



United States v. United Health Group, 2008 U.S. Dist. LEXIS 83599 (D.D.C. 2008)

Topics Covered: Antitrust

Outcome: Unfavorable

United Health Group, the largest or second largest health insurance company in the United States, purchased Sierra Health Systems, the largest health insurance company in Nevada. The Nevada Insurance Commissioner approved the merger and, subject to certain conditions, so did the United States Department of Justice (“DOJ”) and the Nevada Attorney General. However, before the merger could become final it had to be approved by a court.

Pursuant to the Tunney Act, 15 U.S.C. § 16, members of the public may file comments regarding the merger with the DOJ. The DOJ can then respond to these comments. The public comments and the DOJ responses are then submitted to the presiding judge and published in the Federal Register. If, after consideration of the public comments and the DOJ responses, the court determines that the merger is in the public interest, it is to be approved. The court can also order discovery or other forms of investigation before approving the merger. If the court is not convinced that the merger is in the public interest, it is to disapprove the merger.

The AMA and the Nevada State Medical Association submitted Tunney Act comments critical of the merger to the DOJ on May 15, 2008. The DOJ responded, defending the merger as consistent with the public interest and defending its discretion to enter into an agreement with the insurance companies on such terms as it saw fit. On September 24, 2008, the Court rejected the medical societies' arguments and approved the merger.