IN THE MATTER OF

AMERICAN MEDICAL INTERNATIONAL, INC., ET AL.

MODIFYING ORDER, ETC,, IN REGARD TO ALLEGED VIOLATION OF THE FEDERAL TRADE COMMISSION ACT AND SEC. 7 OF THE CLAYTON ACT

Docket 9158. Final Order, July 2, 1984—Modified Order, Nov. 9, 1984

This Modified Order revises the Commission's Final Order issued on July 2, 1984, 104 F.T.C. 1, which requires a Beverly Hills operator of a chain of proprietary hospitals to divest French Hospital, located in San Luis Obispo, California, and provide the Commission, for a period of ten years, with advance notification of its intention to acquire any hospital costing $1 million or more in the 13-state area specified in the order. As revised, the Modified Order retains the advance notification requirement of the original order, but sets forth in detail the manner in which the firm must prepare and submit the notification to the Commission, and the supplemental information that should be included.

ORDER AND OPINION OF THE COMMISSION GRANTING IN PART AND DENYING IN PART COMPLAINT COUNSEL'S PETITION FOR RECONSIDERATION

BY CALVANI, *Commissioner*:

I. Introduction

On July 2, 1984, the Commission issued its Final Order and Opinion in *American Medical International, Inc.* [hereinafter "order"] [104 F.T.C. 1]. The Commission held that respondents' acquisition of French Hospital in San Luis Obispo, California, violated Section 7 of the Clayton Act, as amended, 15 U.S.C. 18 (1976), and Section 5 of the Federal Trade Commission Act, as amended, 15 U.S.C. 45 (1976). The Commission rejected Complaint Counsel's request that respondents be prohibited, for a period of ten years, without prior approval of the Federal Trade Commission, from acquiring general acute care hospitals in areas where they already own or operate such a hospital. In so doing, the Commission stated:

> Instead of requiring AMI to obtain prior approval from the Commission for acquiring other hospitals under the conditions set forth by Judge Barnes, we believe that many of Complaint Counsel's more legitimate objections to such acquisitions can be satisfied by requiring AMI simply to notify the Commission of its intention to make an acquisition of the variety contemplated by Judge Barnes' order. This would enable the Commission to investigate an acquisition that appears to involve significant antitrust problems, and take enforcement action against the acquisition before the acquisition has progressed beyond the "point of no return," while at the same time preserve the

procompetitive benefits attributable to AMI's presence in the acquisition market. This is not intended to replace Hart-Scott-Rodino filing requirements that may apply to any of [2] AMI's future acquisitions, but is to apply to AMI's hospital acquisitions which, for one reason or another, may be exempt from those filing requirements. We contemplate that notification by AMI of such acquisitions is to be provided when AMI's Board of Directors or Executive Committee authorizes issuance of a letter of intent or enters into a purchase agreement to make such an acquisition, whichever is earlier.

Slip op. at 60 [104 F.T.C. at 226]. Complaint Counsel has petitioned for reconsideration of certain portions of the Commission's Order in *American Medical International, Inc.* pursuant to Rule 3.55 of the Commission's Rules of Practice. Respondent American Medical International, Inc. ("AMI") replied in opposition to the Petition by memorandum dated August 6, 1984. AMI's Opposition to Petition for Reconsideration of Final Order [hereinafter "AMI Memorandum"].

After reviewing these filings, as well as the relevant briefs, decisions, orders, and transcripts in this matter, we have concluded that Complaint Counsel's Petition is an appropriate Rule 3.55 petition as to the arguments and modifications it presents concerning prior notification, but that it is inappropriate as to the arguments and modifications it presents concerning prior approval. We have determined that the Order should be modified so as to accomplish the purposes intended by the Commission's Opinion and Order of July 2, 1984. The Order as revised is designed to set forth the details of the prior notification requirement imposed under the Order so as to permit Commission staff to make a meaningful review of AMI's [3] proposed acquisition while, at the same time, guarding against imposing undue burden on AMI as a participant in the acquisition market for general acute care hospitals.

II. Complaint Counsel's Petition for Reconsideration is Appropriate

AMI challenges Complaint Counsel's Petition for Reconsideration on two grounds. First, AMI contends that the Petition does not satisfy the requirements of Rule 3.55 of the Commission's Rules of Practice because it fails to raise any "new questions . . . upon which petitioner had no opportunity to argue before the Commission."[1] Second, AMI argues that the Petition should be denied because the modifications requested would harm AMI's ability to compete for new acquisitions and would "undermine the balance struck in the Commission's order between regulatory review and competitive vitality." AMI Memorandum at 2.

