

801.1 (b)

**Verne, Michael**

**From:** [REDACTED]  
**Sent:** Monday, August 11, 2003 5:36 PM  
**To:** Verne, Michael  
**Subject:** Follow-Up Regarding General Partners and Control

Mr. Verne,

Thanks for the voicemail confirming that being a general partner alone does not constitute "control" for purposes of HSR analysis. Per your voicemail (and also pursuant to Ex. 2 under the definition of "control" under section 801.1(b)), it appears that the only test applicable to a statutory limited partnership is whether a person has the right to 50% of the profits or 50% of assets upon dissolution. If I have misunderstood or misstated your position, please let me know.

In addition, I have a couple follow-up questions:

(1) Does it change the analysis above if the limited partners do not have the ability to remove the general partner? I'm definitely not trying to create a filing obligation, but just want to make sure you have all the facts.

(2) A is the 10% general partner and B is the 90% limited partner of ABC Limited Partnership. A is the 10% general partner and C is the 90% limited partner of XYZ Limited Partnership. A, B and C are not related parties. ABC LP acquires \$45 million of voting securities of a private company (meeting size of persons test). A couple years later, XYZ LP (in a completely separate transaction) acquires \$45 million of voting securities of the same private company.

(a) Please confirm that nobody would have a filing obligation (assuming no assets or securities are previously owned) (i.e. B and C would each be considered to acquire an amount not meeting the filing threshold and A being general partner of each partnership would not affect the analysis).

(b) If A is an investment manager and basically lines up B and C as investors in this private company (but does nothing more and there is no agreement that the two partnerships will act in concert, other than the fact that A will vote the securities held by each partnership), does that change anything?

Please let me know if you have any questions. Thanks again for all your help.

(1) NO  
(2)(a) AGREE  
(2)(b) NO

B. Michael Ver

8/12/03