

801.10
802.51

October 11, 2001

BY E-MAIL AND U.S. MAIL

Ms. Janice C. Johnson
Premerger Notification Office
Bureau of Competition
Room 303
Federal Trade Commission
600 Pennsylvania Avenue, NW
Washington, D.C. 20580

Dear Ms. Johnson:

You and I spoke yesterday regarding this firm's client, a foreign company, which is in negotiations to acquire certain voting securities and assets of another foreign company (the "Seller"). I am writing to obtain a confirmation from your office of the information I received from you by telephone.

The acquisition will be of a United States subsidiary of the Seller, foreign subsidiaries of the Seller, and assets owned by the Seller, some located in the U.S. and some located in other countries. My question was the extent to which, if any, the foreign assets and issuers must be included in the calculation of whether the \$50,000,000 notification threshold will be met under Section 7a of the Clayton Act, 15 U.S.C. § 18a(a)(2). You stated that what is not "reportable" is not to be included in the value of the transaction. You stated further that the value of the voting securities of the foreign issuers being acquired (assuming that these issuers do not hold assets in the U.S. with an aggregate book value of \$15,000,000 or more) and the assets located in other countries are not required to be included in the calculation, while the value of the voting securities of the U.S. issuer being acquired is to be included, as is the value of any U.S. assets being acquired. I assume you are basing this determination on 16 C.F.R. §§ 801.15 and 802.51.

You also confirmed that the allocation of the purchase price among the various corporate entities and assets for purposes of calculating whether the notification threshold is met must be based on the fair market value of each entity and asset, since none of the entities being acquired is traded on a national stock exchange and since a final purchase price with allocation to each

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asset and entity has not been determined. I assume you are relying on 16 C.F.R. § 801.10 for this conclusion.

I would very much appreciate it if you could confirm my understanding in writing. If you need any additional information, please do not hesitate to contact me at [REDACTED] by e-mail at [REDACTED]. Thank you very much.

Sincerely,

[REDACTED]

cc:

[REDACTED]

(e-mail only)
(e-mail only)

Called writer on
10/11 and advised
that the analysis
is correct. Janice Johnson
A.V. concurs