[1] Rule 3.55 of the Commission's Rules of Practice, 16 C.F.R. 3.55 provides, in pertinent part: "any petition filed under this subsection must be confined to new questions raised by the decision or final order and upon which the petitioner had no opportunity to argue before the Commission."

In support of its contention that the Petition fails to satisfy the criteria of Rule 3.55, AMI cites to portions of the briefs that it submitted to Administrative Law Judge Barnes and to the Commission in this matter, and to the transcript of the oral argument before the Commission. There, AMI claims that it raised the issue of prior notification and that Complaint Counsel had an opportunity to present its views on this issue. [4]

In briefs submitted by AMI (both to Administrative Law Judge Barnes and to the Commission), the prior approval remedy was the focus on the "fencing-in" discussion. In AMI's trial brief to Judge Barnes, AMI made only passing reference to a prior notification remedy; the overwhelming part of the "fencing-in" discussion addressed the unfairness of a prior approval requirement. Although AMI had cited to a consent decree involving a hospital merger that had employed a prior notification remedy, *United States v. Hospital Affiliates International, Inc.*, 1982–1 Trade Cas. (CCH) ¶64,696 (E.D. La. 1982), AMI included no discussion in its trial brief of the relative benefits, disadvantages, or problems associated with using this remedy or the mechanics of its use. *See* Trial Brief of Respondent American Medical International, Inc. at 99 & 100.

Similarly, the prior approval remedy was the focus of the "fencing-in" discussion in the two briefs submitted to the Commission by AMI. In its brief on appeal, AMI criticized the prior approval remedy as unfair, unwarranted, and anticompetitive. The only reference in AMI's brief to an alternative to a prior approval "fencing-in" appeared in a footnote that contained citations to two Justice Department merger cases in which prior notification remedies were employed. *See United States v. Stroh Brewery Co.*, 1982–83 Trade Cas. (CCH) ¶65,037 (D.D.C. 1982); *United States v. Hospital Affiliates International, Inc.*, 1982–1 Trade Cas. (CCH) ¶64,696 (E.D. La. 1982). Although AMI cited these two consent decrees, it failed to include any discussion of the advantages, [5] disadvantages, or justifications for use of this remedy. Respondent's Brief on Appeal From Initial Decision at 70 n.87. AMI's Reply Brief again stressed the unfairness of a prior approval remedy and suggested that a prior notification remedy would be much more "reasonable" in the circumstances of this case. AMI's Reply Brief contained no discussion of the mechanics of a prior notification requirement.

Although Complaint Counsel made reference to prior notification as a "fencing-in" remedy in its briefs in this matter, it did not do so in any meaningful way. Complaint Counsel referred in a footnote to premerger notification as a "fencing-in" remedy. *See* Complaint Counsel's Answering Brief at 65 n.92. In this reference, Complaint Counsel simply points out that a process involving premerger notifica-

tion was available to the Commission as an alternative to a prior approval "fencing-in" provision. Complaint Counsel's brief contains no further discussion of this point, or of the prior notification remedy generally. There was no discussion of, or reference to, prior notification "fencing-in" in Complaint Counsel's brief to Administrative Law Judge Barnes.

Thus, it appears that Complaint Counsel in its briefs argued for prior approval "fencing-in." Administrative Law Judge Barnes ordered this remedy in the initial order in this case. *See* Initial Decision at 183–89. AMI argued that "fencing-in" was unnecessary and that, even if the acquisition were found to be violative of Section 7 of the Clayton Act and Section 5 of the Federal Trade Commission Act, prior approval "fencing-in" was not **[6]** warranted. Both parties focused their discussions on the justification, or lack thereof, for a prior approval remedy, and it appears that the issue of how to devise a prior notification remedy that could be employed effectively by the Commission to monitor future AMI acquisitions simply was never discussed.

