801.20

[redacted]

November 29, 2001

VIA HAND DELIVERY

Michael Verne
Premerger Notification Office
Bureau of Competition, Room 303
Federal Trade Commission
600 Pennsylvania Avenue, N.W.
Washington, DC 20580

Re: Hart-Scott-Rodino Filing in Transaction No[redacted]nvolving[redacted]s Acquiring Person and[redacted] Acquired Person

Dear Mike:

As you may recall, we spoke yesterday concerning the above-referenced Hart-Scott filing. I relayed to you the following facts regarding the transaction:

On November 13, 2001,[redacted] and[redacted] made Hart-Scott filings relating to [redacted] exercise of an option to acquire 100% of the outstanding (untraded) voting securities of [redacted] Holding Company, Inc[redacted] an indirect, wholly-owne[redacted] subsidiary.[1] The acquisition price to be paid by [redacted] upon exercise of the option is determined according to a formula set forth in the Option Agreement attached to the filing as Attachment A. Under the formula, the acquisition price is $973 million, less certain debt and working capital adjustments.

[redacted] option confers the right upon exercise to acquire from [redacted] 00% of the membership interests of [redacted] Holding Company, LL[redacted] only asset is 100% of the outstanding voting securities of [redacted] Holding Company, Inc., which, in turn, holds 100% of the outstanding voting securities of [redacted] Company. Based on advice from the FTC Premerger Notification Office, the parties filed on the transaction as an acquisition of voting securities.

As indicated in Item 3 of [redacted]'s Hart-Scott form, based on [redacted]'s debt level at the time the filing was submitted, [redacted] acquisition price would have been approximately $473 million. However, because [redacted] could not estimate precisely the amount of debt in [redacted] at the time of exercise of the option, [redacted] conservatively indicated the value of the transaction as over $500 million for Hart-Scott filing threshold purposes.

Subsequent to the parties submitting their Hart-Scott filings, [redacted] added a significant amount of debt to [redacted] As a result of this additional debt, the acquisition price for [redacted] exercise of its option under the formula referenced above will be no more than approximately $25 million.

On November 28, [redacted] provided [redacted] with notice of its intent to exercise the option, and [redacted] also terminated its agreement to merge with [redacted][2]

Based on the above facts, you advised that [redacted] exercise of its option to acquire [redacted] would not be Hart-Scott reportable. You advised that the value of the untraded voting securities to be acquired would be the option exercise price, excluding any consideration paid to acquire the option. You further advised that because this acquisition price would be less than $50 million, the transaction would be non-reportable, regardless of the fact that [redacted] previously submitted a Hart-Scott filing pertaining to the transaction. Finally, you indicated that in order to consummate the acquisition, it would not be necessary for [redacted] to withdraw its Hart-Scott filing.

Please call if you have any questions or if you disagree with the conclusion expressed above, based on the facts I relayed in our discussion, that a Hart-Scott filing is not required in connection with the described transaction. As always, I greatly appreciate your time and assistance.

Very truly yours,

[redacted]

AGREE - THE PARTIES ARE ABLE TO CLOSE. NO WITHDRAWAL IS REQUIRED. NO REFUND OF FILING FEE.
M. BRUNO CONCURS. B Mitchell Sow 11/29/01

[2] Item 3 of [redacted] November 13 Hart-Scott filing referenced the merger agreement and indicated that a filing regarding the merger would be made "in the near future." As indicated, however, the merger agreement has now been terminated, and there will thus be no such filing.

cc (via facsimile [redacted]

Director of Operations
Antitrust Division, U.S. Department of Justice
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