

801.40 (LLC)

November 10, 1995

VIA FACSIMILE

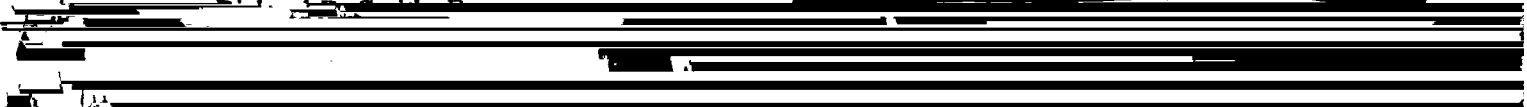
Richard B. Smith, Esq.
Premerger Notification Office
Bureau of Competition
Federal Trade Commission
6th and Pennsylvania Avenue, N.W.
Room 303
Washington, D.C. 20580

Dear Mr. Smith:

This letter is to confirm our telephone conversation of November 7, 1995, in which we discussed a planned joint venture to be formed as a Delaware limited liability company ("LLC"). In particular, we wish to confirm our understanding, based upon the facts described below, that the formation of the LLC would not be a reportable transaction under the Hart-Scott-Rodino Antitrust Improvements Act of 1976, as amended (the "Act") and the rules promulgated thereunder.

For purposes of this confirmation, we assume that the size-of-person, the size-of-transaction and other jurisdictional facts would be met and that the formation of the LLC would

liability company.



The LLC will be formed as follows. Three corporations will participate in the joint venture as Members of the LLC. Corporation A will hold a 30% membership interest and Corporation B and Corporation C (which are affiliates) will hold 65% and 5% membership interests respectively.

The Members will appoint five representatives to a Board of Managers, which will be responsible for management on the LLC. Corporation A will designate two Managers and

Corporation B will designate three. The Members will also appoint officers from among the Managers to implement Board policies. The Board of Managers role and powers in the LLC will distributions, approve contracts and budgets and enter into financing arrangements. The Members reserve various powers to themselves, such as approving material change in the nature of current business, merger, creation of a subsidiary or adoption or revision of the business plan.

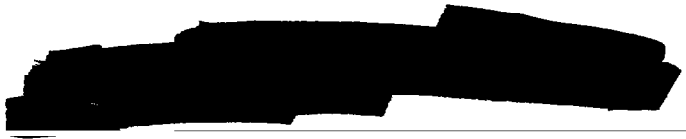
You advised me that the determinative issue under these circumstances is whether each individual serving as a Manager on the Board of Managers will be a director, officer or employee of the Member that appointed that individual. If this will be the case, it is the position of the staff of the FTC Premerger Notification Office ("Office") that no filing will be required. You also advised that this interpretation would cover Managers who are directors, officers and employees of other legal entities controlled by the ultimate corporate parent of the Member. The interpretation is based upon the Office's position that the Members would not be acquiring voting securities within the meaning of the Act.

Since our telephone conversation, I have confirmed with the proposed Members that this is their intention. For greater certainty, we have added a clause to the proposed LLC Agreement that "All Managers shall be appointed from among the officers, directors or employees of the respective appointing Member or its Affiliates." The term "Affiliate(s)" is defined in the Agreement to mean any person directly or indirectly controlling, controlled by or under common control of a person, and control means ownership of more than fifty (50%) of the shares or



Based upon the foregoing facts, it is our understanding that the staff of the Office is of the view that the proposed formation of the LLC will not be subject to the premerger reporting requirements of the Act. 15, 1995.

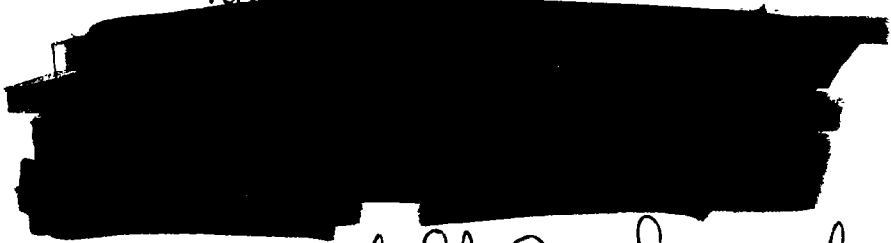
If you have any questions or need further information, I would appreciate your contacting me at the earliest possible opportunity.



Richard B. Smith Esq
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Thank you very much for the assistance and guidance you have provided in this matter.

Very truly yours



11/16/95 Writer confirmed that Corporations B and C are under common control so that a 70% membership interest in the proposed LLC will be held by one person. Based on facts presented here, I advised that no reportable event would take place and that the membership holders in the proposed LLC would not be deemed to be taking back voting stock in the LLC.

RBSmith