As AMI correctly notes, Chairman Miller, in oral argument, did raise the issue of whether a prior notification remedy would adequately "fence-in" respondents, assuming the finding of an unlawful acquisition. Complaint Counsel responded to Chairman Miller's question by pointing out three deficiencies with a prior notification "fencing-in" requirement: (1) the Commission would not have credible information with which to assess a proposed acquisition; (2) the Commission might not have the time it needed to assess the competitive impact of the proposed acquisition; and (3) the Commission would not have any indication as to how quickly the proposed acquisition could be consummated. *See* Transcript of Oral Argument at 53. However, although Complaint Counsel's arguments at oral argument in this matter are similar to the arguments raised in Complaint Counsel's Petition, it does not appear that Complaint Counsel had a meaningful opportunity to argue them before the Commission at that time. Chairman Miller merely posed the possibility of a prior notification requirement, and Complaint Counsel responded in general terms without proposing any specific suggestions to deal with these potential problems. Complaint Counsel's discussion of the problems associated with a prior notification remedy at oral argument occupies only three-quarters of a page in a sixty-eight page **[7]** transcript. It is not reasonable to conclude that Complaint Counsel had an opportunity to discuss the practical problems associated with this remedy or the mechanics for putting it into use.

After reviewing AMI's briefs and the oral argument transcript, as well as the briefs submitted by Complaint Counsel in this matter, we

conclude that there was no opportunity for Complaint Counsel to address the prior notification issue in a meaningful way earlier in this case. This is due principally to the fact that the *operation* of a prior notification requirement was not at issue earlier in the case, an issue quite different from the *propriety* of imposing a prior approval requirement for future AMI acquisitions. Although Complaint Counsel's Petition for Reconsideration raises some of the issues that were articulated during the oral argument, the Petition discusses, analyzes, and develops these items so that AMI and the Commission can focus for the first time on the difficulties and the practical problems associated with the use of a prior notification remedy. It presents information and specific suggestions that could not have been presented earlier in the case because prior notification "fencing-in" was not at issue until the Commission opted to make it one by rejecting the prior approval provision. When the Commission chose to impose a prior notification requirement on AMI in the order, the practical problems associated with this requirement suddenly became significant for consideration by Complaint Counsel and AMI. Since neither Complaint Counsel nor AMI was in a position to [8] discuss this hypothetical remedy with any degree of precision prior to the Commission's Decision and Order, Complaint Counsel's Petition for Reconsideration is the only means available to Complaint Counsel to present to the Commission suggestions as to how to make the prior notification remedy effective. Thus, we find that those portions of Complaint Counsel's Petition that seek to modify the prior notification provision contained in Section III of the Commission's Final Order present appropriate areas for reconsideration under Rule 3.55 of the Commission's Rules of Practice, which we examine below.

AMI claims that the fact that the petitioning party had an "opportunity to argue" bars a motion for reconsideration under Rule 3.55, citing *Holiday Magic, Inc.,* 85 F.T.C. 19, 20 (1975), *Ash Grove Cement Co.,* 86 F.T.C. 606, 607 (1975), and *National Association of Women's and Children's Apparel Salesmen, Inc.,* 78 F.T.C. 1584, 1585–86 (1970), in support of this proposition. However, we find that these decisions are inapposite to the case at bar. In *Holiday Magic, Inc,,* the Commission apparently had "fully considered in reaching its final decision the arguments raised by counsel in the motion to reconsider." 85 F.T.C. at 20. Here, we gave no such consideration to these matters.[2] In *Ash Grove Cement Co.,* the Commission found that respondent "had [9] an opportunity, which it exercised, to argue before the Commission" the very issues that it addressed in its petition for reconsidera-

[2] AMI's "opportunity to argue" contention in *Holiday Magic* presumably refers to the portion of respondent's motion for reconsideration relating to substitution of counsel in that case. The facts are totally different in this case, and we cannot seriously entertain AMI's reliance on this facet of that case for the proposition that it asserts in the case at bar.

tion. 86 F.T.C. at 607. Similarly, in *National Association of Women's and Children's Apparel Salesmen, Inc,,* the Commission found that "respondents have had opportunities and have made use of such opportunities" to argue the same points raised in their petition for reconsideration. 78 F.T.C. at 1587, There, the matters were discussed extensively in briefs and oral argument. Here, not only was the opportunity never exercised but, in fact, it never existed since the operation of the prior notification requirement was not put in issue before the Commission issued its Final Order on July 2, 1984. None of the three dozen or so reported decisions examining Rule 3.55 that we have uncovered through independent legal research suggests a contrary conclusion.

