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Is There Too Little Antitrust Enforcement in the U.S. Hospital Sector?

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PRELIMINARY DRAFT – DO NOT CITE OR CIRCULATE

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Abstract

From 2002 to 2017, there were over 1,000 hospital mergers in the US. During this period, the Federal Trade Commission, the de facto antitrust regulator of the US hospital sector, took enforcement actions against 11 transactions. We analyze the effect of 316 horizontal mergers that occurred between 2010-2015 and use our results to explore if there is too little antitrust enforcement in the US hospital sector. A simple test to adjudicate whether there is too little enforcement is to analyze whether consummated hospital mergers raised prices and if they did so via a lessening of competition. We estimate post-merger price effects for 702 hospitals, representing 316 mergers, and find that the average hospital raised prices by 1.6%. Approximately a quarter of hospital mergers raised hospitals' by over 5%. We illustrate that these mergers likely raised prices via a lessening of competition. We then show that there are two probable explanations for the under-enforcement of antitrust laws. First, we highlight that the FTC is likely underfunded. For example, we show that in a single year, consummated hospital mergers generated single-year spending increases that were roughly six times the FTC's antitrust enforcement budget. Second, we show that the majority of hospital mergers are under Hart-Scott-Rodino (HSR) reporting thresholds and that hospital mergers under HSR thresholds generate price increases four times as large as those over HSR thresholds.

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