because of steady consolidation in the hospital industry, 90% of hospital markets are now highly concentrated according to the thresholds set in the Department of Justice and FTC Joint Horizontal Merger Guidelines.¹

Reference: Brot-Goldberg, Z, Cooper, Z, Craig, SV, and Klarnet, L. (Forthcoming). "Is There Too Little Antitrust Enforcement in the US Hospital Sector?" *American Economic Review: Insights*.

1. Brent Fulton (2017). "Health Care Market Concentration Trends in the United States: Evidence and Policy Responses." *Health Affairs*, 36(9): 1530–1538.