802.20
801.90
802.30

December 8, 2000

Mr. Michael Verne
Federal Trade Commission
600 Pennsylvania Avenue NW, Room 301
Washington, D.C. 20580

BY TELECOPY
(202) 326-2624

Re: Hypothetical Partial Redemption Analysis

Dear Mike:

To confirm our telephone conversation this morning, we discussed a hypothetical transaction along the lines described in this letter and the attendant implications under the Hart-Scott-Rodino Antitrust Improvements Act of 1976 (the "Act").

Venture A and Venture B would propose to enter into a transaction resulting in Venture A and Venture B each holding approximately 47.5% of the voting securities of Holding. Holding has a wholly-owned subsidiary, Operating. Following the transaction, management personnel of Operating would hold approximately 5% of the voting securities of Holding. For purposes of this memo, round numbers have been used.

Venture A and Venture B would establish an enterprise value for Holding of $65 million dollars which would be documented in the Purchase Agreement. The parties would assume that Holding has $20 million dollars in existing debt. Subtracting the $20 million dollar debt figure from the $65 million dollar enterprise value would result in an equity value of $45 million dollars.

The transaction would be structured in part as a redemption by Holding and in part as an acquisition of voting securities by Venture A and Venture B. This structure would permit favorable recapitalization accounting treatment and would permit the transaction to be financed by borrowings by Operating. It is clear that if the structure were chosen as a means to avoid a filing under the Act, there would be a problem under Rule 801.90 under the Act which has the effect of ignoring contrived structures which are for the purpose of avoiding the Act's application.

The transaction would occur in the following sequence. First, Operating would borrow a total of $50 million dollars in debt, through a combination of approximately $35 million dollars in senior secured debt, $12 million dollars in subordinated debt, and $3 million dollars in revolving debt.

Next, Operating would pay off the $20 million dollars in existing debt through the newly acquired debt. Then, Operating would take the remaining $30 million dollars obtained from the newly acquired debt and would make a dividend up to Holding. Holding would take that $30 million