09/10/2003 11:39 FAX [redacted] [redacted] 802.51 [redacted]
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September 10, 2003

Internet Address: [redacted]

VIA FACSIMILE

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

Dear Mike:

This letter is to confirm our telephone conversations regarding an acquisition transaction. As we discussed, the parties involved are three foreign persons, A, B and C. C, in turn, wholly owns D, another foreign person. Each of A, B and D own one-third of the voting securities of X. X is also a foreign person but holds more than 50% of the voting securities of a U.S. issuer, Y, which has both assets located in the U.S. and sales in the U.S. in excess of $50 million. D itself does not hold more than 50% of the voting securities of any issuers which have assets located in the U.S. or sales in the U.S. although C's ultimate parent entity has both U.S. assets and sales.

The structure of the acquisition is that A and B each agree with C to buy 50% of the voting securities of D. The transaction will result in each of A and B controlling D for purposes of the Hart-Scott-Rodino Act of 1976, as amended (the "Act") by virtue of each of A and B holding 50% or more of the voting securities of D. Also as a result of the transaction, control of X and, therefore, Y, will be conferred to both A and B when the voting securities previously held by D in X are aggregated with those previously held by A and B.

Our discussions centered on the apparent existence of both primary and secondary acquisitions under the aforementioned facts. You indicated that the

primary acquisition here is A and B purchasing the voting securities of D from C and that this primary acquisition would be exempt from filing requirements under the Act based on 16 CFR Section 802.51, which exempts certain acquisitions of voting securities of a foreign voting issuer because D does not control any issuer which holds assets located in the U.S. or which made sales in or into the U.S. in its most recent fiscal year.

On the other hand, you further indicated that the facts also include a secondary acquisition, whereby A and B will each acquire control of X as a result of their acquisition of all of the voting securities of D from C, and that this secondary acquisition would not be eligible for the Section 802.51 exemption because of Y's assets and revenues in the U.S. which exceed $50 million. While the Section 802.51 exemption would not be available, you further advised that the Premerger Notification Office of the Federal Trade Commission has consistently taken the position that filings under the Act are not required with respect to any such secondary acquisition based on the principle of comity. Therefore, no filing under the Act would be required of A and B as acquiring persons or X as the acquired person with respect to the secondary acquisition.

To summarize, your conclusion was that the primary acquisition between A, B and C referenced above would not be reportable based on the 16 CFR Section 802.51 exemption, and that the secondary acquisition between A, B and X, while not eligible for such exemption, would not be reportable based on the Premerger Notification Office's position that the principle of comity applies and a filing is not required.

We would appreciate your written confirmation of this analysis. Thank you very much for your time in discussing these issues with us and your attention to this matter. If you have any questions, please call me at [redacted]

[redacted]

Very truly yours,

[redacted]

AGREE.
B. [redacted]
9/10/03

[redacted]