801.1(a)(2); 7A(c)(4)

[redacted]

July 28, 1999

**By Fax: 202-326-2624**

Richard Smith, Esq.
Assistant Director
Premerger Office
Federal Trade Commission
Washington, DC

Dear Dick:

1. This letter will describe the transaction which we discussed on the phone this afternoon, in which we agreed that no HSR filings were required.

X is a joint venture entity (a charitable corporation that does not issue stock, and which therefore is analogous to a partnership or LLC for HSR purposes), in which each of a state university (the "state university") and a private university ("private university") have the right to 50% of the profits. The joint venture was created a few years ago in a transaction which was exempt from HSR as it was a joint venture not covered by 801.40, because it was not a corporation for HSR purposes (as discussed at that time with the staff).

Substantially all of the assets of the joint venture are now going to be distributed back to their original owners, the state university and the private university, as the case may be. In order for the transaction to be exempt, we need to find an exemption for each of the two parts of the transaction, the distribution of assets to the private university and the distribution of assets to the state university.

The distribution of assets by the joint venture to the state university does not require a filing because the state university is a political subdivision and hence is not an "entity", and hence not a "person" under rule 801.1, and specifically 801.1(a)(2). Thus, there is no person to make a filing with respect to the distribution of assets to the state university and therefore no filing is required with respect to that distribution.

[redacted]

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Since the state university is not regarded as a "person", this means that the distribution of assets by the joint venture to the private university is viewed as the distribution of assets already owned by the private university (since, with the state university not being a person, the joint venture is disregarded for these purposes) and that therefore there is no acquisition by the private university. Thus, no filings are required for the second part of the transaction.

I believe the foregoing sets forth the transaction we discussed and the conclusion we reached that no HSR filings are required for the above distributions. I would appreciate a call from you to confirm this.

2. It is also my view that the transaction between the joint venture and the state university should be exempt under Section 7A(c)(4) relating to transfers to or from a state or political subdivision thereof. However, I understand that you could not confirm this as the view of the HSR staff. I simply note it for the record.

Thank you for discussing the matter with me today.

Sincerely,

[redacted]

[redacted] Writer advised that both members appoint ½ of Board.
7/29/99 Advised writer that the private university
must file for the acquisition of non-exempt assets from the non-profit
controlled by it and the state university, a non-person under the
801.1(a)(2). The state university need not file as either an
acquiring or acquired person but its status as a "non-person"
does not relieve the private university of a filing obligation.
RBSmith