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January 13, 2003

Alice M. Villavicencio, Esq.
Premerger Notification Office
Federal Trade Commission
Room 303
600 Pennsylvania Ave., N.W.
Washington, D.C. 20580

Dear Ms. Villavicencio:

I am writing to confirm the substance of our phone conversation of last Wednesday January 8, 2003, regarding the fact pattern described below.

Our client "B" filed an HSR Notification and Report late last year, as the acquired person in a transaction contemplating the sale to "A" (for approximately $90 million in consideration) of 100% of the voting securities of seven issuers (Issuer 1 through Issuer 7) of which "B" is the UPE. As I mentioned to you, "A" will be closing on the purchase of 100% of the voting securities of Issuer 1 through Issuer 6 (for approximately $70 million in consideration) within one year of the lapse of the waiting period. The purchase of 100% of the voting securities of Issuer 7 (for approximately $20 million in consideration) is set to close approximately 1.5 years following the lapse of the waiting period but definitely within five years from the lapse of the waiting period.

The two issues that concerned me are (i) whether a new HSR Notification and Report is required prior to the consummation of the purchase of 100% of the voting securities of Issuer 7 (for approximately $20 million in consideration), and (ii) whether an amended HSR Notification and Report is required to be filed for the purchase of 100% of the voting securities of Issuer 1 through Issuer 6.

New HSR Notification and Report

I had initially approached the acquisition from "B" of 100% of the voting securities of Issuer 7 by "A", for approximately $20 million, following the expiration of the one year statutory period, "A" as being interpreted as "A" holding an aggregate total amount of the voting securities of "B" in excess of $50,000,000 (having previously acquired $70 million in the acquisition of the voting securities of Issuers 1 through 6). The 50% Section 18a c(3) exemption would not apply as prior to the acquisition of the voting securities of Issuer 7 by "A," "A" owned 0% of the

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voting securities of such issuer. I therefore was looking to 802.21 for guidance. In our discussion you interpreted the acquisition of the voting securities of Issuer 7 by "A", for approximately $20 million, in and of itself, as not being reportable because following the consummation, "A" would not hold an aggregate total amount of the voting securities of "B" in excess of $50,000,000 (the voting securities of Issuers 1 through 6 now being voting securities of "A") and would only hold the $20 million of voting securities being acquired.

We also discussed 802.21 and the requirement that, in addition to having the same UPEs and not exceeding the next higher notification threshold in the earlier acquisition, notification be filed "with respect to an earlier acquisition of voting securities of the same issuer." While "B" filed notification for 100% of the voting securities of Issuer 7, none of the voting securities of Issuer 7 will be acquired within the one year following lapse of the waiting period. My concern arose from a strict reading of the language of 802.21 that seems to imply that an earlier acquisition of voting securities of the same issuer needs to have taken place.

As we discussed, since your position is that the acquisition of 100% of the voting securities of Issuer 7 by "A" from "B" for approximately $20 million in consideration would not be reportable by itself, because following the acquisition "A" would not hold an aggregate total amount of the voting securities of "B" in excess of $50,000,000, there would be no additional reporting requirement, as the $50,000,000 threshold is not met and therefore 802.21 is irrelevant.

<u>Amendment of Original HSR Notification and Report</u>

Per our discussion, you have confirmed that no amendment of the original HSR Notification and Report is required as the transaction that will be closing within a year of the lapse of the waiting period is materially the same as reported and the change in excluding Issuer 7 from such closing would not change the form of the transaction.

If I have misinterpreted our conversation and your recommendations, please call or write me. Thank you very much for your assistance and guidance in this matter.

Very truly yours,

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Called Walter on 1/13/2003 AV

No filing is required for the reasons mentioned below. According to this letter, a specific $ amount was allocated to each of the 7 issuers. Only $20mm was allocated as consideration for the purchase of 100% of the V.S. of issuer #7 and this acquisition would not cause a "greater threshold" (802.21), and the acquisition of this issuer alone would not exceed $50mm 7A(a)(2)(B).