7A(c)X

From:
To: "Michael Verne" <MVERNE@ftc.gov>
Date: 3/8/02 2:03PM
Subject: HSR Question re: 7A(c)(10)

Mr. Verne,

A follow-up to my conversation with you earlier today regarding 7A(c)(10), can you confirm that 7A(c)(10) is NOT limited to stock dividends, stock splits and rights offerings, or one particular transaction? Here is my example:

A owns 20% of entity X
B owns 20% of entity X
entity C owns 60% of entity X

A owns 40% of entity C
B owns 55% of entity C (thus, B is the UPE of entity X with 80% voting interest attributed to it).

On January 2, each of A and B will purchase 1 share of X (neither has previously filed an HSR). Assume that the fair market valuation of each of their voting securities holdings of entity X will be greater than $50 million on January 1, and thus their purchases will be deemed to meet the size of transaction test on January 2 (and assume size of parties and other jurisdictional tests are met).

Simultaneously, on January 2 (whether or not in the same agreement, but not as a result of a stock dividend or split or rights offering, or of that nature), purchaser D will also purchase a large stake in entity X, resulting in a dilution of A and B's holdings in entity X (i.e., resulting in A and B holding a lower percentage of voting securities of entity X then the day prior to their purchases, and also resulting in B no longer being a UPE).

Leaving aside D's HSR filing requirement, I gather from our discussions that neither A nor B would have to file an HSR since the purchases by A, B and D occur simultaneously (relying on the 7A(c)(10) exemption).

Thank You,

AGREE WITH THE ABOVE STATED
CONCLUSIONS.

B. McCulla
3/8/02

" made the following
annotation 11:01:42

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