

802.41
801.2(d)

From: [REDACTED]
To: "mverne@ftc.gov" <mverne@ftc.gov>
Date: Wed, Oct 11, 2000 9:22 AM
Subject: FW: HSR interpretation

Thanks for your response. As a follow-up, it appears that shareholders of both A and B will have a filing obligation as they will acquire in excess of \$15 million of C's voting securities, and will not be able to take advantage of the investment only exemption. Would C have to file as an acquired person (since 802.41 would not be applicable) and if so how would that work since it is not yet in existence? Thanks.

*EITHER A OR B SHOULD FILE
& INCLUDE INFORMATION FOR
BOTH COMPANIES. TWO
CERTIFICATIONS ARE REQUIRED.*

*Michael Verne
10/11/00*

> -----Original Message-----
> From: [REDACTED]
> Sent: Monday, October 09, 2000 11:23 AM
> To: 'mverne@ftc.gov'
> Cc: [REDACTED]
> Subject: HSR interpretation

>
> Hi Mike - I would appreciate your guidance on the following fact pattern:
>
> Facts: A and B wish to engage in a business combination. A will be
> merged with and into B and shareholders of A and B will be given shares of
> C - the consolidated entity. Neither A nor B are \$100 million persons, but
> C will have in excess of \$100 after the consolidation.
>
> Issue: I believe there would be no filing obligation for the
> consolidation as there is no \$100 person. Assuming however, that
> shareholders of A and B are \$10 million persons, and the investment only
> exemption is not available, would shareholders of A and or B have a filing
> obligation in their acquisition of shares of C?
>
> Thanks.

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CC: [REDACTED]