

business not an acquisition in this matter, when  
take over policies an acquisition will

01/18/92  
(5)(2)

run & is reportedly serious concerning exiting a  
line of insurance. Valuation of assets is

November 23, 1992

present value of benefit to be paid out, plus assumption of  
other liabilities per value of customer tests more

**By Hand Delivery**

Victor L. Cohen, Esq.  
Premerger Notification Office  
Bureau of Competition  
Room 303  
Federal Trade Commission  
Sixth St. and Pennsylvania Ave., N.W.  
Washington, D.C. 20580

NOV 23 4 44 PM '92  
FEDERAL TRADE COMMISSION  
PREMERGER NOTIFICATION OFFICE

Dear Victor:


I am writing this letter to confirm the oral advice you provided over the telephone on November 18 regarding the applicability to the following transaction of the Hart-Scott-Rodino Antitrust Improvements Act of 1976 and the FTC's implementing regulations (collectively, "Hart-Scott").

A, an insurance company, will acquire all of a certain type of life and health insurance policies of B, another insurance company, in a two-step process:

(1) A and B will enter into an indemnity reinsurance agreement whereby A will insure B against all of B's risk under the policies and indemnify B for any claims under the policies, A will receive the right to future premiums to be paid for the policies, and A will receive \$10 million from B (representing the net difference between \$40 million of B's policy reserves to be allocated to A and a \$30 million payment from A to B).

(2) After appropriate state insurance commissioner approvals are received, A will formally assume all of B's rights and liabilities under the policies and B will be formally released and discharged from liability. Policyholders will be notified

R.S. Ogawa

  
Victor L. Cohen, Esquire  
November 23, 1992  
Page Two

that the identity of their insurance carrier  
has changed from B to A.

You advised that completion of step one described above  
would not require a Hart-Scott filing because this indemnity  
reinsurance transaction between two insurance carriers either  
does not amount to an acquisition or qualifies as a transaction  
occurring in the ordinary course of business exempted under §  
7A(c)(1) of the Hart-Scott Act.

You also advised, however, that completion of step two  
described above would require a Hart-Scott filing (assuming  
satisfaction of size of person and transaction tests) because  
this formal assumption transaction amounts to an acquisition that  
could not qualify as an ordinary course of business transaction.

*v of  
what  
one  
is  
going  
into* →  
Finally, you advised, in accord with Interpretation 139 of  
the ABA's Premerger Notification Practice Manual (1991), that the  
value of the policies to be acquired should be determined based  
upon the present value of obligations to pay benefits under the  
policies, plus the value (if any) of the "customer lists" (names  
of policy owners and named insured) obtained by A, less the \$10  
million payment from B to A.

If the above does not accurately reflect the advice you  
provided regarding the described transaction, please call me  
immediately.

As always, I thank you very much for your time and most  
helpful assistance.

Sincerely,  
