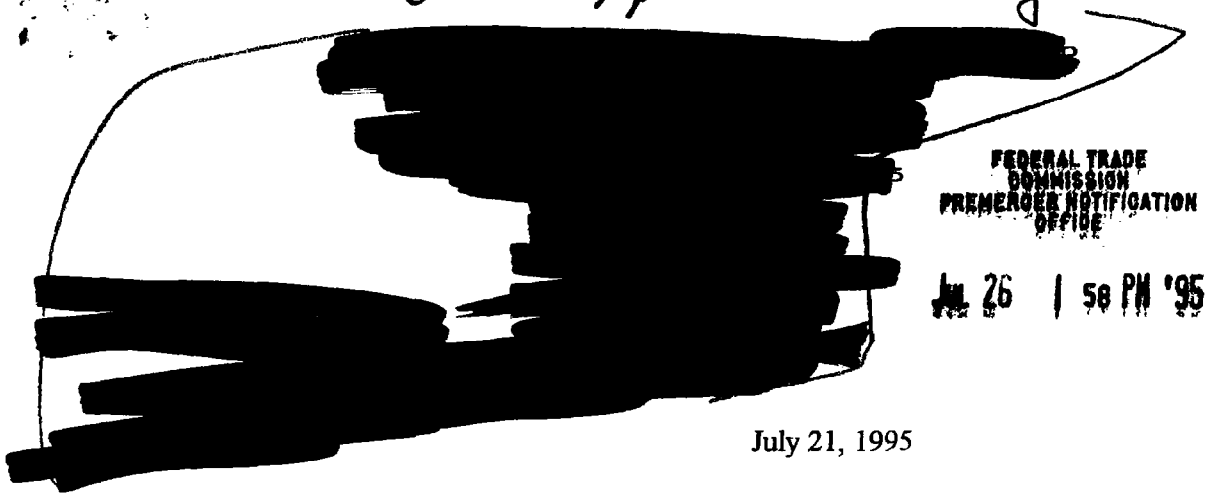
801.1(c)(1) [continuum theory]



July 21, 1995

Richard B. Smith, Esq.
Federal Trade Commission
Premerger Notification Office
6th Street and Pennsylvania Avenue, N.W.
Room 303
Washington, D.C. 20580

Re: Written Confirmation of Oral Advice

Dear Mr Smith:

We have previously had several discussions with you regarding a merger transaction (the "Merger") between our client (hereinafter the "Company") and another corporation (hereinafter the "Purchaser"). Pursuant to the Merger, the Purchaser would acquire 100% of the voting securities of the Company.

As we have advised you, the Merger is one of four interrelated acquisitions that potentially are reportable under the Hart-Scott-Rodino Antitrust Improvements Act of 1976, as amended ("HSR Act"). The Company and the Purchaser have each filed notification under the HSR Act with respect to the Merger itself and each of the Company and the Purchaser is its own ultimate parent. Two of the three other acquisitions are likely to be exempted from the HSR Act notification requirements. The purpose of this letter is to seek written confirmation of the oral advice that you provided to us that the fourth "acquisition", the Company's exercise of the "Option" referenced below, would be viewed as a conduit situation for purposes of the HSR Act and need not be preceded by notification under the HSR Act.

In addition to the Merger, the three other acquisitions are as follows:

(i) the Company's exercise, immediately prior to the Merger, of an outstanding option (the "Option") to acquire shares (the "Option Shares") of common stock ("Third Party Common Stock") issued by Third Party Corporation (a fictitious name for purposes of this letter to maintain confidentiality) (the "Option Corp.") that the Company does not "control" for purposes of the HSR Act;

(ii) the Company's distribution (after exercising the Option and immediately prior to the Merger) to its existing stockholders, option holders and warrant holders (the "Distribution") of the Option Shares and substantially all of the other shares of Third Party Common Stock already owned by the Company; and

(iii) the secondary acquisition by Purchaser ("Secondary Acquisition") of the pre-existing shares of Third Party Common Stock held by the Company and not distributed in the Distribution.

These three events are discussed in greater detail below.

The Company currently owns 3,340,000 shares (34%) of Third Party Common Stock. The Merger Agreement requires that the Company exercise the Option and distribute all of the Third Party Common Stock (including the Option Shares) prior to the Merger, except for shares having an aggregate value corresponding to the approximate tax liability, above an agreed-upon threshold, attributable to the Distribution. Upon exercise of the Option, the Company will "temporarily" own a total of 3,980,000 shares of Third Party Common Stock, constituting approximately 39% of all shares of Third Party Common Stock that would then be outstanding.

The Company's exercise of the Option may be reportable under the HSR Act, as the "size-of-person" and "size-of-transaction" tests may be satisfied, with no apparent exemption. (Under Rule 801.15, all of the Option Shares and all pre-existing shares of Third Party Common Stock held by the Company would be treated as held by the Company as a result of the acquisition.)

The Company anticipates that, in the case of one of its stockholders, the Distribution may involve a potentially reportable acquisition under the HSR Act, as the "size-of-parties" and "size-of-transaction" tests may be satisfied. However, the Company has been advised by counsel to the person who would be the acquiring person in that transaction that such person will be acquiring the shares of Third Party Common Stock solely for the purpose of investment and satisfies the conditions to such exemption under Rule 802.9. If an exemption were not available, an appropriate filing would be made.

The Secondary Acquisition by the Purchaser also is potentially reportable under the HSR Act. However, it is likely that such acquisition will be exempted under Rule 802.20. If not, filing will be made under the HSR Act unless some other exemption is then available.

Based upon the theory of the HSR Act and our several conversations with you, we believe and understand that the exercise of the Option can be treated by the Company as a "conduit transaction" without filing notification under the HSR Act as long as all of the Option Shares are included in the Distribution, and no Option Shares are acquired by the Purchaser. The Company and Purchaser will amend the Merger Agreement in order to make this a contractual obligation of the Company, thereby providing "adequate assurance" of the conduit nature of the transaction. In fact, virtually immediately upon exercise of the Option by the Company, the Option Shares will be distributed to the Company's stockholders, optionholders and warrantholders. In our view, the facts make it clear that the Company is merely a conduit in this situation. (In the remote situation where the Option is exercised but the Distribution and Merger do not occur, the Company will promptly notify the Federal Trade Commission's Premerger Notification Office and file notification under the HSR Act.)

Because of the complexity of the transactions and the facts relating to them, we have written this letter in order to clarify those facts and our understanding that the exercise of the Option by the Company will not require a filing under the HSR Act. We thank you for your consideration of this matter and respectfully request your written confirmation of our understanding.

Very truly yours,

[redacted]

7/31/95 Advised writer that it was the view of the PNO Office that Company's purchase of Third Party's voting stock and distribution to the shareholders was required by the Merger Agreement and, as such, such purchase (and distribution) could fall within the continuum / conduit exemption.

RBSmith