consent order from Nationwide Syndications, Inc., a corporation, and Thomas W. Karon, individually and as an officer of Nationwide Syndications, Inc.

The proposed consent order has been placed on the public record for sixty (60) days for receipt of comments by interested persons. Comments received during this period will become part of the public record. After sixty (60) days, the Commission will again review the agreement and the comments received and will decide whether it should withdraw from the agreement and take other appropriate action, or make final the proposed order contained in the agreement.

This matter concerns the proposed respondents' advertisements for NightSafe Glasses. The Commission's proposed complaint alleges that the advertisements expressly or impliedly claim that NightSafe Glasses will make night driving safer, improve night vision, and that laboratory tests prove that NightSafe Glasses improve night vision. These claims are alleged to violate section 5 of the Federal Trade Commission Act, 15 U.S.C. 45, because they are false and the proposed respondents did not possess adequate substantiation for the claims at the time they were made.

Part I of the proposed consent order prohibits the proposed respondents from representing, directly or by implication, that NightSafe Glasses or any substantially similar product, makes night driving safe or safer or improves night vision. Part II of the proposed order prohibits proposed respondents from representing, directly or by implication, the efficacy, performance, safety, or benefits of NightSafe Glasses or any substantially similar product, unless such representation is true and, at the time of making such representation, respondents possess and rely upon competent and reliable scientific evidence. Part III of the proposed order prohibits the proposed respondents from representing, directly or by implication, the existence, contents, validity, results, conclusions, or interpretations of any test or study. Part IV of the proposed order prohibits the proposed respondents from using the name ''NightSafe,'' or any other name, in a manner that represents, directly or by implication, that such product makes night driving safe or safer. Part V of the proposed order requires the proposed respondents to pay $125,000 for consumer redress. Part VI of the proposed order requires the respondents to provide to the Commission the names and addresses of all of the purchasers of NightSafe Glasses whose names and addresses are in the possession of or can reasonably be obtained from the agents involved in fulfilling orders on behalf of Nationwide Syndications, Inc., and permits the Commission to provide the purchasers of NightSafe Glasses with safety information contained in an appendix to the proposed order.

The remaining parts of the consent order require proposed respondents to maintain all materials relied upon in disseminating any representation covered by the proposed consent order, to deliver a copy of the proposed order to all current and future officers, agents, representatives, and employees who are engaged in the preparation or placement of advertisements, promotional materials, product labels or other such sales materials covered by the proposed consent order, to notify the Commission of any changes in the structure of the proposed corporate respondents or the employment of the proposed individual respondent, for each proposed respondent to file a written report with the Commission setting forth in detail how it complied with the order, and for the order to terminate twenty years from the date of its issuance, absent the filing of a complaint or consent decree alleging that the order has been violated.

The purpose of this analysis is to facilitate public comment of the proposed order. It is not intended to constitute an official interpretation of the agreement and proposed order or to modify in any way their terms.

Donald S. Clark,
Secretary.

[FR Doc. 97–2811 Filed 2–4–97; 8:45 am]

BILLING CODE 6750–01–P

[File No. 971–0024]

Tenet Healthcare Corp.; Analysis to Aid Public Comment

AGENCY: Federal Trade Commission.

ACTION: Proposed consent agreement.

SUMMARY: In settlement of alleged violations of federal law prohibiting unfair or deceptive acts or practices and unfair methods of competition, this consent agreement, accepted subject to final Commission approval, would require, among other things, the for-profit general acute care hospital chain to divest a hospital, and related assets, in San Luis Obispo County, California that it will acquire as part of its proposed acquisition of OrNda Healthcorp. The complaint accompanying the consent agreement alleges that Tenet's acquisition of OrNda would deny the benefits of free and open competition—lower prices and better quality of service—to patients, physicians, third-party payers, and other consumers of inpatient acute care hospital services in that county.

DATES: Comments must be received on or before April 7, 1997.

ADDRESSES: Comments should be directed to: FTC/Office of the Secretary, Room 159, 6th St. and Pa. Ave., NW, Washington, DC 20580.

FOR FURTHER INFORMATION CONTACT: William J. Baer, Federal Trade Commission, H–374, 6th and Pennsylvania Ave, NW, Washington, DC 20580. (202) 326–2932. Mark Whitener, Federal Trade Commission, H–374, 6th and Pennsylvania Ave, NW, Washington, DC 20580. (202) 326–2845. Robert Leibenluft, Federal Trade Commission, S–3115, 6th and Pennsylvania Ave, NW, Washington, DC 20580. (202) 326–3688.

