

§ 7(A)(c)(1)(c)

[REDACTED]

[REDACTED]

July 10, 1992

[REDACTED]

[REDACTED]

VIA FEDERAL EXPRESS

Thomas F. Hancock, Esq.
Staff Attorney
Premerger Notification Office
Bureau of Competition
Federal Trade Commission
6th Street and Pennsylvania Avenue, N.W.
Washington, D.C. 20580

File this with the Premerger Notification Office, Bureau of Competition, Federal Trade Commission, 6th Street and Pennsylvania Avenue, N.W., Washington, D.C. 20580. Do not file with the Commission.

JUL 13 10 39 AM '92
FEDERAL TRADE COMMISSION
PREMERGER NOTIFICATION OFFICE

Re: [REDACTED]
Transaction Identification Number [REDACTED]

Dear Mr. Hancock:

This is to confirm the results of our telephone conversations on Thursday, July 9, 1992 and today. This Firm represents [REDACTED] ("Parent") in connection with the proposed merger ("Merger") of Parent and an indirect, newly-formed subsidiary of [REDACTED]. A Notification and Report Form relating to the Merger was filed with the Federal Trade Commission on June 2, 1992 and early termination of the applicable waiting period was granted on June 17, 1992. The transaction has evolved and it is now proposed by [REDACTED] in furtherance of the Merger that certain convertible promissory notes of a subsidiary of Parent, convertible into voting common stock of Parent, be converted. If the proposal becomes a reality, one noteholder's acquisition of voting securities as a result of such conversion appears to meet the jurisdictional requirements for a separate premerger notification filing, unless an exemption is established. Accordingly, guidance was requested from your office as to whether such a filing was required.

[REDACTED]

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To set forth the issues in more detail, the relevant facts outlined to you in the premerger filing and on July 9, 1992 are memorialized as follows: Parent is to merge with a newly-formed, indirect subsidiary of [REDACTED] ("Subsidiary"), a wholly-owned subsidiary of Parent, has issued promissory notes ("Notes") convertible into voting securities of Parent. Prior to conversion, the Notes are pure debt and bear no voting rights. One Parent Shareholder (the "Shareholder"), in addition to holding Notes, owns 48.8% of Parent's common stock, Parent's only issued and outstanding class of securities. The Notes are to convert simultaneously with the Merger. Upon conversion, Shareholder will hold approximately 46.32% of the voting securities of Parent, which will be a decrease in Shareholder's holdings thereof prior to conversion because of disproportionate conversion rights among the various Subsidiary noteholders. The jurisdictional requirements for filing a premerger notification are met in that Shareholder has over \$100 million in assets, Parent has over \$10 million in assets, and the value of voting securities of Parent acquired by Shareholder upon conversion exceeds \$15 million. The additional voting securities of Parent acquired by conversion will be held by Shareholder only for so long as it takes to complete the Merger. Following the Merger, Shareholder will hold non-voting promissory notes issued by [REDACTED] (or one of its subsidiaries) and [REDACTED] will own all of Parent's voting securities.

In response to our inquiry as to whether an exemption applies to this conversion by Shareholder, you have advised that Section 7A(c)(10) of the Clayton Act would exempt Shareholder's acquisition of voting securities of Parent through conversion of the Notes, as outlined above. Based on such guidance, this Firm does not consider it necessary for Shareholder to file a Notification and Report Form with respect to its acquisition of voting securities through conversion of the Notes.

[REDACTED]

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Your complete and timely response concerning the availability of Section 7A(c)(10) of the Clayton Act for the conversion of the Notes is deeply appreciated. If my understanding of your advice regarding the availability of the exemption is incorrect, please advise immediately. I thank you for your assistance.

Very truly yours,

[Redacted signature block]

[Redacted block]

7/13/93
7/13/92
OK
CK
TFH
TFH

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