801.10 (c)

[redacted]

April 21, 2000

VIA FACSIMILE and HAND DELIVERY

Mr. Michael Verne
Premerger Notification Office
600 Pennsylvania Avenue, N.W.
Washington, D.C. 20580

Re: **Confirmation of Fair Market Valuation Analysis**

Dear Mike:

[redacted]

"acquired" through the LLC formation if the valuation is prepared by an accounting firm

[redacted]

the relative asset contributions to the venture than would result from comparing

[redacted]

Mr. Michael Verne
April 21, 2000
Page 2

We believe that this letter accurately describes the guidance that you provided on

[redacted]

Enclosure

N. OVOKA AGREES.

B Michael Verne
4/26/00

[redacted]

[redacted] [redacted]

QJ 3/1/97

HYPOTHETICAL FOR DISCUSSION WITH FTC PREMERGER OFFICE

Company A and Company B intend to form a new LLC to combine their respective businesses. A and B will each acquire a 50% interest in the LLC. Each of A and B will be contributing a [redacted]

separately controlled businesses are being contributed to the LLC, this is a potentially reportable event under Formal Interpretation 15.

[redacted]

in assets, so that the size of transaction test is met.

A and B have retained accountants to perform preliminary valuations of their respective businesses. The accountants have determined the EBIT for the businesses to be contributed, and [redacted]

$10M cash, designated as working capital	Note payable (debt) of $5 million

The issue presented is the following. There is a reasonable method of deriving a fair market value for A's business that would value it at $8M, and would value B's business at $10M. If those values can be used, then neither A nor B would be making a reportable acquisition.

However, another way of viewing the transaction would say that the parties need to account for the fact that, in addition to the businesses, A is contributing cash and B is contributing a liability to the venture. In essence, the issue is whether, or how, the parties need to account for the fixed amounts being contributed (whether as cash assets or a note payable liability) in deriving fair [redacted]

If you assume that A's business has some positive value, then under this scenario B's business being "acquired" by A would be worth some amount (undetermined) over $15 M. If that's the [redacted]