801.1(c); 802.31

[redacted]

[redacted]

February 1, 1996

BY FACSIMILE

Richard B. Smith, Esq.
Federal Trade Commission
Premerger Notification Office
[illegible]
Washington, DC 20530

Re: Proposed Purchase of Options from a Securities Dealer

Dear Dick:

This letter will confirm the position you expressed to us this afternoon regarding our client's proposed acquisition of options from a foreign broker/dealer. In that conversation, you indicated that both you and John Sipple had reviewed the memorandum we sent you yesterday evening (a copy of which is attached) and that you both had determined that the Hart-Scott-Rodino Act would not apply to our client's acquisition of options in the manner described in that memorandum.

[redacted]

Encl.

FEB-01-96 [redacted]

[redacted]

Proposed Purchase of Options from a Securities Dealer

We have reviewed our client's proposed transaction in light of your reference to Interpretation 71 of the ABA Premerger Notification Manual. Based on the facts of our [redacted]

Our client will place orders with an independent, foreign broker/dealer to purchase options that will give our client the right to, if it chooses to exercise the options and has obtained FTC approval to do so, purchase voting securities at the strike price specified in the option. Our client will pay an option premium to purchase the option. The

- purchasing options on the local stock exchange on behalf of our client; or
- writing call options in favor of our client

The only contract between our client and the trader will be the client's right, but not the obligation, to purchase voting securities at the strike price at any time within a specified time period. That is the only agreement between our client and the trader. The call option will only have standard market type terms. The trader, acting in its own interest and in its own discretion, may choose to engage in any number of activities from time to time depending upon the amount of market risk it desires to assume, the position of its trading book and its views of the direction the market is headed. Among other [redacted]

- remain unhedged, and assume all upside and downside market risk inherent in the call option in favor of our client.
- hedge the risk that the price of the stock will increase by doing one or more of the following:
    - buy call options over securities of the company from other market [redacted]
    - buy other securities the performance of which it expects to correlate with those of the company

The trader may from time to time change its trading strategy and thus change the financial instruments that its owns as principal.

In the event the trader purchases voting securities, it will bear all market risk, and will obtain all benefits and possess all rights accompanying the voting securities.

[redacted]

In particular, our client's proposed transaction differs from the transaction outlined in

- the option is a simple call option that gives our client the right to purchase securities at the specified price by the specified time
- the trader has no right to "put" any voting securities it may purchase to our client
- there is no agreement between our client and the trader that the trader will purchase voting securities;
- any dividends issued or increase in the price of the voting securities which the trader purchases (if it in fact purchases any voting securities) will accrue to the trader's benefit, and will have no effect on the contractual arrangement between our client and the trader or the price which our client will pay if it chooses to exercise its call option
- the options will be in the form of standard options traded on the applicable

Under the conditions outlined above, we believe it is clear that beneficial ownership of any voting securities that the trader may, unilaterally, choose to purchase will remain with the trader unless and until it delivers such voting securities to our client (if our

and will obtain any benefits appurtenant to those voting securities until our client exercises its option to purchase the voting securities at the strike price.

[redacted]

[redacted]

TOTAL P.03