

7A(c)(10)

WRITER NOT ADMITTED TO DC BAR

April 28, 2003

By Hand

Mr. B. Michael Verne,  
Premerger Notification Office,  
Bureau of Competition,  
Federal Trade Commission,  
600 Pennsylvania Avenue, N.W.,  
Washington, D.C. 20580.

Re: Conference Call of April 15, 2003

Dear Mr. Verne:

Thank you for participating in the telephone conference call on April 15, 2003 in which I requested your agreement that the proposed transaction described below would qualify for the exemption provided by Section 7(A)(c)(10) of the Hart-Scott-Rodino Antitrust Improvements Act of 1976, as amended (the "HSR Act"). You advised that the exemption provided by Section 7(A)(c)(10) of the HSR Act would apply. This letter is to confirm your advice regarding the application of said Section 7(A)(c)(10).

Facts: Company B ("B") currently has two classes of voting securities outstanding:

- 7,000 common shares, each with one vote;
- 2,000 preferred shares, each with one vote.

The 2,000 preferred shares of B represent two ninths, or approximately 22.2%, of B's total outstanding voting securities. These 2,000 preferred shares were acquired by Company C ("C") in June 2001 for approximately \$45,000,000 in cash. C has no activities other than holding the preferred shares of B and collecting the income therefrom.

The remaining seven ninths, or approximately 77.8%, of B's outstanding voting securities (*i.e.*, all of B's common shares) are held by Company A ("A") and subsidiaries of A. A is the ultimate parent entity of B. At the time C acquired the preferred shares of B, the shareholders' equity attributable to the common shares on the financial statements of B was approximately \$4,395,000,000.

#### Proposed Transaction

As discussed in our April 15, 2003 call, B proposes to raise approximately \$250,100,000 of additional equity capital as follows:

- B will sell an additional 39,046 common shares to A (or to A and subsidiaries of A) for approximately \$100,000, increasing A's total holdings of B's common shares to 46,046 shares (all of which will be owned by A and its subsidiaries).
- B will sell an additional 11,156 voting preferred shares to C for approximately \$250,000,000, increasing C's total holdings of B's preferred voting shares to 13,156 shares (all owned by C).

As a result, A and its subsidiaries will continue to hold seven ninths, or approximately 77.8%, of the total outstanding voting securities of B, as they did before the transaction, and C will continue to hold two ninths, or approximately 22.2%, of B's outstanding voting securities, as it did before the proposed transaction. A and its subsidiaries will continue to hold all of B's common shares, and C will continue to hold all of B's voting preferred shares, as they did before the proposed transaction.

You advised me in our telephone conversation on April 15, 2003 that the proposed transaction described above would qualify for the exemption provided for by Section 7(A)(c)(10) of the HSR Act, and that consequently no filings pursuant to the HSR Act would be required for this proposed transaction. I would appreciate your confirming by telephone that the foregoing accurately reflects our conversation.

If you agree with the foregoing, I assume you would also agree that the exemption would apply if the number of common shares B sold to A (or A and subsidiaries of A) were increased to 46,669 for a total consideration of \$1,475,000,000 and the number of preferred shares B sold to C were increased to 13,334 for a total consideration of \$300,000,000, since such numbers would still result in A and its subsidiaries continuing to hold seven ninths and C continuing to hold two ninths of the total outstanding voting securities of B, as they did before the proposed transaction. I would also appreciate your confirming that the increase in the number of shares sold would not affect the availability of the exemption provided by Section 7(A)(c)(10) of the HSR Act.

Mr. B. Michael Verne

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Thank you for your courtesy and attention herein.

Yours truly

A large black rectangular redaction covers the signature area, obscuring the name and any handwritten notes.

AGREE.

N. OVUKA concurs.

B. Michael Verne

4/29/03