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August 28, 1995

VIA TELECOPY

Ms. Nancy Ovuka
Premerger Notification Office
Bureau of Competition
Room 303
Federal Trade Commission
6th Street and Pennsylvania Avenue, N.W.
Washington, D.C. 20580

Re: Formation of a Limited Liability Company

Dear Nancy:

Attached is an outline of a transaction that involves the formation of a limited liability company. We believe that the described transaction is exempt from the reporting requirements of the Hart Scott-Rodino Antitrust Improvements Act.

We would appreciate your thoughts at your earliest convenience.

Sincerely,

[Redacted signature block]

[Redacted signature block]

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This transaction is the formation of a limited liability company. This outline has been created to facilitate the determination that the formation of this limited liability company is not subject to the reporting requirements of the Hart-Scott-Rodino Antitrust Improvements Act of 1976, as amended.

For purposes of discussion, assume that parties A and B (who each are their own "ultimate parent entities,") meet the \$100 million "size of person" test.

A

Transaction Outline

1. "Controlled" entities of A and B, A1 and B1, will form a limited liability company ("NewCo LLC").
2. Upon formation of NewCo LLC, B1 will contribute certain of its assets to NewCo LLC, in exchange for a 50% membership interest in NewCo LLC. The value of this 50% membership interest between \$35 and \$40 million.
3. Upon formation of NewCo LLC, A1 will be obligated to contribute certain of its assets to NewCo LLC, but will not make such contributions until January 1, 1996. Nevertheless, in exchange for A1's contractual commitment to contribute certain of its assets and the equalization payment described below, A1 receives a 50% membership interest in NewCo LLC. The value of this 50% membership interest is between \$35 and \$40 million.
4. Because the value of the assets that A1 will contribute to NewCo LLC is less than the value of assets that B1 will contribute to NewCo LLC, at the time of B1's contribution of assets to NewCo LLC, A1 will make a cash equalization payment to B1 of approximately \$3.5 million. In addition, until A1 contributes its assets to NewCo LLC, A will make additional cash payments to B of approximately \$400,000 per month due to A1's deferral of its contribution of assets until January 1, 1996.

Governance of NewCo LLC

1. NewCo LLC will be governed by a four person management committee.
2. A1 and B1 will each appoint two persons to the management committee.
 - a. These persons will be officers, directors or employees of A or B or their respective "controlled" entities.
3. The management committee will govern the day to day operations of NewCo LLC. The management committee has limited authority -- all "board of directors" type powers (e.g. sale of NewCo LLC, merger or consolidation of NewCo LLC, voluntary liquidation or dissolution of NewCo LLC, incurrence of indebtedness of more than \$25,000 by NewCo LLC, etc.) have been specifically retained by the NewCo LLC members.