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January 31, 1994

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FEDERAL TRADE COMMISSION

Richard Smith, Staff Attorney
Federal Trade Commission
Pre-Merger Notification Office, Room 303
Washington, D.C. 20580

Dear Mr. Smith:

This letter sets forth the relevant facts of a contemplated
[REDACTED]
which the relevant parties are exempt from the pre-filing
notification requirements set forth in the Hart-Scott-Rodino
Antitrust Improvements Act of 1976 ("HSR"). The purpose of this
letter is to obtain the Commission's response to the conclusions
regarding (i) the parties who have a reporting requirement; and
(ii) the existence of an exemption to the reporting requirement
for those parties. Statutory citations made herein are to HSR and
the regulations promulgated thereunder.

FACTS

Corporations X and Y are to be merged into corporation Z.
Corporation X is owned as follows: corporation A owns 82.5% of
X's issued and outstanding stock and corporation B owns the
remaining 17.5%. Corporation Y is owned entirely by corporation
Z. The surviving corporation Z is owned as follows: corporation
A owns 65% of Z's issued and outstanding stock and corporation B
owns the remaining 35%. The following tables summarize the
relevant stockholdings of corporations A and B before and after

PRE-MERGER

	<u>A</u>	<u>B</u>
Corporation X	82.5%	17.5%
Corporation Y	100%	0
Corporation Z	65%	35%

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POST-MERGER

A

B

As a result of the merger, the number of issued and outstanding shares in corporation Z owned by each of corporation A and B will increase, with corporation A owning approximately 75% of corporation Z, and corporation B's ownership interest falling to approximately 25%. For purposes of this analysis, assume that the transaction meets the requirements set forth in the (a) commerce test; (b) size of parties test; and (c) size of transaction test. 15 U.S.C.A. §18a(a).

APPLICATION

Since corporation A owns a controlling interest in corporation Z, the surviving corporation to the merger, corporation A is an acquiring person with filing responsibilities.

15 U.S.C.A. §18a(c)(3). Corporation A presently owns 65% of corporation Z's stock.

A second exemption is also available to corporation A, given its controlling interest in not only corporation Z, but corporations X and Y, as well. A party that is both an acquiring and acquired person in a merger shall be exempt from the

Arguably, corporation B is also an acquiring corporation with reporting responsibilities, given that it will hold voting securities it did not hold prior to the merger. 16 CFR §801.2(d)(2)(i). However, an exemption from filing exists where the acquiring acquires less than 10% of the voting securities owned

§18a(c)(10). The contemplated merger would reduce corporation B's interest in corporation Z from its present 35% to approximately

CONCLUSION

Corporations A and B are the two corporations which

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prefiling notification requirements exist for each of corporation
A and B. Therefore, the contemplated merger of corporations X and
Y with and into corporation Z is exempt from any prefiling

[REDACTED] of our office, I understand that your office will issue
only an informal ruling (i.e., an oral response) to written
inquiries. You may contact me at the telephone number set forth
above with your conclusions. In the meantime, should you require
any additional information, please do not hesitate to call. Your
attention to this matter is greatly appreciated.

Sincerely,
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[REDACTED]
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