SUPPLEMENTARY INFORMATION: Pursuant to section 6(f) of the Federal Trade Commission Act, 38 Stat. 721, 15 U.S.C. 46, and § 2.34 of the Commission's rules of practice (16 CFR 2.34), notice is hereby given that the above-captioned consent agreement containing a consent order to cease and desist, having been filed with and accepted, subject to final approval, by the Commission, has been placed on the public record for a period of sixty (60) days. The following Analysis to Aid Public Comment describes the terms of the consent agreement, and the allegations in the accompanying complaint. An electronic copy of the full text of the consent agreement package can be obtained from the Commission Actions section of the FTC Home Page (for January 29, 1997), on the World Wide Web, at ''http://www.ftc.gov/os/actions/htm.'' A paper copy can be obtained from the FTC Public Reference Room, Room H–130, Sixth Street and Pennsylvania Avenue, NW, Washington, DC 20580, either in person or by calling (202) 326–3627. Public comment is invited. Such comments or views will be considered by the Commission and will be available for inspection and copying at its principal office in accordance with § 4.9(b)(6)(ii) of the Commission's rules of practice (16 CFR 4.9(b)(6)(ii)).

Analysis of Proposed Consent Order To Aid Public Comment

The Federal Trade Commission has accepted, subject to final approval, a proposed consent order from Tenet Healthcare Corp. (''Tenet''), to resolve antitrust concerns raised by Tenet's proposed acquisition of OrNda Healthcorp (''OrNda''). Tenet would be required to divest, among other things, OrNda's French Hospital and Medical Center in San Luis Obispo, California (''French''), and OrNda's interests in Monarch Health Systems, an integrated health care delivery system in the San Luis Obispo area. Tenet has also agreed to hold French, the Monarch interests, and some additional assets separate from Tenet's other assets, pending the required divestitures.

The proposed consent order has been placed on the public record for sixty (60) days for reception of comments by interested persons. Comments received during this period will become part of the public record. After sixty (60) days, the Commission will again review the agreement and the comments received, and will decide whether it should withdraw from the agreement or make final the agreement's proposed order.

The Commission's Complaint

The proposed consent order would settle charges by the Federal Trade Commission that Tenet's proposed acquisition of OrNda Healthcorp would endanger competition in the market for inpatient acute care hospital services in San Luis Obispo County, California, and so would violate section 7 of the Clayton Act and section 5 of the Federal Trade Commission Act. This matter involves the same market, and the same principal hospitals, as were at issue in a previous Commission hospital merger case, *American Medical International, Inc.*, 104 F.T.C. 1, 617 (1984), which resulted in the divestiture of French.

Tenet operates over 75 acute care hospitals nationwide. In San Luis Obispo County, Tenet operates two acute care hospitals, 195-bed Sierra Vista Regional Medical Center (''Sierra Vista'') in the city of San Luis Obispo, and 84-bed Twin Cities Community Hospital (''Twin Cities'') in Templeton about 22 miles to the north of San Luis Obispo. OrNda operates over 50 acute care hospitals nationwide, including 147-bed French Hospital Medical Center in the city of San Luis Obispo. OrNda also operates 70-bed Valley Community Hospital in Santa Maria, in northern Santa Barbara County about 30 miles south of the city of San Luis Obispo.

The complaint alleges that Tenet and OrNda are the two leading competitors, out of only four providers, of acute care hospital services in San Luis Obispo County, California. It further alleges that Tenet's main hospital in the area, Sierra Vista, and OrNda's French hospital, offer broader service complements than any of the other hospitals in the county, and are each other's principal and most direct competitor.

The complaint identifies 79-bed Arroyo Grande Community Hospital in southern San Luis Obispo County, and county-owned 64-bed San Luis Obispo General Hospital (''SLO General'') in the city of San Luis Obispo, as the only acute care hospitals in San Luis Obispo County that would not be owned by Tenet after the acquisition of OrNda. The complaint further alleges that SLO General's long-term competitive prospects are clouded by its need for major capital improvements, including construction required to bring the hospital into compliance with stringent new state earthquake safety standards.

