

November 13, 1990

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BY TELECOPIER: 202-326-2050

Marion Bruno, Esq.
Premerger Notification Office
Bureau of Competition
Federal Trade Commission
Washington, D.C. 20580

Re: Hart-Scott-Rodino Filing Requirements

Dear Ms. Bruno:

This letter is to confirm our conversation today during which the following fact pattern was discussed:

1. Company A agrees to sell Companies B and C to Companies D and E, for a total purchase price of \$10 million. Companies D and E are distinct entities, which are not commonly owned. The sale is to take place in two stages. It is assumed that this transaction satisfies the size-of-the-parties, commerce, and size-of-the-transaction tests.

2. Initially, Companies D and E each will purchase 15% in Company B and in Company C, leaving Company A with a 70% stock interest in Company B and in Company C. This transaction is to be completed by December 31, 1990.

3. Companies D and E each agree to buy the balance of the stock in Companies B and C, i.e., each will purchase 35% in company B and 35% in Company C, by no later than December 31, 1993.

4. Another entity, Company F, will have an option, to be exercised between stages one and two, to purchase up to 50% of the remaining stock in Companies B and C owned by Company A, i.e., one-half of 70%, or 35% of Company B and of Company C.

5. Accordingly, companies D and E will each acquire 50% of Company B and 50% of Company C, only if Company F elects not to exercise its option. The combined assets of Companies B and C total more than \$25 million. Neither of these Companies is publicly traded.

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It is my understanding, based on our discussion today, that Rule § 802.20 exempts Companies D and E from filing at stage one, since each will only acquire 15% of Companies B and C, and the total purchase price is \$10 million, \$3 million of which will be paid at this juncture. Should Company F elect not to exercise its option, it will be necessary for companies A, D and E to file before companies D and E acquire the balance of the stock in Companies B and C, bringing their respective interests in these companies to 50%. Rule § 802.20 will no longer exempt the transaction because Companies B and C ^{which} have assets in excess of \$25 million. I understand that Mr. Dick Smith of your office shares this view as well.

D+E will have control, as defined by 801.1(b) of

Please confirm whether this is an accurate representation of our discussion. Thank you for your assistance in this matter.

Very truly yours,

[Redacted signature block]

11-14-90 - discussed with [Redacted]
made the clarification set
out above.