

## Sheinberg, Samuel I.

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**From:** Sheinberg, Samuel I.  
**Sent:** Tuesday, February 05, 2019 3:10 PM  
**To:** [REDACTED]  
**Cc:** [REDACTED]  
**Subject:** RE: HSR Question regarding Item 5a

[REDACTED]

For item 5(a) you can report net revenues. This is revenue after adjustments such as sales, returns, or discounts.

Best regards,

Sam Sheinberg  
Attorney  
Premerger Notification Office

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**From:** [REDACTED]  
**Sent:** Monday, February 04, 2019 3:55 PM  
**To:** Walsh, Kathryn E. <kwalsh@ftc.gov>; Berg, Karen E. <KBERG@ftc.gov>; Carson, Timothy <tcarson@ftc.gov>; Sheinberg, Samuel I. <SSHEINBERG@ftc.gov>; Six, Anne <asix@ftc.gov>; Whitehead, Nora <nwhitehead@ftc.gov>  
**Subject:** FW: HSR Question regarding Item 5a

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**From:** [REDACTED]  
**Sent:** Monday, February 4, 2019 3:54:41 PM (UTC-05:00) Eastern Time (US & Canada)  
**To:** [REDACTED]  
**Subject:** HSR Question regarding Item 5a

Good afternoon:

I have a question regarding whether to report dollar revenues by non-manufacturing industry code in the form of gross or net revenues under Item 5a, in connection with acquisition of a hospital system (in which we represent the acquired entity). Notably, “dollar revenues” is defined under 16 CFR 803.2(d) as:

“The term dollar revenues, as used in the Notification and Report Form, means the value of shipments for manufacturing operations, and sales, receipts, revenues, or other appropriate dollar value measure for operations other than manufacturing, f.o.b. the plant or establishment less returns, after discounts and allowances and excluding freight charges and excise taxes. Dollar revenues including delivery may be supplied if delivery is an integral part of the sales price. Dollar revenues include interplant transfers.”

This definition leads me to believe that net revenue is sought under Item 5a. This belief is bolstered by the guidance provided in Informal Interpretation 1607005 (dated 7/14/16). The guidance provided therein, however, is in conflict with Informal Interpretation 0906008 (6/3/2009) which states “Use gross patient revenues” in response to a question concerning reporting revenue under Item 5(c) in connection with acquisition of a hospital system.

Thank you in advance for your guidance.

[REDACTED]



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