As stated in the complaint, the proposed acquisition would eliminate competition between Tenet and OrNda, and significantly increase the already high level of concentration for inpatient acute care hospital services in San Luis Obispo County. The complaint also alleges that the proposed merger would increase the market share of Tenet, already the leading provider of inpatient acute care hospital services in the Tri-Cities area, to over 71%, an increase of at least 17% above its existing market share. The complaint further alleges that, as measured by the Herfindahl-Hirschman Index (''HHI''), market concentration would increase more than 2000 points to a post-acquisition level of over 5000. The HHI is a measure of market concentration used by the Federal antitrust enforcement agencies to estimate, in conjunction with information on other market factors, the likelihood that a merger would endanger competition. As explained in the 1992 Merger Guidelines, the Federal antitrust enforcement agencies consider markets with HHI levels above 1800 (on a scale of 0 to 10,000) to be ''highly concentrated,'' and, where the post-merger HHI would exceed 1800, presume that a merger producing an increase in the HHI of more than 100 points is likely to significantly lessen competition (unless factors other than market concentration indicate that the merger presents no significant threat to competition).

According to the complaint, it is unlikely that entry into San Luis Obispo County by a new acute care hospital will prevent or remedy any anticompetitive price increases or other effects resulting from the acquisition. This is due to, among other factors, the lengthy lead times required to build new hospitals in the relevant market, such as those required by California's requirements for advance review of hospital building plans.

The complaint alleges that the proposed acquisition may: substantially lessen competition for inpatient acute care hospital services in San Luis Obispo County; result in less favorable prices and other terms for health plans that contract for such services in the county; increase the possibility of collusion or interdependent coordination by the remaining market competitors; deny patients, physicians, third-party payers, and other consumers of inpatient acute care hospital services, the benefits of free and open competition based on price, quality, and service; and deny the opportunity for the San Luis Obispo County government to purchase, on competitive terms, the hospital care it must provide to certain indigent County residents, as a potentially less costly alternative to providing those services at SLO General.

The Proposed Consent and Hold Separate Agreements

The consent order, if issued in final form by the Commission, would require Tenet to divest French and related OrNda assets, after Tenet acquires OrNda. These assets include, among others, OrNda's interests in a surgery center, two urgent care centers, and two medical office buildings in San Luis Obispo County.

Tenet would also be required to divest OrNda's holdings of about one-third of the stock of, and also a short-term loan agreement with, Monarch Health Systems (''Monarch'). Monarch is an integrated health delivery system, operating in San Luis Obispo and Santa Barbara Counties. Monarch has a long-term exclusive contract with French, through which French receives a large percentage of its patients. As part of the Agreement to Hold Separate accompanying the proposed order, Tenet has agreed—effective immediately—to place OrNda's stock in Monarch into a voting trust, and take other measures designed to prevent Tenet from exercising influence or control over Monarch, pending divestiture of the Monarch stock and loan agreement. These measures are to prevent Tenet from using the Monarch stock and loan agreement to damage French's business relationship with Monarch, and thereby lessen French's competitiveness and viability.

Under the terms of the proposed order, Tenet must make the foregoing divestitures to an acquirer, and in a manner, approved by the Commission. (However, Tenet may divest the Monarch stock to someone other than the purchaser of French, and if Monarch is bought in its entirety by a third party, Tenet need not obtain prior approval to divest its Monarch stock to Monarch's new owner.) The approval requirement allows the Commission to make sure that Tenet's divestitures fulfill their purpose, of ensuring the continuation of

French as an ongoing, independent, and viable acute care hospital, and remedying the lessening of competition resulting from Tenet's acquisition of OrNda.

The divestitures must be completed by August 1, 1997; otherwise, Tenet will consent to the appointment of a trustee, who will have twelve additional months to effect the divestitures. If Tenet does not complete a Commission-approved divestiture of French by August 1, 1997, the Commission may appoint a trustee to complete that divestiture. The trustee may divest not only French and related assets, but also OrNda's Valley Community Hospital in Santa Maria, south of San Luis Obispo County, and certain assets relating to Valley, if the additional hospital and assets turn out to be necessary for a successful divestiture of French.

The Agreement to Hold Separate executed in conjunction with the consent agreement requires Tenet, effective immediately, to maintain French, Valley, the Monarch stock and loan agreement, and related assets separate from Tenet's other operations until the completion of the divestitures, or as otherwise specified. The Agreement to Hold Separate also requires Tenet to comply with the provisions of the proposed consent order, pending its final approval by the Commission.

