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From: [REDACTED]
To: FTC.SERIOUS("mverne@ftc.gov")
Date: 1/10/02 3:17PM
Subject: HSR question

Mike,

I hope the new year is finding you well. I have a quick question regarding whether, under the following facts, "A" would be considered to be making a reportable acquisition of voting securities of "B":

A is an individual (who has total assets in excess of \$10 million).
B is a corporation (which has total assets or annual net sales in excess of \$100 million).
C is a single-purpose corporation, the purpose of which is to hold voting securities of B.

A currently sits on the board of directors of B, and he and his wife currently hold directly or through trusts voting securities of B that are valued at less than \$50 million.

A and his wife are also shareholders of C. They hold less than 50% of the voting securities of C (let's say 16%) and do not have the power to appoint 50% or more of the members of the board of directors of C. A does, however, sit on the board of directors of C and, pursuant to a resolution of the board of directors of C, he has the power to vote all of the B voting securities that C owns. (Note: If A were considered to be the beneficial owner of the voting securities of B owned by C, or even the beneficial owner of 16% of those shares, A would currently hold voting securities of B valued in excess of \$50 million.)

C is now contemplating: (a) passing a board resolution that would allow each of its shareholders to direct C to sell the shareholder's pro rata shares of B, and pay the proceeds directly to the shareholder who directed the sale; or (b) transforming from a corporation into an LLC that would provide the shareholders that same right. Under both scenarios, A and his wife would continue to hold less than 50% of the voting securities (or membership interests) of C.

Am I correct that under each of these proposals, there would be no acquisition by A of B's voting securities, and therefore there would not be an HSR reporting obligation?

Also, would A, under either of these proposals, be considered to be the beneficial owner of some or all of B's voting securities owned by C, such that A would be deemed to hold B voting securities in excess of the \$50 threshold and would need to file and wait before acquiring a single additional share of voting securities of B?

Many thanks for your assistance,

[REDACTED]

(SEE ATTACHED)