ATTACHMENT A

[redacted]

May 12, 1995

BY HAND

Richard B. Smith, Esquire
Premerger Notification Office
Bureau of Competition, Room 303
Federal Trade Commission
Sixth St. and Pennsylvania Ave., N.W.
Washington, D.C. 20580

Dear Dick:

This letter will memorialize the advice you provided on April 19, 1995, over the telephone concerning the nonreportability under the Hart-Scott-Rodino Antitrust Improvements Act of 1976 ("the Act"), and the implementing regulations, of the following transaction:

> A and B hold, respectively, 75% and 25% undivided beneficial interests in a trust that owns an airplane. A and B were settlors of the trust, which was created to facilitate a bona fide lease financing of the airplane. The airplane is under a long term lease to an airline company. The lease is renewable at the option of the airline company lessee.
>
> A and B intend to sell their aggregate 100% interest in the trust to C for $26 million, representing $6.5 million for B's 25% interest and $19.5 million for A's 75% interest. Operational and managerial control over the leased airplane will not change as a result of the acquisition. C will continue the lease financing arrangement already in place.
>
> A and B each hold substantial assets apart from their interests in the trust and will continue to be engaged in the lease financing business after the acquisition. C does not compete with the airline company lessee.

We assumed for purposes of discussion that all applicable size of person tests were met.

Citing 16 C.F.R. § 801.1(c)(4) of the regulations, and 43 Fed. Reg. 33450, 33459 (July 31, 1978) of the Statement of Basis and Purpose, you first advised that the existence of the trust should be ignored, because it is a trust in which the settlors, A and B, have retained a beneficial interest. You advised that A and B, respectively, should be deemed to hold directly 75% and 25% undivided interests in the airplane. You therefore indicated that the acquisition of B's 25% interest for $6.5 million would be exempt for failure to meet the minimum size of transaction threshold.

You next advised that the entire transaction, including the acquisitions from both A and B, would be exempt under the Act's § 7A(c)(1) exemption for acquisitions in the ordinary course of business.

You indicated that the § 7A(c)(1) exemption applies to the acquisition of leased assets where the following conditions are met: (1) the assets to be acquired are subject to a bona fide lease financing arrangement; (2) operational and managerial control of the leased assets will not change as a result of the acquisition; (3) the assets are subject to a long term lease renewable at the option of the lessee; (4) the acquiring person (i.e., the new lessor) is not a competitor of the lessee; and (5) the lessor/seller is not selling all or substantially all of the assets of an entity or division, other than a special purpose entity created to hold assets subject to a bona fide lease financing arrangement. Based on these rules, and the facts concerning the transaction which are discussed above, you concluded that the § 7A(c)(1) exemption would be applicable.

If this letter does not accurately reflect your advice as to the nonreportability of the proposed transaction described above, please call me as soon as possible.

As always, I thank you for your time and assistance.

Very truly [redacted]

5/17/95 - Writer confirmed that the transaction is purely financial in nature since and beneficial ownership of planes (subject to lease) are going to new purchaser, Agent that transaction was exempt pursuant to criteria set forth in [illegible] DBSI