To assure the complete independence and viability of French and Valley hospitals, and related assets, the Hold Separate Agreement requires Tenet to transfer control of those assets to a three-member board (only one of whom will be a Tenet employee), and to ensure that no competitive information is exchanged between Tenet and those assets. (The Hold Separate Agreement's provisions relating to the Monarch stock have been described above.) Under the Hold Separate Agreement, Tenet may not exercise any direction, control, or influence over the assets to be held separate, except as necessary to ensure compliance with the Consent Order and the Hold Separate Agreement, and to ensure the continued viability, competitiveness, and marketability of those assets.

For ten years after the order is made final, the proposed consent order would prohibit Tenet from combining (through purchase, sale, lease, or otherwise) its acute care hospitals in San Luis Obispo County with any other acute care hospital in that area, or from acquiring Monarch stock, without prior notice to the Federal Trade Commission. Tenet must provide such notice in accordance with procedures similar to those governing premerger notifications required by Section 7A of the Clayton Act, 15 U.S.C. 18a (unless the merger is already subject to section 7A's requirements, in which case no notice is necessary over and above that provided pursuant to section 7A). The order provision supplements section 7A, to ensure that the Commission receives advance notice of potentially significant Tenet mergers in the relevant market, and to thereby give the Commission an opportunity to block any such merger if it can demonstrate that the merger may substantially lessen competition. The proposed order contains certain limited exceptions to the prior notification requirement for transactions which are unlikely to substantially lessen competition, such as for transactions under $1 million.

The proposed consent order also contains provisions concerning its continued application to future owners of French and of Tenet's acute care hospitals in San Luis Obispo County. The acquirer of French, pursuant to the divestiture called for by the order, must agree not to transfer the hospital, for ten years from the date of the order, without prior notice to the Commission, to any person already operating an acute care hospital in San Luis Obispo County. In addition, the order would prohibit Tenet for ten years from transferring an acute care hospital facility in San Luis Obispo County, other than French (*e.g.*, Sierra Vista or Twin Cities) to another person, unless the acquiring person first files with the Commission an agreement to be bound by the order.

The purpose of this analysis is to invite public comment concerning the proposed order, and to assist the Commission in its determination of whether to make the order final. This analysis is not intended to constitute an official interpretation of the agreement or to modify its terms in any way.

Donald S. Clark,
Secretary.

[FR Doc. 97–2810 Filed 2–4–97; 8:45 am]

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DEPARTMENT OF HEALTH AND HUMAN SERVICES

Centers for Disease Control and Prevention

[Program Announcement Number 717]

National Limb Loss Information Project; Notice of Availability of Funds for Fiscal Year 1997

Introduction

The Centers for Disease Control and Prevention (CDC), the Nation's prevention agency, announces the availability of funds in fiscal year (FY) 1997 for a cooperative agreement program to establish a National Limb Loss Information Center (NLLIC). Non-renewable financial assistance will be provided to develop a National Limb Loss Information Center which will operate as a national clearinghouse to provide educational material and self-help rehabilitation guidance to persons with limb loss. In addition, the NLLIC will develop a peer visitation training initiative that will conduct peer education and training sessions with hospitals and limb loss support groups.

The CDC is committed to achieving the health promotion and disease prevention objectives of Healthy People 2000, a national activity to reduce morbidity and mortality and improve the quality of life. This announcement is related to the areas of Clinical Preventive Services and Surveillance and Data Systems.

(For ordering a copy of Healthy People 2000, see the section ''Where to Obtain Additional Information''.)

Authority

This program is authorized by Section 301(a)(42 U.S.C. 241(a)) of the Public Health Service Act, as amended.

Smoke-Free Workplace

The CDC strongly encourages all grant recipients to provide a smoke-free workplace and promote the nonuse of all tobacco products, and Public Law 103–227, the Pro-Children Act of 1994, prohibits smoking in certain facilities that receive Federal funds in which education, library, day care, health care, and early childhood development services are provided to children.

Eligible Applicants

Applications may be submitted by public and private, nonprofit organizations, and governments and their agencies.

Note: An organization described in section 501(c)(4) of the Internal Revenue Code of 1986 which engages in lobbying activities shall not be eligible to receive Federal funds constituting an award, grant, contract, loan, or any other form.

Availability of Funds

A maximum of $800,000 in FY 1997 funds will be available to award one non-renewable cooperative agreement. The award will be made on or before May 31, 1997, for a twelve-month budget period within a project period of up to 3 years. Succeeding second- and third-year budget requests should reflect the organization's increasing financial participation indicating the ability to