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September 27, 1995

VIA FACSIMILE

Ms. Nancy Crutcher, Esq.
Premerger Notification Office
Bureau of Competition
Room 303
Federal Trade Commission
Washington, DC 20580

RE: Hart-Scott-Rodino Size-of-Person Test

Dear Ms. Crutcher:

This letter summarizes our telephone conversation this morning, during which I sought your opinion regarding the applicability of the Hart-Scott-Rodino premerger notification rules to the transaction described below. As I explained, *pro forma* balance sheets currently are being prepared.

parent entity and the other person within it are newly-formed corporations and thus do not have regularly prepared balance sheets.

Corporation A, the ultimate parent entity of the acquired person, has cash assets of \$6000. It is the sole shareholder of Corporation B, a Delaware corporation that currently has cash assets of

Corporation B will acquire approximately 7.6 percent of the voting securities of an

for B will value these shares at their purchase price, such that B's balance sheet will reflect assets

\$5.711 million.

of the City of [REDACTED]

[REDACTED]

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Sheet after B has acquired the shares of X and the *pro forma* balance sheets have been

X is a \$100 million person, and the size of the transaction exceeds \$15 million. We believe that no HSR filing is required for the sale by A of B's shares to X because A does not meet the \$10 million size-of-the-person jurisdictional test. The total assets of A, based upon the *pro forma* balance sheet, are less than \$10 million. This is true even though there is a difference between the

analysis is strictly a balance sheet issue. If the *pro forma* balance sheet of A, the ultimate parent entity, reflects assets of less than \$10 million, A is entitled to rely upon that balance sheet for its

Please confirm that, under the circumstances described above, an HSR filing would not be

Thank you for your time and your assistance in resolving this matter.

Sincerely,

cc:

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Confirmed advice, but pointed out that Y&X may have a reportable transaction (secondary)