FACSIMILE TRANSMITTAL

TO: Patrick Sharpe

FROM:

COMPANY: Federal Trade Commission

Premerger Notification Office

DATE: May 22, 1998

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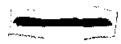
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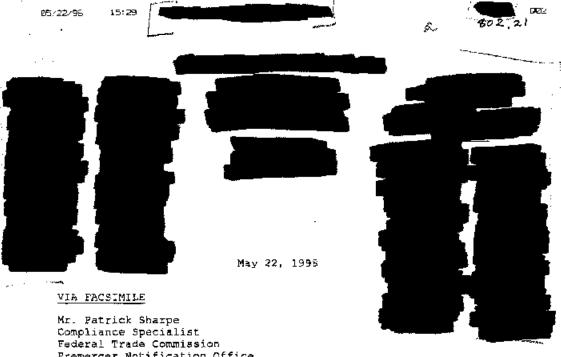
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Premercer Notification Office 6th and Pennsylvania Avenues, N.W. Washington, D.C. 20580

> Re: Nonreportability of Transaction under HSR Act

Dear Patrick:

This letter will confirm our telephone conversation last week in which you indicated that the following transaction would not be reportable under the Hart-Scott-Rodino Aptitrust Improvements Act ("HSR Act"), as codified at 15 U.S.C.\$ 18a. and the rules promulgated thereunder:

> Company A, which is its own ultimate parent entity for RSR Act purposes, is merging with Company B. which is also its own parent entity. Company C, which is its own ultimate parent entity, currently owns approximately 46.5% of the common woting securities of Company A. As a result of the

A RSR (iling will be made by Company A and Company B with respect to the OK. merger.

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> merger, Company C's holdings of the voting securities of Company A would approximately 24.6%. At the same closing as the merger (but, for a variety of business reasons, immediately following the merger), Company C will purchase from Company D, which is its own ultimate parent entity, approximately 18% of the voting securities of Company A. The occurrence of the merger and stock purchase are conditioned upon each other occurring. After the transactions contemplated by the Merger Agreement, Company C will hold 34.2% of the voting securities of Company A.

> Company A and Company C filed HSR notifications in October 1994 for meeting or exceeding the 25% threshold, in contemplation of Company C, through open market stock purchases, increasing its holdings of Company A common voting securities from 46.5% to up to, but not meeting or exceeding 50%. Company C did not make these purchases, however.

As we discussed, even though Company C did not acquire any additional voting securities in connection with the October 1994 HSR actification following the termination of the pertinent HSR waiting period, given Company A's ownership of 46.5% of Company A's voting securities at such time, Company C automatically satisfied 16 C.F.R § 802.21 for purchases of up to, but not meeting or exceeding, 50% of Company's A voting securities. Under 16 C.F.R. S 832.21 Company C has 5 years to complete the acquisition of voting securities up to, but not meeting or exceeding, the 50% threshold from the date upon which the HSR waiting period expired or terminated in connection with the October 1934 HSR notification. Accordingly, so long as Company C acquires the voting securities described above from Company D, within such 5-year time period, no MSR filing would be required for the transaction.

I concur.

5/22/98

⁴ Company C had been Company A's ultimate parent entity from its indeprior until the early 1990s, when Company C arranged for an initial public offering ("IPO") of Company A. Which IPO decreased Company's C's holdings by Company A voting securities to the 46.3% level.

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Please let me know immediately if I have misunderstood your analysis or your conclusions regarding the above described transaction. As always, I appreciate your very valuable assistance in these matters.

