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801.1(b)
801.14

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December 23, 2004

VIA FACSIMILE

B. Michael Verne, Esq.
Premerger Notification Office
Bureau of Competition
Federal Trade Commission
600 Pennsylvania Ave, NW
Washington, D.C. 20580

Re: Confirmation of Advice Regarding HSR Reportability

Dear Mr. Verne:

Thank you for taking the time to speak with me earlier this week about the potential HSR reporting obligations that may arise in the following circumstances. Buyer is considering an acquisition. Initially it appeared that there were two acquisitions, because one of the target businesses is owned by one individual, and the other is owned by a separate ownership group. On further analysis, however, it appears that acquisition of this second business actually constitutes two acquisitions. Some time ago, and for legitimate business reasons entirely unrelated to this proposed acquisition, the business was organized into two different legal entities:

1. Entity 1 ("Corporation") is a privately held corporation. The voting securities of Corporation are held by individuals, and although there is a buy-sell agreement, no one has the right to vote anyone else's shares. No individual (or combination of husband, wife, and minor children) owns 50% of the voting securities or has the right to appoint 50% of the directors.

2. Entity 2 ("LLC") is an LLC. The same individuals hold essentially the same percentage interests in LLC as they do in Corporation. Consequently no-one has the right to 50% of the profits of LLC or to 50% of the assets of LLC on dissolution.

Corporation and LLC are in the same line of business, and their financial results are reported to the shareholder and members in a consolidated financial statement.

Buyer will acquire 100% of the voting securities of the corporation (or substantially all of its assets) and 100% of either the ownership interests or the assets of the LLC. Depending on the allocation of value (as calculated under 16 C.F.R. § 801.10) of the voting securities and LLC interests/assets, it is possible that either or both of these acquisitions would not cross the $50 million statutory reporting threshold.

Based on the legal structure described above, we concluded that Corporation and LLC are, respectively, their own ultimate parents. Moreover, since each entity is its own ultimate parent, the acquisitions would not be aggregated.

Based on our conversation today, I understand that you agree that the acquisitions of the corporation and the LLC are separate transactions that need not be aggregated, and that if neither crosses the statutory threshold, no notification would be required. If I have not stated the Premerger Notification Office's view correctly, I would appreciate your letting me know.

Thank you again, and best wishes for the holidays.

AGREE -
12/23/04