However, a portion of Complaint Counsel's Petition for Reconsideration reasserts an argument already presented to, and rejected by, the Commission. These modifications would require AMI to obtain Commission approval for a ten year period for any hospital it seeks to acquire in San Luis Obispo County, California. Both parties briefed the prior approval remedy fully before Administrative Law Judge Barnes and the Commission, and it appears that Complaint Counsel's request for reconsideration of this remedy for any geographic market, including San Luis Obispo County, does not present "a new question . . . upon which petitioner had no opportunity to argue before the Commission." Accordingly, we find that the specific modifications presented **[10]** with regard to Section IV of the Order (and the arguments marshalled in support of these modifications at pages 11 and 12 of Complaint Counsel's Petition) are not appropriate areas for reconsideration under Rule 3.55, and thus this portion of Complaint Counsel's Petition will be denied.

III. The Mechanics of Prior Notification

The Commission's Order requires AMI to notify the Commission when it seeks to acquire a hospital in any of thirteen states, if the acquisition would cost in excess of $1 million and the acquisition would provide AMI with a 20% or more share of the acute care hospital beds in a specifically designated area. Under the Order, AMI is directed to notify the Commission of its intent to acquire a covered hospital either when it issues a letter of intent or enters into a purchase agreement, whichever is earlier,

Complaint Counsel's Petition for Reconsideration focuses on the "fencing-in" provision that the Order imposes. Complaint Counsel requests reconsideration and modification of this provisions and proffers specific language to accomplish the suggested modifications.

Complaint Counsel seeks to modify the prior notification requirement in five specific ways, discussed below.

First, Complaint Counsel requests that the Order provide a specific notification period so that AMI will be required to give the Commission notice of any covered acquisition at least thirty days prior to completion of the acquisition (or fifteen days in [11] the case of a cash tender offer). Petition at 9. Complaint Counsel argues that without a specified notification period in the Order, AMI would be permitted wide discretion in notifying the Commission of covered acquisitions, and that the Commission could be left without sufficient time to obtain the evidence necessary to seek an injunction to block an illegal acquisition. *Id.* at 3. Complaint Counsel contends that a thirty day notification period would provide the Commission with sufficient time with which to assess the acquisition, obtain evidence, and move to enjoin the acquisition if necessary. *See id.* at 3 & 5–6.

Second, Complaint Counsel recommends that the Order require written prior notification of a covered acquisition. *Id.* at 3 & 9. Complaint Counsel suggests that since AMI's notification may trigger significant action by the Commission (such as obtaining evidence sufficient to support an injunction), the notice triggering such efforts by the Commission should be written notice, not oral. *See id.* at 5.

Third, Complaint Counsel requests that language requiring the submission of specific information be provided in the Order so that the Commission will have the opportunity to make an informed decision as to whether the proposed acquisition is lawful. *Id.* at 6. Complaint Counsel points to the difficulties in obtaining information from companies under investigation, particularly if compulsory process and enforcement procedures are required. *Id.* at 4–5. Complaint Counsel, therefore, recommends that the Order provide the Commission with an efficient, orderly, [12] and equitable way of obtaining specific information needed to assess the competitive impact of a covered acquisition. *See id.* at 9–11.

Fourth, Complaint counsel requests that the Order provide Commission staff with a reliable way of obtaining additional information in a timely fashion in the event that the initial information provided is not sufficient to fully assess the impact of the covered acquisition. *Id.* at 8. Complaint Counsel suggests that in some acquisitions, additional time and information may be required to assess the competitive impact. *Id.* at 10. Complaint Counsel argues, therefore, that the Order should provide a way for obtaining more information and additional time in which to assess that information without forcing the Commission to rely on purely voluntary production.

Fifth, Complaint Counsel requests that a prior approval "fencing-in" provision be added to the Commission's Order to cover AMI hospi-

tal acquisitions in San Luis Obispo County. *Id.,* at 11–12. However, since we have determined that this issue is not appropriate for a Rule 3.55 Petition, this issue will not be addressed herein.

AMI's memorandum in opposition to Complaint Counsel's Petition argues that a modified prior notification provision similar to the one contained in Complaint Counsel's Petition would harm AMI competitively. AMI Memorandum at 6. AMI contends that the Order, as originally crafted, struck a balance between the Commission's desire to monitor certain acquisitions by AMI that are not subject to Hart-Scott-Rodino reporting requirements **[13]** and the need to " 'preserve the procompetitive benefits attributable to AMI's presence in the acquisition market.' " *Id.,* citing slip op. at 60 [104 F.T.C. at 226 (1984)]. Under the proposed modification, AMI contends that in every case it would be required to wait for thirty days plus any extensions allowable under Hart-Scott-Rodino, *id.* at 1 & 7 and, since the proposed Order would apply only where Hart-Scott-Rodino was not otherwise applicable, AMI's competitors in the hospital acquisition market would not have to condition their bids on compliance with these regulatory strictures. *See id.* AMI argues that "the proposed order would eliminate AMI's procompetitive presence in circumstances such as the sale of county-owned hospitals to which HSR does not apply," *id.* at 9, and "eliminate AMI's procompetitive presence in covered transactions [and] deprive the public of the benefits that the order was intended to preserve." *Id.* at 12.

