7A(c)(1); 802.1(b)

BY FACSIMILE TRANSMISSION

Richard B. Smith, Esq.
Premerger Notification Office
Bureau of Competition
Federal Trade Commission
Sixth and Pennsylvania Avenue, N.W.
Room 322
Washington, D.C. 20530

Re: Request for Informal Interpretation Relating to Acquisitions of Office Equipment Leases

Dear Dick:

This letter is to confirm our conversation in which you concluded that both the transactions described below are exempt from the notification and waiting periods of the Hart-Scott-Rodino Antitrust Improvements Act of 1976 under 15 U.S.C. § 18a(c)(1) as acquisitions of goods transferred in the ordinary course of business.

Transaction #1

My client is a diversified corporation with subsidiaries or divisions that operate a variety of businesses. One division is a finance company that routinely originates financing transactions and also routinely purchases financing transactions, typically assets subject to leases.

In the first transaction, the finance company division of my client intends to purchase from another finance company a portfolio of [redacted] leases. The seller acquired these leases by originating lease financing arrangements with the manufacturer and the lessee/end user. Finance companies like the seller routinely sell off portfolios of leases. We understand that after this transaction, the seller will continue to originate lease financing transactions for [redacted]

. We do not have complete information about the identity of the lessees but we believe that the lessees are Fortune 500 companies and other firms that use the in the ordinary course of their own businesses. It is possible that the businesses of one or more of the lessees competes with one of the businesses of my client (e.g., they compete in the manufacture and sale of widgets).

You and I discussed the relevance of Interpretation #25 of the ABA Premerger Notification Practice Manual which suggests competition between the acquiring person and the lessee is one factor that is relevant to the analysis of the sale of leases. You concluded that in this situation, where the asset subject to lease is not central to the lessees' business and was a small portion of the lessees' productive assets, the possibility of competition between the acquiring person and the lessee would not preclude application of the ordinary course exemption.

Transaction #2

The second transaction involves the same acquiring person but the leases being acquired are for One other difference is that the seller is the manufacturer of the that are the subject of the leases. We understand that for at least the last eight years the seller has had a practice of selling off portfolios of leases on a quarterly basis. Again, we lack detailed information about the lessees but it is believed that they are a diverse group of business firms. It is possible that one or more of these firms competes with my client, the acquiring person. For the same reasons as expressed above with respect to Transaction #1, you concluded that the possibility of competition between the acquiring person and the lessee did not preclude the application of the exemption.

As you know, the transactions described above are very time sensitive due to the impending close of the fiscal year for the companies involved. I would appreciate it if you could let me know at your earliest opportunity whether others in the Premerger Notification Office agree with this analysis.

Richard B. Smith, Esq.
December 20, 1994
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I hope that I have accurately recounted our conversation and that you will let me know if any portion of this letter is inaccurate.

Best regards to you and your colleagues for the holiday season.

12/20/94 - After discussing with AD, advised writer that since the leased computers and copiers were used in the internal operations of the lessee and appeared to constitute small portions of their costs of operations and did not appear to be directly involved in the competitive activities which might be the same as those offered by the acquiring person, if the other criteria of letter 25 in the ABA book were met no filing would be required.

RBSmith