

7A(c)(10)

MEMORANDUM

[REDACTED]

May 11, 2000

To: Mike Verne  
Federal Trade Commission

Following up on our telephone conversation of April 18, 2000, the following is a description of the proposed transaction as restructured pursuant to our phone call. Attached is a schematic illustrating the transactions described below. As additional background, it should be noted that B Corp. has three classes of stock. Class B stock carries the right to ten votes per share. Class A and Class C stock each have the right to one vote per share.

First Merger. Acquisition Corp. will merge into C Corp., with C Corp. as the surviving entity. As merger consideration, B Corp. (the sole shareholder of Acquisition Corp.) will receive 100% of the outstanding voting securities of C Corp. A Corp. (as the sole shareholder of C Corp.) will receive an additional 8% of the outstanding voting securities of B Corp. The percentage of voting securities of B Corp. held by the other B Corp. shareholders will decrease proportionately (see Diagram 2). We believe that all aspects of this transaction are exempt under § 802.30.

Second Merger. Immediately after the First Merger, B Corp. will form a wholly-owned subsidiary, Holding Sub, which will hold 100% of the voting securities of C Corp. (see Diagram 3). A Corp. will then merge into Holding Sub, with Holding Sub as the surviving entity. As merger consideration, the A Corp. shareholders will hold directly 73% or less of the outstanding voting securities of B Corp. (see Diagram 4). We believe that the formation of Holding Sub and the merger of A Corp. into Holding Sub are also exempt pursuant to § 802.30. 7A(c)(10)

As a result of the Second Merger, several of the former A Corp. shareholders will hold an aggregate total amount of voting securities of B Corp. in excess of \$15 million. Many of these shareholders will be eligible for the "investment only" exemption under § 802.9. We believe that the remaining shareholders will be exempt from HSR filing requirements under Section 7A(c)(10) of the Act because the percentage of voting securities of B Corp. held by each such person (indirectly before the Second Merger and directly thereafter) will decrease following the Second Merger. This decrease is a result of the fact that in the Second Merger the A Corp. shareholders will receive fewer ten vote shares of B Corp. than were formerly held by A Corp. and are thereby diluted in their voting percentage.<sup>1</sup> *NOTE HOWEVER, THAT ANY CURRENT B CORP. SHAREHOLDERS WHO INCREASE THEIR PERCENTAGE HELD IN B CORP. MAY HAVE A REPLYING OBLIGATION.*

<sup>1</sup> Although their voting percentage will decrease, the A Corp. shareholders may have a slight increase in the economic value of their respective holdings in B Corp. as a result of the issuance of B Corp. shares in the Second Merger in recognition of the controlling position of A Corp. in B Corp.

We would like to confirm with you our understanding of the foregoing exemptions. I will await your call to discuss any factual questions you may have, as well as to set a time when we can visit with you by phone along with our co-counsel [REDACTED] [REDACTED] Washington, D.C.

# # #

AGREE WITH THE CONCLUSIONS OF THE  
WRITER. N. OVUKA AGREES -

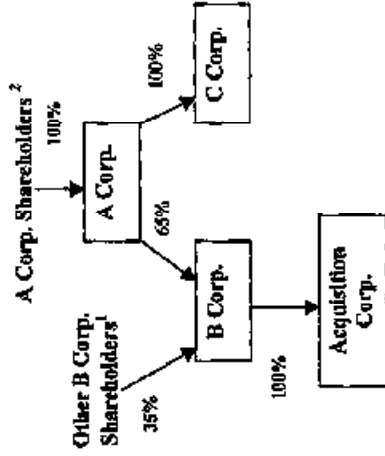
*B. Michael [Signature]*

5/16/00

[REDACTED]

[REDACTED]

**DIAGRAM 1 - CURRENT ORGANIZATIONAL STRUCTURE**



<sup>1</sup> Approximately 300 shareholders, no one of which holds more than 5% of the outstanding voting securities of B Corp.

<sup>2</sup> 24 shareholders, the largest of which, an irrevocable trust, holds approximately 21% of the outstanding voting securities of A Corp.

**DIAGRAM 2 - POST ACQUISITION CORP./C CORP. MERGER**

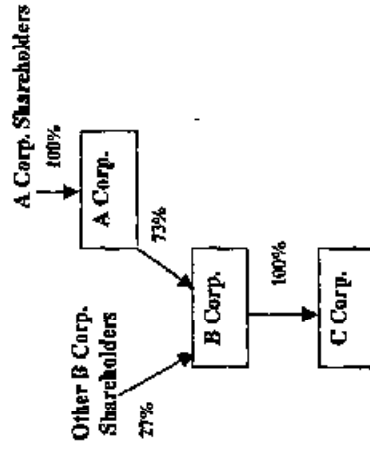


DIAGRAM 3 -- FORMATION OF  
HOLDING SUB

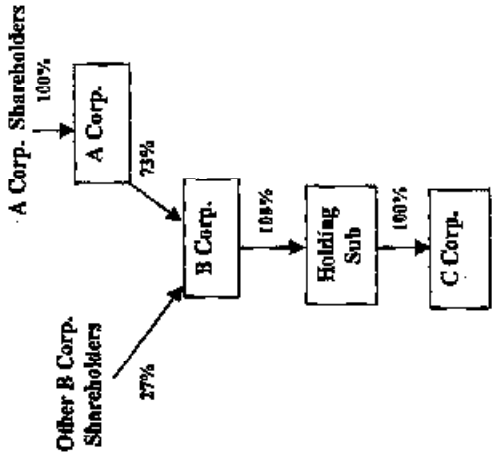


DIAGRAM 4 -- POST HOLDING  
SUB/A CORP. MERGER

