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[redacted]

January 23, 1992

[redacted]

This material may be subject to the confidentiality provision of Section 7A (h) of the Clayton Act which restricts [illegible]

[redacted]

BY TELECOPY (202-326-2050)

Mr. Patrick Sharpe
Federal Trade Commission

[redacted]

Washington, D.C. 20580

Re: Availability of Exemption Under
Section 7A(c)(10) of the Hart-Scott-Rodino Act

Dear Mr. Sharpe:

In reference to our conversations Tuesday and last week, this letter will describe the contemplated

[redacted]

A company ("Holding") which is capitalized with [redacted]

The purpose of the transaction, as set forth below, is to eliminate the holding company structure and recapitalize

[redacted]

[redacted]

[redacted]

(the "Reorganization") consisting of three steps, each of which is contingent on the consummation of the other two

[redacted]

Step One. In the Reorganization, Holding will first be merged (the "Merger") into the Company and the Company will be the sole surviving corporation. Under the Merger Agreement, each outstanding share of common stock of Holding will be converted into 1.5 shares of common stock of the Company, and each outstanding share of nonvoting preferred stock of Holding will be converted into approximately 1.3 shares of nonvoting preferred stock

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[redacted]

Company will make an initial public offering (the "Offering") of common stock that will constitute about [redacted] of the Company's outstanding common stock after

[redacted]

substantially to dilute the holdings of the two entities that are principal shareholders of Holding (and then the Company). These entities (the "Entities") now respectively have approximately 49 and 33 percent of the outstanding voting securities of Holding and under Step One will have the same percentage of voting securities in the Company as they now have in Holding. These entities will not be purchasing any of the stock in the Offering. Thus, as a result of Step Two, the Entities' percentage of voting shares will be substantially diluted -- to approximately 22 and 15 percent respectively.

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[redacted]

exchange offer at any time within 60 days will be irrevocably commited to make the Exchange. It is contemplated that the Entities will commit themselves prior to the Offering to take advantage of the Exchange, which will result in their ownership of approximately [redacted] Reportable [redacted]

The Effect of the Transaction

The Reorganization will not result in the Entities obtaining a greater percentage ownership of the voting securities of the Company, as the surviving corporation in the Merger, than its percentage of voting securities of Holding prior to the Reorganization. [redacted] Offering -- each of the Entities will end up with a substantially lower percentage of the Company than they had of Holding immediately prior to the Reorganization. [redacted] Step Three's conversion process will obtain additional voting securities of the Company valued in excess of [redacted] securities. However, looking at the Reorganization as an integrated whole, each Entity will in fact have a resulting percentage ownership of voting securities that is significantly less than its percentage ownership prior to the Reorganization. For this reason, the language and policy of the (c)(10) exemption for "acquisition of voting [redacted] applicable to the Entities' conduct.*

* With respect to the swap of voting shares in Step One, we continue to believe, as discussed with you, that the Entities' acquisition of Company's shares is also [redacted]

The Reorganization will take effect if and only if each of its components is consummated (i.e., the public offering is contingent on the Merger and vice versa, and is also contingent on the preferred stock exchange offer and vice versa.) Thus, we believe that the three steps should be analyzed as a single transaction. As a result of the Reorganization, none of the Entities will receive voting securities that increase, directly or indirectly, its percentage ownership of the voting securities of the Company, relative to its ownership of Holding's voting securities. We therefore believe that the exemption should be deemed available and that no Notification and Report Forms would be required to be filed by the Entities or by the Company.*

As an overall matter, when the Entities receive all the contemplated voting securities in the Company pursuant to the Reorganization, each will be no closer to control of the Company than it was beforehand.** Indeed, each of their per centum shares of the Company will be significantly less than their respective shares of Holding even after one considers the acquisition of

otherwise covered transactions that meet either the 15 percent test or $15 million test. Thus, it would appear that even focusing just on Step Three would permit an exemption under (c)(10) on the ground that the acquisition of voting securities in Step Three does not increase either Entity's pre-transaction percentage of voting securities in the relevant connection with outside

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* This request does not apply to any other acquisition of securities in the Company by any other person that exceeds the 15 percent or $15 million threshold.

** This logic of course is incorporated in 16 C.F.R. § 802.21.

[redacted]

Please let me know if you would like any
additional information in order to assist you further. I

[redacted]

Very [redacted]

[redacted]

The first and second steps are exempt under C-3 & C-10. The last step (3rd) is reportable for both shareholders for the conversion.

JS & RS
Concur