



# CRA Competition Announcement

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Associates

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## CRA economists advise FTC on its successful challenge to Chicago-area hospital merger

CRA economists [Steven Tenn](#) and [Josh Lustig](#) supported the US Federal Trade Commission (FTC) in its review of the proposed merger of two Chicago-area hospital systems, Advocate Health Care Network (Advocate) and NorthShore University HealthSystem (NorthShore). The CRA team analyzed antitrust and competitive issues regarding the provision of general acute care inpatient hospital services in the North Shore area of Chicago. Dr. Tenn provided written and trial testimony in the US District Court for the Northern District of Illinois. The District Court granted the motion for a preliminary injunction on March 7, 2017, with Judge Jorge L. Alonso citing to Dr. Tenn's reports and testimony in nearly every aspect of his 37-page opinion. Immediately following the decision, the parties announced they would abandon the deal.

In December 2015, the FTC sought a preliminary injunction to block the merger over concerns that it would significantly reduce competition in the provision of general acute care inpatient hospital services in the North Shore area of Chicago. Siding with the FTC and the state of Illinois, the District Court concluded that, if consummated, "the merger is likely to cause a significant price increase resulting in a loss to consumers."

Drs. Tenn and Lustig applied methods endorsed by the 2010 Horizontal Merger Guidelines to define the relevant market in which to analyze the proposed transaction. Geographic market definition, in particular, was a critical issue. The final District Court ruling found that Dr. Tenn properly delineated the relevant geographic market to include 11 hospitals in the northern suburbs of Chicago (the North Shore Area), rejecting the parties' arguments that a wider geographic market should be employed. Advocate's and NorthShore's market shares, and the resulting level of concentration in the relevant market were well above the levels that trigger the presumption that the merger would be anticompetitive according to the Horizontal Merger Guidelines.

Drs. Tenn and Lustig analyzed the likely competitive impact of the proposed transaction using methods similar to those employed to delineate the relevant geographic market. Dr. Tenn testified that the elimination of competition between Advocate and NorthShore would likely lead to a significant post-merger price increase. The District Court found that "Dr. Tenn's analysis is sound, and defendants' criticisms fail."

Drs. Tenn and Lustig also contributed to the analysis of potential efficiencies from the proposed transaction. The parties claimed that the transaction would benefit consumers by allowing the merged entity to participate in a narrow network health plan in which Advocate, but not NorthShore, currently participates. The District Court concluded that Dr. Tenn's critiques of this efficiency claim are "persuasive" when rejecting the parties' claim, agreeing with Dr. Tenn that the parties' economist's efficiencies calculations are essentially "uninformative."

### **About CRA's Antitrust & Competition Economics Practice**

In 1965, CRA's founders envisioned a company that would apply the then-burgeoning area of quantitative methods in economics to real-world issues. Our ability to apply theoretical concepts and superior analytics to create meaningful solutions to client challenges has been a source of pride and differentiation since the founding of the firm. Our consultants and academic affiliates continue to lead the way in developing innovative economic concepts and applying sophisticated economic analysis to complex cases. Read more about the practice [here](#).

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