

15 U.S.C. 182(a)(2); 182(a)(3);
Rule 802.20; Rule 801.21

[REDACTED]

February 23, 1995

FEDERAL TRADE COMMISSION
Federal Trade Commission
Premerger Office
4th and Pennsylvania Ave. N.W.
Washington, DC 20560

ATTN: Ms. Alice Villavicencio
Compliance Specialist

RE: Premerger Notification Requirements

Dear Ms. Villavicencio:

As we have discussed with you over the past several days, our firm has been asked to advise a party to a prospective merger with respect to the premerger notification requirements under the Hart-Scott-Rodino Act, 15 U.S.C. 18a. Having researched Section 18a including the applicable regulations and discussed the same with you, we would like to confirm our understanding of the requirements.

For purposes of this letter, we make the following assumptions:

1. "A" is a company which is engaged in commerce and has total assets or annual net sales of \$100,000,000 or more.
2. "B" is a company which is engaged in commerce, but not engaged in manufacturing, and has total assets of \$10,000,000 or more.

A and B will engage in a tax free reorganization in which A acquires 100% of the voting securities or assets of B.

Size of Person Issue

In the past A has advanced credit to B in the ordinary course of business. B is ~~unable~~ unable to pay such as other quick assets to reduce this debt. Prior to the proposed merger, B is regularly prepared (and usually) ~~with~~ assets of less than \$10,000,000. We understand that because B's assets will be less than \$10,000,000, the "size of person" test in 15 U.S.C. 18a(a)(2) will not be met. With

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respect to a subsequent stock-for-stock transaction, therefore, neither A nor B will be required to file a premerger notification.

Size of Transaction Issue.

We understand that in an asset acquisition which satisfied the requirements of 18a(a)(3)(A) (in that A would hold 15% or more of the assets of B) but which did not satisfy Section 18a(a)(3)(B) (in that the total aggregate amount of B's assets would not exceed \$15,000,000) the premerger notification requirements would not apply pursuant to 16 CFR 802.20.

Finally, we understand that the "exclusion of cash from assets" provision in 801.21 would be applied in measuring assets for purposes of 802.20(a) the same way it is applied in measuring assets for purposes of 18a(a)(3)(B).

If our understanding on any of the foregoing points is incorrect, please advise us immediately. If you have any questions or comments, please call us at [REDACTED]. Again, we appreciate your assistance.

Very truly yours,

[REDACTED]

BY: [REDACTED]

[REDACTED]