

801.40 (LLC)

JUN 14 6 05 PM '96

June 14, 1996

VIA HAND DELIVERY

John M. Sipple, Esq.  
Assistant Director  
Bureau of Competition  
Federal Trade Commission  
Room 338  
Sixth Street & Pennsylvania Avenue, N.W.  
Washington, D.C. 20580

Re: Hart-Scott-Rodino Reportability of Start-Up  
Limited Liability Company

Dear Mr. Sipple:

We represent one of the founding members of a [REDACTED] limited liability company (the "LLC"), the certificate of formation for which LLC was filed on June 7, 1996. The filing of the certificate of formation with the [REDACTED] Secretary of State is a ministerial act. The LLC will not have any members until the Limited Liability Company Agreement of the LLC is executed, sometime in the week of July 1, 1996.

The limited liability company will have as its purpose the worldwide development and marketing of end-to-end solutions, including set-top controllers, in the interactive television systems and services marketplace.

The name of the LLC will contain portions of the company names of one publicly-owned company in [REDACTED] and one publicly-traded company in the U.S.

The LLC is not to be organized or managed as a corporation. It will instead be organized and managed as to result in it being treated as a partnership for federal income tax purposes. The LLC is to terminate no later than the 20th anniversary of the date of formation, unless sooner terminated by mutual agreement of the parties or upon certain other events, including, for example, bankruptcy, breach, etc. The initial members of the LLC (the "Members") will be (a) a [REDACTED] corporation ("Member One"), which is a wholly-owned subsidiary of

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a corporation organized under the laws of the [REDACTED] and (b) another [REDACTED] corporation in formation ("Member Two"), which is to be a wholly-owned subsidiary of a corporation which, also organized and existing under the laws of the State of [REDACTED] is a reporting company for purposes of the Securities Exchange Act of 1934, as amended. Member One will have slightly more than 80% and Member Two slightly less than 20% of the equity interest in the LLC.

The Members will manage the LLC, acting through an appointed "Board of Directors." The "Board" will consist of five representatives of the Members (the "Directors"). Member One will appoint four Directors, one of whom shall be designated as Member One's "Voting Director" and three of whom shall be designated as "Non-Voting Directors" of Member One. Another Voting Director will be appointed by Member Two. One Non-Voting Director shall be the CEO of the LLC.

Each of the initial Directors will be an employee of the appointing Member or its parent corporation at the time of appointment; the CEO/Director will then join the LLC as an employee and the other directors are expected to remain employees of the appointing Members or their respective parent corporations. There are no plans to appoint any "outside" directors to the Board in a non-voting capacity and in no event would an outside director be appointed as a Voting Director.

On matters to be voted on by the Board, each Voting Director will cast that number of votes which is equal to the percentage of equity interest of the Member which has appointed such Voting Director. Each Director appointed by a Member may at any time be replaced by such Member. At any time, any Member may withdraw the designation of and remove any Board representative designated by it and designate a replacement at any time. The "Board" may act only when Directors representing a majority in equity interests are present.

The parties believe that, on the basis of these facts, the transaction is not reportable under the Hart-Scott-Rodino Act. When you have reviewed this letter, please call me with your comments.

Very truly yours,  
[REDACTED]

6/19/96 Advised writer that since voting (and non-voting) directors of the LLC will be employees of the members (or their parent corporations), then no voting stock will be deemed to be taken back and no filing is required under 801.40.  
[Signature]