

801.40 (LLC formation)

FEDERAL TRADE COMMISSION

August 31, 1995

VIA FEDERAL EXPRESS

This material may be subject to the confidentiality provisions of Section 7A of the HSR Act.

or information

Bureau of Competition
Federal Trade Commission
6th and Pennsylvania, NW
Room 303
Washington, D.C. 20580

RE: Premerger Notification for Limited Liability
Company Joint Venture

Dear Mr. Smith:

This will confirm our telephone conversation of August 25, 1995, in which we

and ETC Rule 801.40 regarding limited liability company joint ventures. It is our

transaction tests under the HSR Act would not be a reportable transaction under the HSR Act.

engaged in the same industry. The proposed joint venture will be formed to conduct certain operations in both Corporations' industry. Corporation A and Corporation B will each be a Member of the LLC and each have a 50% interest in the LLC.

The LLC will be structured in one of two ways:

1. Management of the LLC will be vested in the Members, with each Member having one vote on all matters submitted for approval of the



Richard B. Smith, Esq.
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Member. The Member will establish a Member Committee

Member Committee will serve as the vehicle for Member meetings. The Representatives will be empowered to cast their Member's vote, but will not vote as individuals and will have no policy-making authority independent of the Members.

2. As an alternative, the LLC will be managed by a Management Committee composed of Representatives selected by each Member. Each Representative will be an officer or director of the Member selecting him.

vote of the representatives. The Management Committee will be vested with policy-making authority for the LLC.

It is our understanding the FTC Staff is of the view that neither of the foregoing

subject to the premerger notification requirements under the HSR Act.

We would be grateful if you would confirm at your earliest convenience whether our understanding is correct.

We greatly appreciate your guidance and assistance in this matter.

regard

the LLC formation (either in Form 1 or 2) is not

independent