

6801.11 (e); 801.40

[REDACTED]

[REDACTED]

[REDACTED]

November 14, 1991

Via Facsimile

Richard B. Smith, Esq.  
Federal Trade Commission  
6th & Pennsylvania Avenue, N.W.  
Room 303  
Washington, D.C. 20580

Re: Application of Section 801.11(e)

Dear Mr. Smith:

Thank you for your comments provided to my colleague, [REDACTED] and me during our telephone conversation of November 6, 1991, regarding Section 801.11(e) of the regulations adopted pursuant to the Hart-Scott-Rodino ("HSR") Antitrust Improvements Act of 1976. As agreed, we have set forth below our understanding of your responses to our questions regarding a particular transaction anticipated by our client (the "Transaction").

The relevant facts of the Transaction are summarized as follows. A newly formed corporation [REDACTED] is to acquire stock and assets that are currently owned

[REDACTED]

separate entities controlled directly or indirectly by Company A, and any certain assets owned by Company A or by other entities controlled directly or indirectly by Company A.

At the time of the Transaction, [REDACTED] will not have a regularly prepared balance sheet, and it will not be controlled by any other entity. Each of the four shareholders of [REDACTED] (the "Shareholders") are expected to contribute approximately \$10,000 apiece for 25% of the shares of [REDACTED]. Other than making these contributions for [REDACTED] shares, the Shareholders will not contribute, or enter into agreements to contribute any assets such as, for example, loan guarantees or credit of [REDACTED]

[REDACTED]

[REDACTED]

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any kind, to [REDACTED] None of the Shareholders will be authorized contractually or

party. The borrowed funds will be used to acquire the stock and assets subject to the Transaction. The only assets held by [REDACTED] following the Transaction other than [REDACTED] made by the Shareholders plus any portion of the borrowed funds not used in the

Transaction. The total of these two amounts will be less than \$10 million.

subject to the HSR premerger notification and waiting period requirements. Specifically, we asked whether the simultaneous acquisition of the stock of the four entities and the assets of several other entities, all such entities being included in the same person for purposes of HSR, would constitute one acquisition, and, therefore, whether the nature of this Transaction will cause it not to be subject to reporting by virtue of Section 801.11(e) of the HSR regulations.

We understand your answer to be that the Transaction would not be reportable because under Section 801.11(e) [REDACTED] would not meet the size-of-person

Thank you for your assistance in this matter.

Sincerely yours,

[REDACTED SIGNATURE]

cc: [REDACTED]

11/14/91 - called [REDACTED] and advised that letter correctly reflects our earlier discussion [REDACTED]

below 10M for the purchase of the various voting [REDACTED] [REDACTED]