

SENT BY [REDACTED]

: 3-23-93 : 2:25PM : [REDACTED]

2023262050:# 2

801.1(a)(2)

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

Writer's Direct Number

[REDACTED]

March 23, 1993

FACSIMILE TRANSMISSION (202) 326-2050

Richard B. Smith, Esq.
Premerger Notification Office
Federal Trade Commission
6th and Pennsylvania Avenue, N.W.
Washington, D.C. 20580

Re: Informal Hart-Scott-Rodino Opinion Letter

Dear Mr. Smith:

As you suggested, I am writing to obtain the Staff's position on the

[REDACTED]

amended (the Act), under the facts outlined below.

FACTS

[REDACTED] which transacts
business in the name of the [REDACTED]
[REDACTED] is contemplating purchasing certain assets comprising an
enclosed [REDACTED] The proposed
transaction satisfies the size of assets and size of transaction tests

ANALYSIS

We have concluded that the transfer of all the assets of the [REDACTED] from the seller to [REDACTED] would be exempt because [REDACTED] is a state agency and not an "entity." The Act only applies to an "entity," which is defined to exclude "the United States, any of the states thereof, or any political subdivision or agency of either other than a corporation engaged in commerce." 16 C.F.R. Section 801.1(a)(2).

[REDACTED]

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[REDACTED] was created by the legislature of the [REDACTED]
and is governed by [REDACTED]

We believe that the following provisions of the [REDACTED] clearly
show that [REDACTED] is a state agency:

1. Board of Directors. The Board of Directors [REDACTED] consists of 15

members appointed by the Governor, and reports to the State Insurance
Department. The Board of Directors is responsible for preparing annual
financial statements which are submitted to the Governor and made available to

2. Contributions. The Commonwealth makes contributions to [REDACTED]
on behalf of all active members of the [REDACTED]

3. Budget. The [REDACTED] prepares its
administrative budget each year and submits it to the Governor who in turn
submits it to the General Assembly for approval. The General Assembly makes
an appropriation each year sufficient to provide for the Commonwealth's
contribution obligations and to pay the administrative expenses of [REDACTED]

4. Payments of Funds. The State Treasurer is the custodian of the funds
deposited in [REDACTED] and makes all payments from [REDACTED] in accordance
with requisitions signed by the Secretary of the Board of Directors and ratified by
the Board.

5. State Guarantee. Statutory interest charges payable, the maintenance
of reserves in [REDACTED] and the payment of all annuities and other benefits
granted by the Board are obligations of the Commonwealth.

In addition to these provisions of the [REDACTED] there are two

[REDACTED] is a state employee. Second, any interpretations of the [REDACTED]

[REDACTED]

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paid to such beneficiaries pursuant to such instructions

Based upon the provisions of the [REDACTED] and the operational
matters discussed above, we believe [REDACTED] is a state agency

[REDACTED] If you have any questions please call either [REDACTED]

Yours very truly,

[REDACTED]

[REDACTED]

3/24/93 - called [REDACTED] and advised
that [REDACTED] qualifies as a "state agency" and
is therefore not an "entity" within the definition set forth
in 801.1(a)(2). Therefore, its purchase of the [REDACTED]
is exempt from HSR reporting requirements.
RBS