

*Agree 801.2
802.52*

Walsh, Kathryn

From: [REDACTED]
Sent: Monday, September 17, 2007 4:33 PM
To: Walsh, Kathryn
Subject: HSR filing inquiry

Confidential

Dear Kate,

Thank you for taking the time to discuss this transaction with me this afternoon. Here are the basic facts.

1. A, B and C are all corporations organized under the laws of F, a foreign country.
2. P, a corporation organized under the laws of Country F, holds more than 50% of the voting shares of A and B. P holds less than 50% of the voting shares of C, but due to its large shareholding, P is successful in appointing the majority of C's board. However, P has no contractual right to appoint the majority of C's board.
3. Y is an investment foundation created by legislation enacted by Country F for the purpose of advancing the economic welfare of Country F's citizens. All of Y's board members are officials of the government of Country Y. Y holds 99% of P's voting shares.
4. NewCorp is a corporation organized about year ago under the laws of Country F for the purpose of carrying out the present and subsequent transactions. NewCorp has two, equal shareholders, both trustees holding the shares for certain charitable trusts. NewCorp's assets consist almost entirely of cash, in an amount less than \$12 million.
5. The transaction will take the following steps:
 - 5.1: NewCorp will acquire all of the assets of A, B and C, in exchange for its own convertible preferred shares.
 - 5.2. A, B and C will each distribute these convertible preferred shares to their own shareholders, and those shareholders will convert the shares into common stock of NewCorp.
 - 5.3. A, B and C will each merge into NewCorp and will lose their separate identities.

Our analysis of the transaction is as follows:

- A. The transaction is a consolidation of A, B and C, pursuant to 801.2(d)(2).
- B. P controls A and B but not C. Therefore the Ultimate Parent Entities are P and C.
- C. P and C will each be deemed both acquiring and acquired entities, pursuant to 801.2(d)(2)(iii).
- D. The transaction will be deemed an acquisition of voting shares.
- E. The transaction qualifies for the exemption of 802.52, because one of the Ultimate Parent Entities, P, is controlled by the government of Country F and the acquisition is of voting securities of corporations organized under the laws of Country F.

On the basis of this analysis, we have concluded that the transaction is not reportable.

9/19/2007

I would be grateful if you could either confirm your agreement with this analysis or could give me guidance on any issues that it raises.

Thank you and best wishes,

[REDACTED]

[REDACTED]

[REDACTED]

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