801.1 (b) (1) (ii)

[redacted]

[redacted] subject to provision of Section 7A (h) of the Clayton Act restricts release under the Freedom of Information Act.

February 11, 1993

BY HAND DELIVERY

Richard B. Smith, Esquire
Premerger Notification Office
Federal Trade Commission
Room 323
6th & Pennsylvania Avenue, N.W.
Washington, D.C. 20580

FEB 11 3 24 PM '93

Re: Partnership to Control Definition
16 C.F.R. § 801.1(b)

Dear Dick:

This letter summarizes our telephone conversation of February 9th in which I requested your view as to whether one or both of two partners of a partnership control the partnership within the meaning of 16 C.F.R. § 801.1(b). In our conversation, you concluded that only one of the two partners control the partnership. The facts I provided, upon which you based your conclusion, are set forth below:

Partners A and B formed Partnership C to operate and purchase cable television assets. As a result of their capital contributions and certain additional payments by A to B, Partner A holds legal title to a 49% partnership interest and a fully paid up option for an additional 31%. Partner B holds legal title to a 51% interest in the partnership subject to the option. On an ongoing basis, Partner A has the right to, and receives, 80% of the income or loss and Partner B receives 20% of the income or loss. If the partnership dissolves, Partner A has the right through the exercise of the option for $1.00 to receive 80% of the assets. Partner B will receive the remaining 20% of the assets. As an accounting matter and for tax purposes, Partner A treats its ownership in the partnership as 80% and Partner B treats its ownership in the partnership as 20%.

As I understand your advice, you view Partner A as the only controlling person and the ultimate parent entity of Partnership C. The fact that Partner B has bare legal title to a 31% partnership interest, which is in fact beneficially owned

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by Partner A, does not make Partner B an ultimate parent entity of Partnership C. Thus, in connection with any reportable acquisitions, Partner A is the only person required to file as the ultimate parent entity of Partnership C.

If this letter does not accurately summarize our conversation, please call me at your earliest convenience. Partner A expects to file a Hart-Scott-Rodino Notification and Report Form with respect to an acquisition by Partnership C within the next several weeks, and based on our conversation, I intend to advise Partner B that it has no filing obligation.

Thank you very much for your assistance in this matter.

Very truly yours,

[redacted]

[redacted]

[redacted]

2/16/93 [redacted] advises that A paid B around $8MM for a fully paid up option to obtain an additional 31% interest in the partnership from B as well as the option to get 80% of the partnership's assets on dissolution through the exercise of the option for $1. A presently gets 80% of the partnership's income and will exercise the option for $1 to get 80% of the partnership assets should dissolution ever take place. (The partnership agreement does not state who will get what % of the assets on dissolution.) A has paid for the right to get 80% and, should dissolution ever occur, will, for $1, take 80% of the partnership's assets. (This scenario was developed in order to avoid problems concerning transfer of certain franchises when A originally purchased his 49% partnership interest.) I advised that A should be viewed as presently having the right to 80% of the income of the partnership as well as having the right (through the exercise of an option for $1) to 80% of the partnership's assets on dissolution. [illegible]