AMI does not make a convincing showing that a reasonable notice requirement would harm it competitively or place it at a competitive disadvantage vis-a-vis its competitors in the hospital acquisition market. By arguing that "the proposed modification would uniquely handicap AMI and therefore effectively remove it from the market for acquisitions covered by the order," *id.* at 5, it is apparent that AMI misconstrues the concerns that the Commission expressed when it rejected the prior approval requirement. Under the prior approval requirement ordered by Administrative Law Judge Barnes, AMI would be at a competitive disadvantage due principally to an additional regulatory hurdle that it must jump in order to consummate the **[14]** acquistion of a hospital. This additional hurdle, which for all intents and purposes (subject to further appellate review) constitutes a veto over AMI acquisitions, would likely make a prospective seller of a hospital reluctant to deal with AMI. In practical terms, this would reduce AMI's leverage in negotiating an acquisition and might necessitate AMI paying a premium in price for a potential acquisition over what "unfettered" acquirers, AMI's competitors, would be willing to pay. In the highly competitive market for hospital acquisitions, this would likely eliminate AMI as a viable competitor.

However, the situation with regard to prior notification is quite different from that of prior approval. AMI does not set forth any evidence demonstrating that a notification provision requiring submission of detailed market information would in any way burden an acquisition program. Such an advance notification requirement would not impose any undue burden on AMI because it does not inject any uncertainty into the acquisition process; instead, all it does is afford the Commission a meaningful opportunity to review the competitive impact of the acquisition.

AMI's arguments confuse prior approval and prior notification. Prior approval would preclude AMI from making a definitive purchase commitment; prior notification does not, as even AMI admits. AMI suggests that Complaint Counsel's proposed modifications would make an AMI bid "a conditional offer," *id.* at 7, a "conditioned transaction[ ]," *id.* at 8. But, at the same time, AMI admits that prior notification requirements, such as **[15]** those imposed under Hart-Scott-Rodino, do not make such a transaction "conditional." According to AMI witness Weisman:

> [Sellers of hospitals] do not want conditional transactions. They don't view Hart-Scott-Rodino generally as a condition anymore than they view, for example, a preparation of a definitive agreement as a condition.

Id., quoting Hearing Transcript page at 1727 (Weisman) [hereinafter "Tr."]. Similarly, AMI witness Reilly stated:

> Each of these transactions are, from the seller's perspective, time critical. And as it would be for you as an owner of a substantial piece of real estate, *once you have decided to sell it, you want to get it committed and know it is locked in.* It may take some time for escrow to close, but you want to know you have a deal.

Id., quoting Tr. 1848 (Reilly) (emphasis added). AMI's arguments that prior notification will make its acquisition bid conditional are disingenuous. Under prior notification, the Commission cannot stop a proposed acquisition except by successfully bringing suit, either in federal court or through an administrative complaint. Thus, the notification requirement does not in any way impose a prior approval constraint over the acquisition, as AMI seems to imply. Except for the compliance costs (principally, administrative and legal costs associated with preparation of the notification itself), such a requirement does not diminish AMI's leverage in negotiating an acquisition nor would it necessitate AMI paying a premium price for the acquisition in order to out-bid competitors in the acquisition market. If anything, it injects increased certainty into the acquisition because it subjects the acquisition to an early (albeit, non-binding) antitrust review and, as a

practical [16] matter, lessens the likelihood that the Commission might seek divestiture of the acquisition at some later date on antitrust grounds.

