

802.30
7A(c)(10)

Verne, B. Michael

From: [REDACTED]
Sent: Friday, June 09, 2006 2:08 PM
To: Verne, B. Michael
Subject: HSR Reportability

Dear Mr. Verne:

I write to request the PNO's determination whether the following transaction is reportable.

ABC Co. is 50% owned by A (which in turn is 67% owned by XY), and 50% owned by B, a wholly owned subsidiary of C. Pursuant to a settlement agreement, B intends to swap its 50% ownership stake in ABC Co. for a 14% common stock ownership interest in HoldCo, a newly created company that is majority owned by A.

Company A creates "HoldCo" to serve as a new holding company for Company A. The existing shareholders of Company A contribute their stock in A to HoldCo in exchange for HoldCo stock; at the same time Company C causes B to contribute its 50% interest in ABC Co. to HoldCo for HoldCo stock.


Following these 2 steps, HoldCo will be owned by existing Company A stockholders (86%) and Company C (14%). A will continue to own its existing assets, including the other 50% of ABC Co..

The basic size of person test for HSR filing purposes appears to be met here based on the size of the parties. Secondly, the size-of-transaction test, is met. The value of the stock to be acquired by C is around \$100 million.

Is this reportable? Or is it exempt as an intraperson transaction under 802.30? If reportable, what are the filing obligations of Company C, the 14% stockholder of HoldCo.

Thank you. If you have any further questions, please feel free to call or email. Thank you.

[REDACTED]


6/14/06

The only potentially reportable portion of this transaction is the acquisition by C of the 14% interest in HoldCo. The transfer by B of its 50% interest in ABC Co. is exempt under 802.30. The acquisition of HoldCo voting securities by existing A shareholders is exempt under 7A(c)(10), because they will hold a lower percentage in HoldCo than they did in A.

N. OVU (K) CONCURS.