On the other hand, in adopting the advance notification provision contained in the original Order, we never intended to deny staff the time and resources needed "to investigate an acquisition that appears to involve significant antitrust problems, and take enforcement action against the acquisition before the acquisition has progressed beyond the 'point of no return.' " *See* Petition at 2, quoting slip op, at 60 [104 F.T.C. at 226 (1984)]. A simple statement by respondents of their intent to enter into an acquisition, without more, does not provide Commission staff with a meaningful opportunity to evaluate the competitive effects of the acquisition. Imposing a reasonable prior notification procedure does not simply "make the [Commission] staff's job *easier,*" as AMI contends, Petition at 6 (emphasis added)—rather, it makes it possible for staff to do the job that we anticipated would be done under the Order—assess the competitive effects of the acquisition. Because of the demands of time, it would be highly unlikely that, through normal channels of investigation, staff would be able to learn of the acquisition, assess its competitive impact, and prepare the legal papers needed to pursue a preliminary injunction in the event that the acquisition posed competitive concerns. AMI's offer in its memorandum to "be responsive to reasonable requests for information," AMI Memorandum at 11, does not by any means constitute a legally enforceable obligation that guarantees an [17] opportunity for meaningful review of a covered acquisition.

However, we are not convinced that there is a need to impose a waiting period on AMI in its covered acquisitions. Although AMI may have wide discretion in the *timing of its making a purchase commitment* to a prospective seller, AMI does not have discretion over the *timing of notification of the commitment* to the Commission. The final order requires AMI to notify the Commission once AMI becomes legally bound to make the purchase, which may be as early as issuance of a letter of intent and is certainly no later than entering into the purchase agreement itself. Market incentives encourage AMI to make this commitment as soon as possible so as to take the assets off the market. Consummation of the acquisition, especially consolidation of the acquired entity's operations with those of AMI, often will be delayed well past the purchase date because of externalities beyond AMI's control, such as state certificate-of-need requirements. As a practical matter, the Commission staff will have enough time, even more than the statutory waiting periods prescribed under Hart-Scott-Rodino, to review the notification filing by AMI and assess the likely competitive effects of the acquisition. Imposing an inflexible waiting

period on AMI would subject covered acquisitions to a time constraint that would accomplish little other than disabling AMI vis-a-vis its competitors. We conclude that the Commission staff will have adequate resources, under the present framework, to assess the competitive impact of covered acquisitions and prevent consummation of anticompetitive acquisitions, and that imposition [18] of a waiting period is not necessary.

Complaint Counsel is correct in asserting that "[t]he Commission's expressed intent is similar to the purposes of HSR to provide the government with a meaningful opportunity to challenge unlawful transactions *before* consummation, thus avoiding the problem of constructing post-acquisition relief and preventing injury to the public that would otherwise occur before divestiture." Petition 2 (emphasis in original). A detailed prior notification and reporting requirement would satisfy this concern. Such a requirement is well within the wide discretion accorded the Commission to remedy unlawful practices. *See Jacob Siegel Co. v. FTC,* 327 U.S. 608, 611 (1946). Since the Commission has found prior approval to be appropriate in certain instances, it is fair to conclude that a detailed prior notification requirement (a less drastic remedy than prior approval "fencing-in") is a legally valid remedy that the Commission could order in this case.

Accordingly, we will modify the Final Order in this matter by requiring written notification of AMI's intent to make a covered acquisition.[3] This notification is to be provided when AMI's Board of Directors or Executive Committee, or any entity [19] that is authorized to act on AMI's behalf in such acquisitions,[4] authorizes issuance of a letter of intent or enters into a purchase agreement to make such an acquisition, whichever is earlier. The Modified Order provides for filing information comparable to Hart-Scott-Rodino reporting requirements by AMI in order to permit staff a meaningful opportunity to assess the competitive effects of the proposed acquisition.[5] We will also require that the notification be supplemented with additional information, either in AMI's possession or reasonably available to

[3] As we did in the Final Opinion and Order, we again caution respondents that this Modified Order does not replace Hart-Scott-Rodino filing and waiting period requirements that may apply to any of AMI's future acquisitions. Where both Hart-Scott-Rodino and this Order apply to a particular acquisition, the Hart-Scott-Rodino reporting and waiting period requirements would supercede operation of this Order. However, where AMI's acquisition is otherwise exempt from Hart-Scott-Rodino, the terms of this Order will govern AMI's filing obligations.

[4] We do this *sua sponte* so as to prevent technical inapplicability of the Order if AMI were to assign acquisition responsiblities to a different AMI committee or entity.

[5] Complaint Counsel has also requested a mechanism for obtaining more information and additional time in which to assess that information without forcing the Commission to rely upon purely voluntary compliance. We deny Complaint Counsel's request for additional time for the same reasons that we have denied the request for a waiting period for the acquisition. However, we can envision some circumstances under which additional information may be necessary to fully assess the competitive effects of an acquisition. Therefore, we will require AMI to comply with reasonable requests by staff for additional information within fifteen days of service of such requests.